

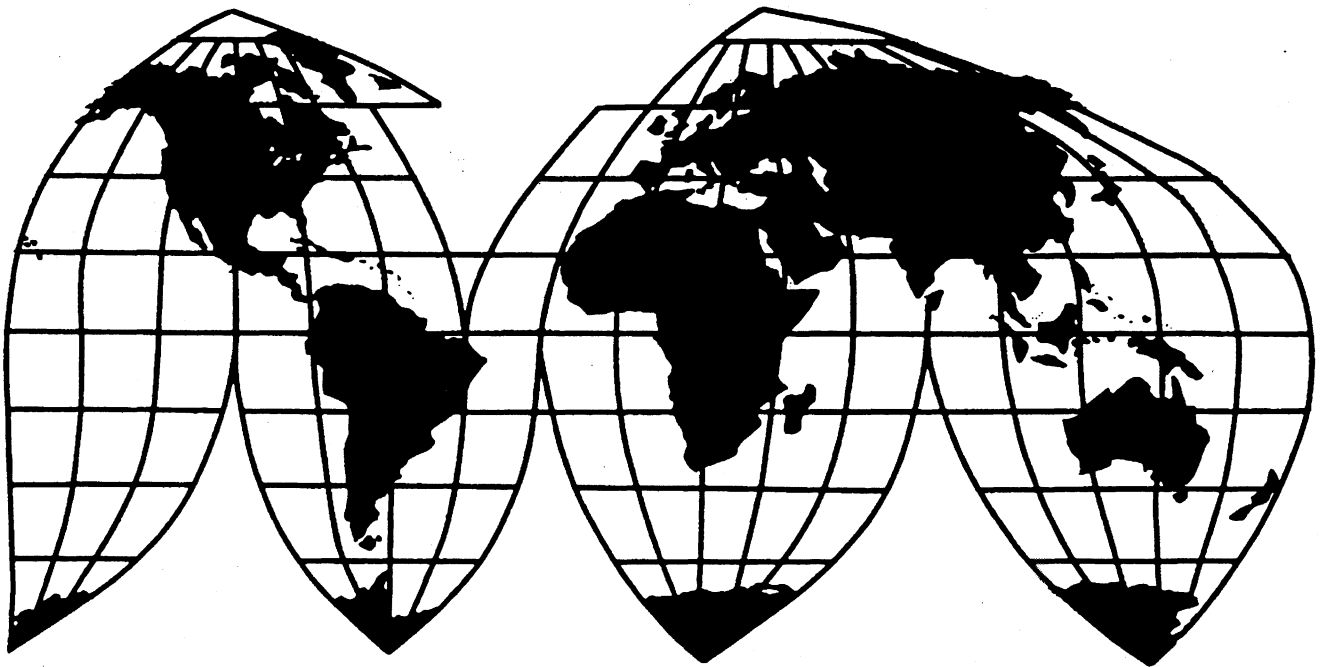
Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia

Investigations Nos. 731-TA-96 and 439-445 (Review)

Publication 3342

August 2000

U.S. International Trade Commission



Washington, DC 20436

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Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-96 and 439-445 (Review)

INDUSTRIAL NITROCELLULOSE FROM BRAZIL, CHINA, FRANCE, GERMANY, JAPAN,
KOREA, THE UNITED KINGDOM, AND YUGOSLAVIA

DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty orders on industrial nitrocellulose from Brazil,² China, France, Germany, Japan, Korea,³ and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission further determines that revocation of the antidumping duty order on industrial nitrocellulose from Yugoslavia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on June 1, 1999 (64 F.R. 29344) and determined on September 3, 1999 that it would conduct full reviews (64 F.R. 50107, September 15, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on October 25, 1999 (64 F.R. 57483).⁴ The hearing was held in Washington, DC, on June 8, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioner Thelma J. Askey dissenting.

³ Commissioner Thelma J. Askey dissenting.

⁴ The Commission subsequently revised its schedule, publishing its notice in the *Federal Register* on February 7, 2000 (65 FR 5889). The Commission later revised the schedule again, publishing the second revised notice on June 26, 2000 (65 FR 39426).

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders covering industrial nitrocellulose (“INC”) from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time;¹ and that revocation of the antidumping duty order covering INC from Yugoslavia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In July 1983, the Commission determined that an industry in the United States was materially injured by reason of imports from France of INC that the Department of Commerce (“Commerce”) had determined were being sold in the United States at less than fair value (“LTFV”). In June 1990, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of INC from Brazil, China, Germany, Japan, Korea, and the United Kingdom. In October 1990, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of INC from Yugoslavia. Commerce imposed antidumping duty orders on INC imports from the subject countries on the following dates: August 10, 1983 for France; July 10, 1990 for Brazil, China, Germany, Japan, Korea, and the United Kingdom; and October 16, 1990 for Yugoslavia.²

On June 1, 1999, the Commission instituted these reviews pursuant to section 751(c) of the Act, to determine whether revocation of the antidumping duty orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia would likely lead to continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.³ The Commission received responses to the notice of institution by the deadline of July 21, 1999 from the following interested parties: Hercules, Inc. (“Hercules”), the sole domestic producer of INC at the time; Bergerac, N.C., a French producer and exporter of INC; SNPE North America LLC and TEVCO, Inc., U.S. affiliates of Bergerac and importers of INC; Wolff Walsrode AG, Chemical Division, a German producer and exporter of INC; Bayer Corporation, a U.S. importer of INC; Nobel Enterprises, a United Kingdom producer and exporter of INC; and ICI Americas Inc., a U.S. importer of INC. The Commission did not receive responses from any respondent interested parties in the reviews concerning Brazil, China, Japan, Korea, and Yugoslavia.

On September 3, 1999, the Commission determined that both the domestic and respondent interested party group responses to its notice of institution for the reviews concerning France, Germany, and the United Kingdom were adequate.⁴ Pursuant to 19 U.S.C. § 1675(c)(5), the Commission decided to conduct full reviews with regard to France, Germany, and the United Kingdom. Because no respondent interested parties responded for the reviews concerning Brazil, China, Japan, Korea, or Yugoslavia, the Commission determined that the respondent interested party group responses for these reviews were inadequate. However, the Commission decided to conduct full reviews of the orders

¹ Commissioner Askey dissenting with respect to Brazil and Korea. Commissioner Askey writes separately to discuss her views but joins in Sections I, II, III.A, and IV.A of this opinion. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

² See 64 Fed. Reg. 29344, 29345 (June 1, 1999).

³ 64 Fed. Reg. 29344 (June 1, 1999).

⁴ See Explanation of Commission Determination on Adequacy in Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia. Confidential Report (“CR”)/Public Report (“PR”) at Appendix A. See also 64 Fed. Reg. 50107 (Sept. 15, 1999).

covering INC from Brazil, China, Japan, Korea, and Yugoslavia to promote administrative efficiency in light of the Commission's decision to conduct full reviews with respect to France, Germany, and the United Kingdom.⁵

Hercules and Green Tree Chemical Technologies, Inc. ("Green Tree"), the successor-in-interest to the INC business of Hercules, filed briefs and appeared at the hearing on behalf of the domestic industry and in opposition to revocation of the orders. Respondents representing the INC industries in France, Germany, and the United Kingdom filed briefs and appeared at the hearing in support of revocation of the orders. Asahi Chemical Co. Ltd. of Japan, a Japanese producer of INC, responded to the Commission's questionnaire but is not a party to these reviews. No foreign producers of INC in Brazil, China, Korea, or Yugoslavia appeared as parties to these reviews or responded to the Commission's questionnaires.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines "the domestic like product" and the "industry."⁶ 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 under this subtitle."⁷

In its final expedited sunset reviews for all the subject countries, Commerce defined the scope of the subject merchandise as follows:

The product covered by this order is industrial nitrocellulose ("nitrocellulose"). . . Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.⁸

⁵ Commissioner Crawford dissented and determined that the Commission should conduct expedited reviews of the orders covering Brazil, China, Japan, Korea, and Yugoslavia. See Explanation of Commission Determination on Adequacy in Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia. CR/PR at Appendix A.

⁶ 19 U.S.C. § 1677(4)(A).

⁷ 19 U.S.C. § 1677(10). See NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (CIT 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁸ See 64 Fed. Reg. 57859, 57860 (Oct. 27, 1999).

The Commission in its original determinations defined the domestic like product, consistent with Commerce's scope definition, as all industrial nitrocellulose.⁹ In the 1990 investigations, the Commission considered various like product arguments raised by the respondents and determined that it was appropriate to include all grades of industrial nitrocellulose in the like product; that plasticized industrial nitrocellulose should be included in the like product; that the type of wetting agent used did not constitute a basis for creating separate like products; and that it was appropriate not to include explosive nitrocellulose in the like product definition.¹⁰

There is no evidence in the record of these reviews that suggests the Commission should revisit the definition of the like product.¹¹ We find, consistent with the Commission's findings in the original investigations and with Commerce's scope definition, a single domestic like product consisting of all industrial nitrocellulose.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the domestic "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."¹² In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.¹³ The Commission bases its analysis on a firm's production-related activities in the United States.¹⁴

⁹ See Industrial Nitrocellulose from Brazil, Japan, The People's Republic of China, The Republic of Korea, the United Kingdom and West Germany, Inv. Nos. 731-TA-439 through 444 (Final), USITC Pub. 2295 at 8 (June 1990); Industrial Nitrocellulose from Yugoslavia, Inv. No. 731-TA-445 (Final), USITC Pub. 2324 at 4 (Oct. 1990). In the 1983 determination on France, the Commission similarly defined the domestic like product as "all soluble industrial nitrocellulose." Nitrocellulose from France, Inv. No. 731-TA-96 (Final), USITC Pub. 1409 at 4 (July 1983). However, given that all INC is produced using a "soluble process," the word "soluble" in the definition was superfluous.

¹⁰ USITC Pub. 2295 at 5-7.

¹¹ Wolff Walsrode AG, a German producer and exporter of INC, and Bayer Corporation, a U.S. importer of INC, stated in their joint response to the notice of institution that they "challenge the ITC's definition of like product" but did not offer an alternative definition, or pursue any like product arguments at the hearing or in their prehearing or posthearing briefs. See Response of Wolff Walsrode A.G. and Bayer Corporation to Notice of Institution at 9 (July 21, 1999). No other party to these reviews has raised a like product issue. The participating respondents, representing the INC industries in France, Germany, and the United Kingdom, argue that certain types of INC, such as plasticized INC from Germany and cuboid INC from the United Kingdom, provide a basis for not cumulating subject imports from these countries, but they do not argue that these types of INC are separate like products. Respondents' Joint Prehearing Brief at 8 (May 30, 2000).

¹² 19 U.S.C. § 1677(4)(A).

¹³ See, e.g., Uranium from Kazakhstan, Inv. No. 731-TA-539-A (Final), USITC Pub. 3213 at 8-9 (July 1999); Manganese Sulfate from the People's Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 & n.10 (Nov. 1995) (the Commission stated it has generally considered toll producers that engage in sufficient production-related activity to be part of the domestic industry). See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

¹⁴ The Commission typically considers six factors: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; 5

Consistent with our domestic like product determination, we find one domestic industry, consisting of all domestic producers of industrial nitrocellulose. We note that during the period of these reviews there have been two successive domestic producers of INC, Hercules and Green Tree. Hercules, which responded to the notice of institution, ceased production of INC on May 15, 2000, pursuant to its announcement in December 1999 that it would phase out INC production at its Parlin, New Jersey facility and that it planned to transfer its INC business to Green Tree. On June 16, 2000, Green Tree acquired, and became the successor-in-interest to, Hercules' INC business.¹⁵ Green Tree began production of INC at the Parlin, New Jersey facility on June 17, 2000.¹⁶

The record is thus clear that, notwithstanding intermittent interruptions in production,¹⁷ industrial nitrocellulose has been produced in the United States throughout the period of these reviews, first by Hercules and then by Green Tree.¹⁸ Both Hercules and Green Tree qualify as producers of the domestic like product under the statutory definition of the "industry,"¹⁹ and each has qualified as an "interested party" in that each produced INC during the review period prior to the record closing.^{20 21}

(4) employment levels; (5) the quantities and types of parts sourced in the United States; and (6) any other costs and activities in the United States leading to production of the like product. See Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391 and 731-TA-816-821 (Final), USITC Pub. 3273 at 8-9 (Jan. 2000).

¹⁵ Hercules stated it intends to focus its Parlin manufacturing operations solely on hydroxyethylcellulose, a water-based solvent used for applications similar to those of INC. CR at III-10, PR at II-4.

¹⁶ Posthearing Brief of Hercules and Green Tree at 1, 3-4 (June 19, 2000); Letter to Donna Koehnke from Miller Thomson Wickens & Lebow LLP, on behalf of Hercules and Green Tree (July 14, 2000).

¹⁷ Besides the cessation of INC production from May 15, 2000 through June 16, 2000, when Hercules' assets were transferred to Green Tree, Hercules experienced an accident at its plant in May 1999 that ***. CR at II-2, PR at II-1. Repairs are expected to be completed ***. CR at III-2, III-4, PR at III-1-2.

¹⁸ Green Tree's acquisition of Hercules' assets and its resumption of INC production moot respondents' arguments that the U.S. INC industry ceased to exist and that the Commission is thereby precluded from finding continuation or recurrence of material injury. See Respondents' Joint Prehearing Brief at 5-6. The respondents raised these arguments at the hearing and in their prehearing and posthearing briefs, but did not reiterate them in their final comments, which recognized Green Tree as the "new producer." Respondents' Joint Final Comments at 2 (Aug. 8, 2000).

¹⁹ 19 U.S.C. § 1677(4)(A).

²⁰ 19 U.S.C. § 1677(9)(C).

²¹ Green Tree reported its initial production of INC at approximately 2.0 million pounds per month (Posthearing Brief of Hercules and Green Tree at Attachment 3), in line with Hercules' production and sales rates in the second quarter of 2000 when it transferred its INC business to Green Tree. CR/PR at Table III-2, Table III-4 (showing Hercules' production at *** pounds for the period April-June 2000 and its U.S. sales at *** pounds for the same period). While this rate is down somewhat from Hercules' production rate of approximately 3.0 million pounds per month at the beginning of 2000 (Posthearing Brief of Hercules and Green Tree at Attachment 3; CR/PR at Table III-2), Green Tree's initial production rate nevertheless appears to represent more than *** percent of U.S. apparent consumption, which, on an annual basis, was *** million pounds in 1999. CR/PR at Table C-1. Moreover, both Hercules and Green Tree produce for commercial sale, in response to customer orders. Posthearing Brief of Hercules and Green Tree at 3-4. The Commission has found domestic production and a domestic industry to exist even where domestic production was quite limited during the period of investigation, but was produced for commercial sale. See Certain Stainless Steel Plate From Belgium, Canada, Italy, Korea, South Africa, and Taiwan, Inv. Nos. 701-TA-376, 377, and 379, Inv. Nos. 731-TA-788-793 (Final), USITC Pub. 3188 at 5, 8 (May 1999) (Commission majority found domestic production of cold-rolled stainless steel coiled plate, given that production, although "quite limited," was for commercial sale, in response to customers' orders, and occurred during every year

C. Related Parties

In defining the domestic industry in these reviews, we have considered whether any U.S. producers of INC should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry for the purposes of an injury determination producers that are related to a foreign producer, exporter, or importer of the subject merchandise, or which are themselves importers.²² Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.²³

The existence or exclusion of related parties was not an issue in the original INC investigations, and no party has raised it as an issue in these reviews. The record indicates that neither Hercules nor Green Tree is affiliated with any foreign producers, exporters, or importers of INC. However, when Hercules experienced a temporary supply disruption as a result of a plant accident in May 1999, it imported INC from *** to meet the requirements of its contract customers. Data for the first nine months of 1999 indicate that Hercules imported *** from *** during the period.²⁴ These imports represent *** percent of Hercules' total INC production of *** during the same period.²⁵

Hercules' importation of subject merchandise during a brief portion of the review period brings it within the related parties provision, but appropriate circumstances do not exist to exclude Hercules as a related party. Hercules clearly imported in response to an emergency and to complement, not displace, its U.S. production.²⁶ The small percentage of imports relative to overall production confirms that its

of the investigation period).

²² 19 U.S.C. § 1677(4)(B).

²³ See Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (CIT 1987). 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (CIT 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand, Inv. Nos. 731-TA-308-310 and 520-521 (Review), USITC Pub. 3263 at 5-7 (Dec. 1999); Stainless Steel Plate from Sweden, Inv. No. AA1921-114 (Review), USITC Pub. 3204 at 10 (July 1999); Sugar from the European Union; Sugar from Belgium, France, and Germany; and Sugar and Syrups from Canada, Inv. Nos. 104-TAA-7, AA1921-198-200, and 731-TA-3 (Review), USITC Pub. 3238 at 14 (Sept. 1999). See also S. Rep. No. 249, 96th Cong., 1st Sess. 83 (1979).

²⁴ See CR at I-25, PR at I-19; Hercules' Response to Commission Questionnaire.

²⁵ Hercules' Response to Commission Questionnaire.

²⁶ Chairman Koplman and Commissioners Miller and Hillman do not find that Hercules benefitted significantly from its subject imports such that its inclusion in the domestic industry would affect our assessment of the industry's vulnerability or of the likelihood of material injury.

primary interest was in U.S. production, not imports, and that it imported only to meet its established customers' needs when its own supply was disrupted due to a plant accident. In addition, Hercules, at the time it imported INC from ***, represented all U.S. production of INC, and its data are therefore essential to the Commission's determination.²⁷ We therefore find that appropriate circumstances do not exist to exclude Hercules under the related parties provision.

III. CUMULATION²⁸

A. Framework

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.²⁹

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.³⁰ We note that neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact" on the domestic industry.³¹ With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely

²⁷ See Torrington Co. v. United States, 790 F. Supp. at 1168 (Court upholds as reasonable the Commission's determination that excluding related parties that account for significant shares of the domestic industry could present a distorted view of the industry).

²⁸ Commissioner Bragg does not join in Section III of this opinion. Commissioner Bragg provides a separate analysis of cumulation in these reviews. See Separate Views of Commissioner Lynn M. Bragg Regarding Cumulation. For a complete statement of Commissioner Bragg's analytical framework regarding cumulation in sunset reviews, see Separate Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews, found in Potassium Permanganate From China and Spain, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 (Oct. 1999); see also Separate Views of Chairman Lynn M. Bragg Regarding Cumulation, found in Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Pub. 3290 (April 2000).

Commissioner Askey joins only in Section III.A of this section. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

²⁹ 19 U.S.C. § 1675a(a)(7).

³⁰ 19 U.S.C. § 1675a(a)(7).

³¹ SAA, H.R. Rep. No. 103-316, vol. I (1994).

impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.^{32 33}

The Commission has generally considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.³⁴ Only a “reasonable overlap” of competition is required.³⁵ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders under review are revoked. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.³⁶

In these reviews, the statutory requirement for cumulation that all reviews be initiated on the same day is satisfied. For the reasons discussed below, we do not cumulate subject imports from

³² For a discussion of the analytical framework of Chairman Koplan and Commissioners Miller and Hillman regarding the application of the “no discernible adverse impact” provision, see Malleable Cast Iron Pipe Fittings From Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 (Review) and 731-TA-347-348 (Review). For a further discussion of Chairman Koplan’s analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 803-TA-13 (Review); 701-TA-249 (Review) and 731-TA-262, 263, and 265 (Review) (Views of Commissioner Stephen Koplan Regarding Cumulation).

³³ Commissioner Askey notes that the Act clearly states that the Commission is precluded from exercising its discretion to cumulate if the imports from a country subject to review are likely to have “no discernible adverse impact on the domestic industry” upon revocation of the order. 19 U.S.C. § 1675a(a)(7). Thus, the Commission must focus on whether the imports will impact the condition of the industry discernibly as a result of revocation, and not solely on whether there will be a small volume of imports after revocation, *i.e.*, by assessing their negligibility after revocation of the order. For a full discussion of her views on this issue, see Additional Views of Commissioner Thelma J. Askey in Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 (Oct. 1999).

³⁴ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, *e.g.*, Wieland Werke, AG v. United States, 718 F. Supp. 50 (CIT 1989).

³⁵ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 1996); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (CIT 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996)). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, *e.g.*, Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom.*, Ranchers-Cattleman Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); SRAMs from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

³⁶ See, *e.g.*, Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

Yugoslavia on the basis of no discernible adverse impact, but find that subject imports from all the other subject countries would be likely to compete with each other and with the domestic like product and exercise our discretion to cumulate imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom.³⁷

B. Likelihood of No Discernible Adverse Impact

We find that subject imports of INC from Yugoslavia would be likely to have no discernible adverse impact on the domestic industry if the order is revoked and, therefore, do not cumulate subject imports from Yugoslavia with subject imports from any of the other subject countries.

There were no INC imports from Yugoslavia during the review period.³⁸ Milan Blagojevic was the only known INC producer in Yugoslavia during the original investigation.³⁹ The record of these reviews indicates that the Yugoslav producer's facilities were destroyed or severely damaged as a result of military action and that the United States has continuing sanctions against imports from Serbia.⁴⁰ We note that the domestic industry urged the Commission not to cumulate imports from Yugoslavia with those from any other subject country, on the ground that imports from Yugoslavia likely would have no discernible adverse impact in view of the destruction of the Milan Blagojevic facility.⁴¹ We find, given the destruction of the only known INC production facility in Yugoslavia and the lack of any indication in the record of these reviews that Yugoslav INC production and exports to the United States are likely to resume in the reasonably foreseeable future, that INC imports from Yugoslavia would be likely to have no discernible adverse impact on the domestic industry.

Although the participating respondents on behalf of the INC industries in France, Germany, and the United Kingdom urged the Commission to find that imports from these countries would be likely to have no discernible adverse impact,⁴² we find that the no discernible adverse impact exception to cumulation does not apply to any subject country except Yugoslavia. Unlike Yugoslavia, each of the other subject countries currently produces INC, has some available excess capacity, and exported INC to the United States during at least a portion of the review period.

Subject imports from the three countries actively participating in these reviews -- France, Germany, and the United Kingdom -- have remained in the U.S. market since the orders were imposed, at levels comparable to those of the original investigations. Their U.S. market shares, moreover, are higher than those of the original investigations: U.S. shipments of imports from France represented *** percent of U.S. apparent consumption in 1999, as compared to *** percent in 1982; for Germany, *** percent of U.S. apparent consumption in 1999, as compared to *** percent in 1989; and for the United Kingdom, *** percent of U.S. apparent consumption in 1999, as compared to *** percent in 1989.⁴³ The

³⁷ Commissioner Askey does not join this statement. She finds that the subject imports from Brazil and Korea are not likely to have a discernible adverse impact on the domestic industry. Accordingly, she does not cumulate them with the other subject imports. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

³⁸ CR/PR at Table IV-1, Table IV-2.

³⁹ CR at IV-16, PR at IV-7.

⁴⁰ CR at IV-16, PR at IV-7; Response to Notice of Institution of Nobel Enterprises and ICI Americas, Inc. at 8 (July 21, 1999); Prehearing Brief of Hercules and Green Tree at 11, n.7 (May 30, 2000).

⁴¹ Prehearing Brief of Hercules and Green Tree at 11, n.7.

⁴² Respondents' Joint Prehearing Brief at 11-14.

⁴³ CR/PR at Table I-1, Table I-2, Table C-1.

quantity of imports from each of these countries was higher in 1999 than in 1997,⁴⁴ and there were significant volumes of imports from each of these countries during the first half of 2000.⁴⁵ Producers in each country have some excess capacity, and all are export-oriented.⁴⁶

INC imports from Brazil were *** pounds in 1997, as compared to *** pounds in 1989, but Brazil's market share in 1997 was higher than during the original investigation.⁴⁷ U.S. shipments of imports from Brazil represented *** percent of U.S. apparent consumption in 1997, as compared to *** percent in 1989.⁴⁸ Although imports from Brazil dropped sharply in 1998 and 1999, apparently due to ***, the record indicates that the Brazilian producer has ***, has resumed exports to the United States, and exports substantial quantities to Colombia and other markets.⁴⁹

While the level of subject imports from Japan has decreased since the original investigation, the record indicates that Japanese producers have substantial unused capacity that they could divert to the U.S. market if the order was revoked.⁵⁰ We likewise find, absent contrary evidence on the record, that, without the restraining effects of the orders, producers in China and Korea have the capacity to increase their exports of INC to the United States above current levels.⁵¹

Based on the available information regarding the capacity, production, and export levels of the industries in all the subject countries except Yugoslavia, we therefore find a likelihood of a discernible adverse impact on the domestic industry if the orders on any of these seven countries were revoked.

C. Reasonable Overlap of Competition and Other Considerations

In determining whether to exercise our discretion to cumulate subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom, we examined whether, upon revocation

⁴⁴ CR/PR at Table IV-1.

⁴⁵ CR/PR at Table IV-2.

⁴⁶ CR/PR at Table IV-5, Table IV-6, Table IV-8.

⁴⁷ CR/PR at Table I-2.

⁴⁸ CR/PR at Table I-2.

⁴⁹ Prehearing Brief of Hercules and Green Tree at 18-19; Posthearing Brief of Hercules and Green Tree at 5-6; Hearing Tr. at 140.

⁵⁰ The capacity utilization of Asahi, which reportedly represented *** of Japanese INC production in 1998 and was the only Japanese producer to respond to the Commission's questionnaire (CR at IV-12, PR at IV-6), was at *** percent in 1998 and *** percent in the first three quarters of 1999. CR/PR at Table IV-7. Asahi, moreover, indicated in its questionnaire response the ***. CR at IV-12, PR at IV-6.

⁵¹ In 1988, at the time of the original investigation, China's production capacity was estimated at *** pounds, and its capacity utilization at *** percent. Original CR at a-46. Imports from China at the time of the original investigation ranged from *** pounds to *** pounds, and U.S. shipments of imports from China represented between *** percent and *** percent of U.S. apparent consumption. CR/PR at Table I-2. We note that, although two Chinese INC producers cannot export INC to the United States pursuant to a joint venture agreement involving the French producer Bergerac, these two Chinese producers reportedly account for only 35 percent of current INC production in China. Respondents' Joint Posthearing Brief at Attachment C.

At the time of the original investigation, the production capacity of Miwon, one of two known Korean producers, was *** pounds and its capacity utilization was *** percent. Original CR at a-46-47, Table 17. The last INC imports to the United States from Korea, reportedly from Miwon Commercial Company, were in 1997, at *** pounds, as compared to *** pounds in 1989. CR/PR at Table I-2, Table IV-1, Table IV-2.

of the orders, subject imports from these countries would likely compete in the U.S. market under similar conditions of competition with each other and with the domestic like product.

We first considered the likelihood of a reasonable overlap of competition among the products from each of these countries and the United States. In this regard, the domestic industry urged the Commission to cumulate imports from all subject countries, except Yugoslavia, based on the traditional four competition factors: fungibility, geographic overlap, simultaneous market presence, and channels of distribution.⁵² The actively participating respondents, on behalf of the INC industries in France, Germany, and the United Kingdom, argued that certain INC products, such as plasticized INC from Germany and cuboid product from the United Kingdom, are not interchangeable with INC from other sources. They urged the Commission not to cumulate imports from the subject countries not participating in these reviews with those from Germany, France, and the United Kingdom given that imports from the non-participating countries are not simultaneously present in the U.S. market and the Commission lacks knowledge as to the channels of distribution they would use.⁵³

In the original 1990 investigations, the Commission cumulated subject imports from all the subject countries, based on a reasonable overlap of competition.⁵⁴ With respect to fungibility, the record of these reviews indicates a relatively high degree of substitutability between U.S.-produced and imported INC.⁵⁵ Purchasers, who listed price and quality as the most important factors in purchasing decisions, generally view INC from various countries as interchangeable and, with respect to any specific requirements they might have, find the subject imports to be similar.⁵⁶ Some quality differences among subject imports, however, were reported. While imports from Brazil, France, Germany, Japan, and the United Kingdom were found to be comparable with each other and with the U.S. product, imports from China and Korea were reportedly of inferior quality and could not be used interchangeably with the domestic product for certain applications.⁵⁷ The record also indicates, however, that for most applications price is a more important consideration than quality and that lower quality INC can be used by itself or blended with higher quality INC.⁵⁸ The Commission in the original investigations found all the subject imports and the domestic product to be essentially fungible, despite some reported quality differences.⁵⁹

About *** percent of the German producer Wolff's shipments to the United States are reportedly of plasticized nitrocellulose, which is not interchangeable with the domestic like product because it is not damped with alcohol.⁶⁰ Most German INC, however, is alcohol wet and thus fully interchangeable with the domestic like product and with other subject imports.⁶¹ In addition, the United Kingdom exports a cuboid form of INC to the United States, but cuboid INC is a type of alcohol wet INC and is considered widely interchangeable with other forms of the product.⁶²

⁵² Prehearing Brief of Hercules and Green Tree at 5-9.

⁵³ Respondents' Joint Prehearing Brief at 8-9.

⁵⁴ USITC Pub. 2295 at 14; USITC Pub. 2324 at 8.

⁵⁵ CR at II-9, PR at II-6.

⁵⁶ CR at II-6-7, II-9, PR at II-4-6.

⁵⁷ CR at II-9, PR at II-6.

⁵⁸ Prehearing Brief of Hercules and Green Tree at 6-7.

⁵⁹ USITC Pub. 2295 at 13; USITC Pub. 2324 at 8.

⁶⁰ CR at I-24, PR at I-19; Posthearing Brief of Hercules and Green Tree at 21-22.

⁶¹ Posthearing Brief of Hercules and Green Tree at 21-22.

⁶² CR at I-24, PR at I-19.

The record indicates that imported and domestically produced INC are generally sold in the same channels of distribution throughout the United States, but that imports from all subject countries were not present in the U.S. market during all of the review period. As noted previously, there were relatively small volumes of imports from China, only in 1998 and 1999, and from Korea, only in 1997,⁶³ although this may be due to the effect of the orders. Imports from all the subject countries were simultaneously present in the U.S. market throughout the original investigation period.⁶⁴

We determine, based on the record of these reviews, that there likely would be a reasonable degree of fungibility between U.S. production and subject imports if the orders were revoked. U.S.-produced INC is generally interchangeable with INC imported from the subject countries. While imports from China and Korea have been reported to be of inferior quality for certain applications, low-quality INC reportedly can be used by itself or blended with higher quality INC for most applications. The special types of INC imported from certain countries -- *i.e.*, "plasticized" INC from Germany and "cuboid" INC from the United Kingdom -- do not preclude a finding of a likely reasonable overlap of competition. The record, including information from the original investigations, indicates that subject imports and the domestic product would likely move in the same channels of distribution and be sold simultaneously in the same or similar geographic markets if the orders were revoked.

We find on balance that, if the orders were revoked, subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to compete with each other and with the domestic like product and that other conditions of competition do not warrant a contrary conclusion.⁶⁵ We therefore exercise our discretion to cumulate subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom in these reviews.

IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDERS ARE REVOKED⁶⁶

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order or termination of a suspended investigation "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."⁶⁷ The SAA states

⁶³ CR/PR at Table IV-1, Table IV-2.

⁶⁴ CR/PR at Table I-2.

⁶⁵ Chairman Koplan notes that the producers in China, Japan, and Korea are all restrained to a significant degree by the respective antidumping duty orders. The existing orders have effectively eliminated subject imports from those countries. In contrast, subject imports from France, Germany, the United Kingdom, and Brazil (prior to the explosion at Quimica), have entered the U.S. market in significant quantities under the respective antidumping duty orders. Nevertheless, because the conditions of competition overall would not likely be significantly different for imports from any of the subject countries if the respective orders were revoked, Chairman Koplan finds that it is appropriate to assess cumulatively the likely volume and price effects of imports from all subject countries, except Yugoslavia.

⁶⁶ Commissioner Bragg joins the remaining sections of these views.

Commissioner Askey joins only in Section IV.A of this section. See Concurring and Dissenting Views of Commissioner Thelma J. Askey.

⁶⁷ 19 U.S.C. § 1675a(a).

that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁶⁸ Thus, the likelihood standard is prospective in nature.⁶⁹ The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁷⁰ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”^{71 72}

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated.”⁷³ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, and whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated.^{74 75}

⁶⁸ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

⁶⁹ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

⁷⁰ 19 U.S.C. § 1675a(a)(5).

⁷¹ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

⁷² In analyzing what constitutes a reasonably foreseeable time, Chairman Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

⁷³ 19 U.S.C. § 1675a(a)(1).

⁷⁴ 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

⁷⁵ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. §

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We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination.⁷⁶ We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties' suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. "In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive."⁷⁷ In this case, a number of respondent interested parties did not provide questionnaire responses and/or participate in these reviews. Accordingly, we have relied on the facts available in these reviews, which consist primarily of the information collected by the Commission since the institution of these reviews, information submitted by the domestic producers, respondent parties and other parties in these reviews, and information from the original investigations.

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to the production or consumption in the United States.⁷⁸ In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁷⁹

In evaluating the likely price effects of subject imports if the order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of domestic like products.⁸⁰

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment;

1675a(a)(1)(D). Commerce has not issued any duty absorption findings with respect to these reviews. See 64 Fed. Reg. 57843, 57844 (Oct. 27, 1999).

⁷⁶ See 19 U.S.C. § 1677e.

⁷⁷ SAA at 869.

⁷⁸ 19 U.S.C. § 1675a(a)(2).

⁷⁹ 19 U.S.C. § 1675(a)(2)(A)-(D).

⁸⁰ 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁸¹ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.⁸² As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty orders at issue and whether the industry is vulnerable to material injury if the order is revoked.⁸³

For the reasons stated below, we determine that revocation of the antidumping duty orders on INC from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time; and that revocation of the antidumping duty order on INC from Yugoslavia would not be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.⁸⁴

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁸⁵

The following conditions of competition in the INC industry are relevant to our determinations.

U.S. apparent consumption of INC fell by *** percent from 1987 to 1999, primarily because of environmental considerations and the decreased use of INC in applications such as car repair paints and cellophane.⁸⁶ In the United States, INC, which requires the use of organic solvents such as acetone (considered a toxic air pollutant by the Environmental Protection Agency and the Occupational Safety and Health Administration), is being gradually replaced by water-based products and by advancements in modern-day polymer technologies.⁸⁷ Nevertheless, substitutes for INC do not exist in all applications.

⁸¹ 19 U.S.C. § 1675a(a)(4).

⁸² 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce found the following sunset margins in its expedited reviews of the antidumping duty orders on INC: Brazil, 61.25 percent; China, 78.40 percent; France -- Bergerac, 13.35 percent and all others, 1.38 percent; Germany, 3.84 percent; Japan, 66.00 percent; Korea, 66.30 percent; United Kingdom, 11.13 percent; and Yugoslavia, 10.81 percent. See 64 Fed. Reg. 57843, 57845, 57847, 57851, 57852, 57854, 57857, 57859 (Oct. 27, 1999).

⁸³ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

⁸⁴ Commissioner Askey does not join this statement. See her Concurring and Dissenting Views.

⁸⁵ 19 U.S.C. § 1675a(a)(4).

⁸⁶ CR at I-26, II-5, PR at I-20, II-3.

⁸⁷ CR at I-19-20, PR at I-14, I-16.

Water-based resins, for example, lack the fast drying and binding properties of INC.⁸⁸ Demand for INC in Europe, like the United States, is expected to remain stagnant or decline in the reasonably foreseeable future.⁸⁹

INC is a commodity product, for which price is one of the most important purchase factors, along with quality and availability.⁹⁰ The record indicates a relatively high degree of substitutability between U.S.-produced INC and the imported product.⁹¹ While purchasers noted some quality differences with respect to INC from China and Korea,⁹² for most applications price appears to be a more important consideration than quality and lower quality INC can be blended with higher quality INC.⁹³

INC sales are usually based on annual contracts, but spot market sales are also prevalent. The domestic industry indicated that contract sales were *** percent of its business and the remainder were in the spot market. Importers indicated that contract sales were *** to *** percent of their sales, with the remainder in the spot market.⁹⁴

The domestic INC industry has been comprised of a single producer since 1978, before any of the orders were imposed.⁹⁵ Hercules, the sole U.S. producer when these reviews were instituted, experienced a shortfall in production as a result of a plant accident in May 1999. Hercules transferred its INC business to Green Tree during the pendency of these reviews. Hercules ceased INC production on May 15, 2000, immediately before the transfer of its INC assets, and Green Tree resumed production on June 17, 2000, the day after the transfer. When domestic supply was uncertain, due to Hercules' plant accident in May 1999 and then its December 1999 announcement that it was selling its INC business, some customers turned to imports, particularly sourced from France and Germany, to meet their needs.⁹⁶ As discussed earlier, Hercules itself imported INC from *** after its plant accident to meet its customers' requirements.⁹⁷ The projected business plan of Green Tree, the new, sole domestic producer, calls for streamlining administrative, labor, and other costs and recapturing those customers lost to foreign suppliers.⁹⁸

The record indicates that customers may prefer a domestic supply source, although purchasers also stated that they do not want to risk losing their foreign supply sources and that the quality, price, and service provided by Green Tree would have to equal or exceed that provided by Hercules for Green Tree to retain or secure their business.⁹⁹

Nonsubject imports' U.S. market share has increased since the original investigations, from *** percent in 1987, *** percent in 1988, and *** percent in 1989, to *** percent in 1997, *** percent in

⁸⁸ CR at II-5, PR at II-3.

⁸⁹ CR at I-26, II-5-6, PR at I-20, II-3-4.

⁹⁰ CR at II-7, PR at II-4-5.

⁹¹ CR at II-9, PR at II-6.

⁹² CR at II-9, PR at II-6.

⁹³ Prehearing Brief of Hercules and Green Tree at 6-7.

⁹⁴ CR at V-11, PR at V-6.

⁹⁵ CR at I-25, PR at I-19.

⁹⁶ CR at II-1, n.1, PR at II-1, n.1; Respondents' Joint Prehearing Brief at 13.

⁹⁷ CR at II-1, n.1, PR at II-1, n.1.

⁹⁸ Posthearing Brief of Hercules and Green Tree at 4.

⁹⁹ CR at II-8, PR at II-5.

1998, and *** percent in 1999.¹⁰⁰ Imports overall also gained U.S. market share, from *** percent in 1989 to *** percent in 1997, *** percent in 1998, and *** percent in 1999.¹⁰¹

As imports captured more of the U.S. market, the U.S. producer's U.S. market share has declined since the original investigations: from *** to *** percent in the 1980-82 period, to *** to *** percent in the 1987-89 period, to *** percent in 1997, *** percent in 1998, and *** percent in 1999.¹⁰² Domestic production increased by *** percent from 1997 to 1998 but decreased by *** percent from 1998 to 1999.¹⁰³

The domestic industry decreased its INC exports by *** percent from 1998 to 1999. Occupational and safety regulations in Europe and tariff and nontariff barriers to INC importation in several countries are said to limit the ability of the U.S. industry to shift any excess production capacity to foreign markets.¹⁰⁴

INC producers generally do not make other products using the equipment and employees used to produce INC, and product shifting therefore is unlikely.¹⁰⁵

We find that the foregoing conditions of competition provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

C. Revocation of the Antidumping Duty Orders on Imports of INC From Brazil, China, France, Germany, Japan, Korea, and the United Kingdom Is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. Likely Volume of Subject Imports

In the original investigation on France, the Commission found that the trends in the volume of subject imports, coupled with other factors, indicated that the domestic industry was materially injured.¹⁰⁶ In the original investigations on INC from all the other subject countries, the Commission found that both market penetration and the absolute volume of the cumulated subject imports increased significantly during the period of investigation, noting that the subject imports' U.S. market share doubled from 1986 to 1989.¹⁰⁷

We find that, absent the restraining effects of the orders, imports from the cumulated subject countries would likely surpass current levels and enter the U.S. market in significantly increased volumes. Even with the restraining effects of the orders, cumulated subject imports captured *** percent of U.S. market share in 1999, as compared to *** percent for nonsubject imports and *** percent for U.S. production.¹⁰⁸

¹⁰⁰ CR/PR at Table I-2, Table C-1 (1987 to 1989 data include imports from France as nonsubject).

¹⁰¹ CR/PR at Table I-2, Table C-1.

¹⁰² CR/PR at Table I-1, Table I-2, Table C-1.

¹⁰³ CR at II-1, PR at II-1.

¹⁰⁴ CR at II-2, PR at II-1.

¹⁰⁵ See CR at IV-8, IV-10, IV-12, IV-14, PR at IV-5-7.

¹⁰⁶ USITC Pub. 1409 at 6.

¹⁰⁷ USITC Pub. 2295 at 19.

¹⁰⁸ CR/PR at Table C-1.

With respect to the subject producers not participating in these reviews, we find that the duties have had a restraining effect on their exports to the United States and that evidence of production and excess capacity levels in these countries indicates that imports could return to or surpass pre-order levels should the orders be revoked

U.S. shipments of imports from Brazil represented *** percent of U.S. market share in 1997, higher than during any period of the original investigation.¹⁰⁹ The record indicates that the decrease in imports from Brazil in 1998 was due to an explosion at the plant of Nitro Quimica, the only known Brazilian producer; imports from Brazil then rose somewhat in 1999.¹¹⁰ The record indicates that Nitro Quimica has begun to recover from its accident. The domestic industry estimates, based on market reports, that Nitro Quimica's pre-accident INC capacity of approximately ***.¹¹¹ Nitro Quimica has resumed exports to the United States, has approached Lilly, one of the largest U.S. customers, and is currently exporting substantial quantities to Colombia and possibly other markets.¹¹²

At the time of the original investigations, U.S. shipments of INC imports from China represented between *** percent and *** percent of U.S. market share.¹¹³ China's production capacity was estimated at *** pounds, and Chinese producers, with capacity utilization at *** percent, had some excess capacity.¹¹⁴ Thus, while China's exports to the United States have decreased since the original investigations,¹¹⁵ its exports presumably could return to pre-order levels in the event of revocation.¹¹⁶ Korea likewise appears to have the capacity to resume substantial shipments of INC to the United States absent the orders.¹¹⁷ The production capacity of Miwon, one of two known Korean producers, was estimated at *** pounds and its capacity utilization at *** percent at the time of the original investigations.¹¹⁸

The Japanese producer Asahi, who responded to the Commission's questionnaire, represented *** percent of Japanese INC production in 1998. Its capacity utilization rates of *** percent in 1998 and *** percent in the first three quarters of 1999 indicate significant excess capacity.¹¹⁹ Japanese imports

¹⁰⁹ CR/PR at Table I-2.

¹¹⁰ CR/PR at Table IV-1.

¹¹¹ Prehearing Brief of Hercules and Green Tree at 18, n.12.

¹¹² Prehearing Brief of Hercules and Green Tree at 18-19; Posthearing Brief of Hercules and Green Tree at 5-6; Hearing Tr. at 140. We note that an importer of INC from Brazil that responded to the Commission's questionnaire reported that *** (CR at IV-1, PR at IV-1), but do not find this evidence persuasive, given the increase in Brazilian imports to the United States from 1998 to 1999 (CR/PR at Table IV-1) and Lilly's testimony that the Nitro Quimica plant has resumed production, has two operating production lines, and has solicited Lilly for business. Hearing Tr. at 140.

¹¹³ CR/PR at Table I-2.

¹¹⁴ Original CR at a-46.

¹¹⁵ CR/PR at Table I-2, Table IV-1.

¹¹⁶ We note that, while INC produced by two Chinese producers, Xinxiang T.N.C. Chemical Corp. Ltd. and Shanghai T.N.C. Chemical Corp., reportedly cannot be sold in the United States pursuant to an agreement with Bergerac, a French INC producer, these two Chinese producers reportedly account for only 35 percent of INC production in China. Respondents' Joint Posthearing Brief at Attachment C.

¹¹⁷ The market share of subject imports from Korea has declined since the original investigations. Korea represented *** percent of U.S. market share in 1989, as compared to *** percent in 1997. CR/PR at Table I-2.

¹¹⁸ Original CR at a-46-47, Table 17.

¹¹⁹ CR/PR at Table IV-7.

represented between *** percent and *** percent of U.S. market share during the original investigation.¹²⁰ Although Japanese exports to the United States have decreased since the orders were imposed,¹²¹ Asahi indicated in its questionnaire response the ***.¹²²

Despite the orders, producers in France, Germany, and the United Kingdom have been able to maintain exports to the United States at or near the levels of the original investigations. Their current market shares are at or above those of the original investigations, and together accounted for over *** percent of U.S. market share in 1999.¹²³ The U.S. market share held by these three countries increased from 1997 to 1999, as the domestic industry's U.S. market share decreased from *** percent in 1997 to *** percent in 1999.¹²⁴ During the first six months of 2000, the U.S. industry's domestic commercial shipments were *** wet pounds,¹²⁵ while imports from these three countries totaled *** wet pounds.¹²⁶

Producers in France, Germany, and the United Kingdom claim that they are operating at full capacity and have no additional supply available for the U.S. market.¹²⁷ Although capacity utilization rates in France, Germany, and the United Kingdom have been relatively high, the record indicates some available unused capacity in each country.¹²⁸ In addition, producers in all three countries are export-oriented, with *** percent of their total shipments going to exports during each year of the review period.¹²⁹ Producers in France and Germany were able to supply Hercules' customers' needs when Hercules' production was curtailed or shut down.¹³⁰ The record thus indicates that, even when French and German subject producers are reported to be operating at full capacity, they have the capability to divert additional volumes to the United States to meet customers' needs and would be able to do so if the orders are lifted.¹³¹ The European producers further indicated that demand in their countries is expected to remain stagnant or decline in the reasonably foreseeable future.¹³² Prices in the United States are higher than those in a significant number of other countries, making the United States an attractive market.¹³³

The record indicates that all the subject country producers face tariff and non-tariff barriers to INC importation into certain third-country markets. Participating foreign producers reported the existence of tariff and nontariff barriers to INC importation in Brazil, India, Mexico, Venezuela, Thailand, China, and Indonesia.¹³⁴

¹²⁰ CR/PR at Table I-2.

¹²¹ CR/PR at Table I-2, Table IV-1.

¹²² CR at IV-12, PR at IV-6.

¹²³ CR/PR at Table I-1, Table I-2, Table C-1.

¹²⁴ CR/PR at Table C-1.

¹²⁵ CR/PR at Table III-4.

¹²⁶ CR/PR at Table IV-2.

¹²⁷ See Respondents' Joint Posthearing Brief at 10-12.

¹²⁸ CR/PR at Table IV-5, Table IV-6, Table IV-8.

¹²⁹ CR/PR at Table IV-5, Table IV-6, Table IV-8.

¹³⁰ CR at II-1, n.1, PR at II-1, n.1; Respondents' Joint Prehearing Brief at 13.

¹³¹ CR at II-3, PR at II-2.

¹³² CR at II-6, PR at II-4.

¹³³ See Prehearing Brief of Hercules and Green Tree at 15, 33-36.

¹³⁴ CR at IV-10, IV-12, PR at IV-5-6.

Consequently, based on the record in these reviews, we conclude that the volume of cumulated subject imports, which even with the orders has been substantial, likely would increase significantly within a reasonably foreseeable time if the antidumping duty orders are revoked.

2. Likely Price Effects

In the original investigation on France, the Commission found that, given the price sensitive nature of INC, the margins of underselling were commercially significant and that the subject imports suppressed domestic prices and caused lost sales.¹³⁵ In the original investigations on the other subject countries, the Commission found significant underselling by the cumulated subject imports which resulted in lost sales and lost revenue to the domestic producer.¹³⁶

We find that the increased volumes of INC imports from the cumulated subject countries that would be likely to enter the United States if the antidumping duty orders were revoked likely would have significant negative price effects for the U.S. product.

As discussed above, INC is a commodity product for which price is an important purchase factor, and there is a relatively high degree of substitutability between subject imports and the domestic product.¹³⁷

The pricing data collected in these reviews show consistent underselling by the subject imports at significant margins of underselling,¹³⁸ even with the orders in place, particularly for imports from the participating respondent countries.¹³⁹ The pricing data also show a consistent decline in U.S. prices from 1997 through the end of 1999 for most product types. While domestic prices for most products rose somewhat during the first six months of 2000, so generally did the prices of subject imports, which during most of the period also continued to undersell the domestic like product.¹⁴⁰ We attribute the overall rise in prices during the first half of 2000 to the temporary uncertainty in the market created by Hercules' supply disruptions, due to its announcement that it intended to sell its INC business and the lingering effects of its plant accident. We note that the participating respondents' margins of underselling remained significant even during this period of uncertainty in the market.¹⁴¹

¹³⁵ USITC Pub. 1409 at 6-7.

¹³⁶ USITC Pub. 2295 at 20-21.

¹³⁷ CR at II-7, II-9, PR at II-4-6.

¹³⁸ The participating respondents argue that the underselling shown in the Commission's report is overstated in that the prices reported by the domestic industry were *** than certain transaction-specific prices reported by customers and perhaps did not take into account ***. Respondents' Joint Posthearing Brief at 9. The Commission's price comparisons are based on quantity and value data provided by the U.S. producer and importers of INC. Despite respondents' argument, the data provided are comparable in that the values are "f.o.b. U.S. point of shipment, net of all discounts and rebates." CR at V-12, n.2, PR at V-7, n.2. In addition, respondents' price comparisons reveal some, although fewer, instances of underselling by subject imports. Respondents' Joint Posthearing Brief at 8, Attachment D. Given the price-sensitive nature of the INC market, we find that any current underselling by subject imports would only be exacerbated were the antidumping duty orders removed.

¹³⁹ CR/PR at Table V-12, V-37-40. We note that there were no price comparisons for Japan, only one price comparison for Korea, and only three price comparisons for China. *Id.* Data from the original investigations show some underselling by imports from each of the three countries. Original CR at a-99-106.

¹⁴⁰ CR/PR at Tables V-1 through V-11.

¹⁴¹ For example, product 1 from France, Germany, and the United Kingdom undersold the domestic product by margins of *** percent, *** percent, and *** percent, respectively, during the period April through June 2000. CR/PR at Table V-1.

In particular, the pricing behavior of the European producers in the U.S. market during the review period reflects their ability to undersell the domestic product even in the presence of duties and indicates their ability to market aggressively should the orders be revoked.

We find that without the discipline of the antidumping duty orders, there is a substantial likelihood that INC from the cumulated subject countries would not only continue to undersell the U.S. product, but would be priced even more aggressively in the U.S. market in order to gain additional market share, given stagnant U.S. demand and the price sensitive nature of the product. The additional volumes of low-priced subject country imports that are likely to enter the U.S. market absent the orders would likely exacerbate the domestic price depression and suppression already being caused by subject imports.

For the foregoing reasons, we find that revocation of the antidumping duty orders on INC from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to lead to significant underselling of the domestic like product by the subject imports, as well as significant price depression and suppression, within a reasonably foreseeable time.

3. Likely Impact

In the original investigation on France, the Commission found that the trends in the volume of imports, the suppressed domestic prices, the margins of underselling by imports, and the sales lost by the domestic industry to subject imports indicated that such imports caused material injury to the domestic industry.¹⁴² In the original investigations on INC from all the other subject countries, the Commission found that underselling by the cumulated subject imports caused a shift in market share within a relatively fixed level of consumption, to the detriment of the domestic industry, and that, although the domestic industry raised its prices during the period of investigation, the persistent underselling by the subject imports, resulting in lost sales and lost revenue, prevented the domestic industry from raising its prices sufficiently to cover fixed costs. The Commission also found that, when the domestic producer did raise prices, it lost market share, which had an adverse effect on plant capacity utilization and the economies of scale inherent in chemical processes.¹⁴³

We find that the likely significant volume of cumulated subject imports, at prices that would likely undersell the domestic product and suppress or depress U.S. prices, would adversely impact the domestic industry if the antidumping duty orders were revoked.

The record indicates that there has been no material improvement in the condition of the domestic industry since the orders were imposed. Hercules, the sole domestic producer since the orders were imposed until June 16, 2000, showed a net loss throughout the review period for its INC business.¹⁴⁴

¹⁴² USITC Pub. 1409 at 6.

¹⁴³ USITC Pub. 2295 at 21-22.

¹⁴⁴ Hercules' operating losses and margins worsened from a loss in 1997 of \$*** to a loss in 1998 of \$***, or from a negative *** percent of sales to a negative *** percent of sales. These two indicators declined further from an operating loss of \$*** to an operating loss of \$***, and from a negative *** percent of sales to a negative *** percent of sales between January-September 1998 and the same period in 1999. Hercules' poor operating performance is attributed to a decrease in total sales quantities and value between 1997 and 1998, as well as between January-September 1998 and the same period in 1999, exacerbated by a sales price decline of *** cents per pound between 1997 and 1998, and a further price decrease of *** cents per pound between January-September 1998 and the same period in 1999. The fact that the company's unit cost of goods sold and unit selling, general, and administrative expenses did not fall to the same extent as the unit value of its net sales contributed to the decline in its overall performance. CR at III-11, PR at III-5.

As noted previously, U.S. INC production decreased by *** percent from 1998 to 1999, and U.S. shipments decreased by *** percent from 1997 to 1998 and by *** percent from 1998 to 1999.¹⁴⁵ While subject imports gained U.S. market share, from *** percent in 1997 to *** percent in 1999, as did total imports, from *** percent in 1997 to *** percent in 1999, the U.S. industry's market share declined, from *** percent in 1997 to *** percent in 1999.¹⁴⁶ The decrease in U.S. production and shipments is due in part to an accident at Hercules' production facility in May 1999. As a result of the accident, and in reaction to Hercules' announcement in December 1999 that it planned to phase out INC production and sell its INC operations, some INC customers switched to imports for their supply.¹⁴⁷

U.S. demand for INC has declined since 1983, primarily because of environmental considerations, and is expected to remain flat or to decline slightly in the reasonably foreseeable future.¹⁴⁸ Demand in Europe, likewise, is expected to remain near current levels or to decline in the near future.¹⁴⁹ Hercules stated that it exited the INC business because of the "persistent over-capacity of the global nitrocellulose market."¹⁵⁰

Green Tree acquired the INC business of Hercules on June 16, 2000. Its projected business plan for 2000-02 calls for streamlining administrative, labor, and other costs. A comparison of Hercules' and Green Tree's operating costs indicates that Green Tree expects to achieve cost savings in the amount of \$*** in INC production.¹⁵¹ Green Tree also projects ***.¹⁵² It projects a return on investment of *** percent for its first full year of operation, premised on INC prices remaining stable.¹⁵³

The record thus indicates that, not only has the domestic industry failed to improve materially since the orders were imposed, but its financial condition deteriorated during the review period to the point where the sole domestic producer decided to exit the INC business. While the new entrant to the U.S. industry plans to streamline costs in order to operate at a profit, it faces declining U.S. demand and the need to recapture market share lost to subject imports. At Green Tree's modest projected sales level of *** pounds for 2000, its selling price per pound could drop to \$*** and it would still break even, but its projected margin of safety (the excess of budgeted or actual sales over the break-even volume of sales) is small, and its operating results would be sensitive to even small changes in price and volume.¹⁵⁴

Given the declining financial performance of the domestic industry since the orders were imposed and the hurdles faced by Green Tree as it strives to regain customers, increase production levels, cut costs, and operate at a profit, we conclude that the domestic industry currently is vulnerable to material injury from the likely significant volume of cumulated subject imports and the subsequent negative price effects that would occur if the antidumping duty orders were revoked.¹⁵⁵

¹⁴⁵ CR at II-1, PR at II-1.

¹⁴⁶ CR/PR at Table C-1.

¹⁴⁷ CR at II-1, PR at II-1.

¹⁴⁸ CR at II-5, PR at II-3.

¹⁴⁹ CR at II-6, PR at II-4.

¹⁵⁰ CR at III-10, PR at III-4.

¹⁵¹ CR at III-15, PR at III-6.

¹⁵² Posthearing Brief of Hercules and Green Tree at 4.

¹⁵³ Posthearing Brief of Hercules and Green Tree at 14.

¹⁵⁴ CR at III-18-19, PR at III-7-8.

¹⁵⁵ SAA at 885 ("The term 'vulnerable' relates to susceptibility to material injury by reason of dumped or subsidized imports. This concept is derived from existing standards for material injury and threat of material injury If the Commission finds that the industry is in a weakened state, it should consider whether the industry will

As discussed above, revocation of the orders would likely lead to a significant increase in the volume of subject imports, and these aggressively priced shipments would likely undersell the domestic product and significantly depress or suppress the domestic industry's prices. With U.S. demand for INC essentially stagnant in a price-sensitive market, the increase in subject imports is likely to cause declines in both the prices and volumes of the domestic producer's shipments. We find that these developments would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry, particularly given its vulnerable condition. This reduction in the industry's production, shipments, sales, market share, and revenues would result in further erosion of the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, we find it likely that revocation of the orders will result in commensurate employment declines for the industry.

Accordingly, based on the record in these reviews, we conclude that, if the antidumping duty orders are revoked, the cumulated subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

D. Revocation of the Antidumping Duty Order on Imports of INC From Yugoslavia Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

As discussed above, we find that imports from Yugoslavia are likely to have no discernible adverse impact on the domestic industry if the order is revoked.¹⁵⁶

There were no INC imports from Yugoslavia during the review period.¹⁵⁷ We find, given the destruction of the only known INC production facility in Yugoslavia and the lack of any indication in the record of these reviews that Yugoslav INC production and exports to the United States are likely to resume in the reasonably foreseeable future, that the volume of INC imports from Yugoslavia would not be likely to increase significantly within a reasonably foreseeable time if the antidumping duty order is revoked.

Given Yugoslavia's apparent current inability to produce INC and the non-existence of any exports to the United States during the review period, the record in this review contains no evidence regarding the prices of INC from Yugoslavia in the U.S. market. Because we find little likelihood that exports of INC from Yugoslavia to the United States are likely to resume in the reasonably foreseeable future, we find it unlikely that INC imports from Yugoslavia would have significant negative effects on domestic INC prices.

As indicated in our discussion of the likely impact of subject imports from the cumulated subject countries, we find that the U.S. INC industry is vulnerable to material injury. However, we find that the likely insignificant volume and price effects of imports from Yugoslavia will not likely result in a significant adverse impact on the domestic industry upon revocation of the order. We therefore determine that revocation of the antidumping duty order on INC from Yugoslavia is not likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

deteriorate further upon revocation of an order.”).

¹⁵⁶ See also Separate Views of Commissioner Lynn M. Bragg Regarding Cumulation.

¹⁵⁷ CR/PR at Table IV-1, Table IV-2.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty orders on imports of INC from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to the U.S. INC industry within a reasonably foreseeable time.¹⁵⁸ We also determine that revocation of the antidumping duty order on imports of INC from Yugoslavia would not be likely to lead to continuation or recurrence of material injury to the U.S. INC industry within a reasonably foreseeable time.

¹⁵⁸ Commissioner Askey dissenting with respect to Brazil and Korea.

SEPARATE VIEWS OF COMMISSIONER LYNN M. BRAGG REGARDING CUMULATION

Based upon the record in these reviews, I join the Commission majority's discussion of background, domestic like product and domestic industry, and findings that, under section 751(c) of the Tariff Act of 1930, as amended, revocation of the antidumping duty orders on subject industrial nitrocellulose ("INC") imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time; and that revocation of the antidumping duty order on subject imports from Yugoslavia is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Although I also join the Commission in finding a likely discernible adverse impact in the event the antidumping duty orders on subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom are revoked, and no likely discernible adverse impact in the event the antidumping duty order on subject imports from Yugoslavia is revoked, I provide the following separate views to detail my cumulation analysis for these grouped sunset reviews.

I. CUMULATION

A. Analytical Framework

As set forth in previous views,¹ in considering whether to cumulate subject imports in a sunset review, I first assess: (1) whether the reviews were initiated on the same day; and (2) the likely reasonable overlap of competition among subject imports and between subject imports and the domestic like product, in the event the orders are revoked.

If, as a result of the foregoing assessment, I determine that subject imports are amenable to cumulation, I then proceed to examine whether the statutory exception precludes cumulation of such imports that are otherwise amenable to cumulation—i.e., I examine whether such imports, when considered individually, are likely to have no discernible adverse impact on the domestic industry. In instances where I find that subject imports from more than one subject country are likely to have no discernible adverse impact, I then consider whether these individual countries for which I have made a likely no discernible adverse impact finding are, in the aggregate, likely to have no discernible adverse impact on the domestic industry. However, because I find that only one subject country is likely to have no discernible adverse impact in these reviews, I do not reach my aggregate analysis.

Upon review of the record in these reviews, I find, as discussed below, that there is likely to be a discernible adverse impact to domestic INC producers as a result of revocation of the antidumping duty orders on subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom. I also find, however, that there is likely to be no discernible adverse impact to the domestic industry as a result of revocation of the antidumping duty order on subject imports from Yugoslavia.

¹ See Separate Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews, Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245 (Oct. 1999) at 27-30. See also, Separate Views of Chairman Lynn M. Bragg Regarding Cumulation, Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Inv. Nos. 701-TA-269-270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Pub. 3290 (March 2000) at 27-32.

B. Reasonable Overlap of Competition

The record indicates that domestically produced and imported INC are essentially fungible, although there are some perceived quality differences among the INC from the various countries.² The record also indicates that *** percent of the imports from Germany are plasticized, and therefore not fully interchangeable with the domestic like product and with other subject imports.³ However, most German imports of INC are alcohol wet, and therefore fully interchangeable with the domestic like product and with other subject imports.⁴ In addition, the record indicates that subject imports and the domestic like product have similar channels of distribution, a geographical overlap of sales, and an actual or likely simultaneous presence in the marketplace.⁵ I therefore find a reasonable overlap of competition among subject imports and the domestic like product.

C. Likely Discernible Adverse Impact

As set forth below, I find that revocation of the antidumping duty orders on subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to have a discernible adverse impact on the domestic industry. I also find, however, that revocation of the antidumping duty order on subject imports from Yugoslavia would be likely to have no discernible adverse impact on the domestic industry. I therefore cumulate subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom, and do not cumulate subject imports from Yugoslavia with any other subject country.

1. Brazil

INC imports from Brazil were *** pounds in 1989, as compared to *** pounds in 1997.⁶ U.S. shipments of imports from Brazil represented *** percent of apparent U.S. consumption in 1989 and *** percent in 1997.⁷ Imports of INC from Brazil dropped sharply in 1998 to *** pounds and then rose slightly to *** pounds in 1999.⁸ U.S. shipments of imports from Brazil represented *** percent in 1998 and *** percent in 1999 of U.S. apparent consumption.⁹ This decline in imports from Brazil was apparently due to ***.¹⁰ The record indicates, however, that Nitro Quimica's INC facility has ***, and resumed exports to the United States.¹¹

² CR at II-9, PR at II-6.

³ CR at I-24, PR at I-19; Posthearing Brief of Hercules and Green Tree at 21-22.

⁴ Posthearing Brief of Hercules and Green Tree at 21-22.

⁵ CR and PR at Tables IV-1 and IV-2. I note that while there were no subject imports from Yugoslavia over the period reviewed, subject imports from Yugoslavia were present in the U.S. market at the time of the Commission's original investigation. I also note that there were no subject imports from China in 1997, and from Korea in 1998 and 1999, likely due to the restraining effect of the orders.

⁶ CR and PR at Table I-2.

⁷ CR and PR at Table I-2.

⁸ CR and PR at Table IV-1.

⁹ CR and PR at Table C-1.

¹⁰ CR and PR at IV-1.

¹¹ Prehearing Brief of Hercules and Green Tree at 18-19; Posthearing Brief of Hercules and Green Tree at 5-6.

Based upon all of the foregoing, the record indicates that, in the event of revocation, subject imports from Brazil will likely have a discernible adverse impact on the domestic INC industry. Such imports are therefore amenable to cumulation.

2. China

The only years during the period reviewed in which there were imports from China were 1998 and 1999, at levels of *** pounds and *** pounds, respectively, which amounted to a minuscule percentage of apparent U.S. consumption in both years.¹² In contrast, imports from China at the time of the original investigation ranged from *** pounds to *** pounds, which represented between *** percent and *** percent of U.S. apparent consumption.¹³ Additionally, in the original investigation, China's production capacity was estimated at *** pounds and its capacity utilization at *** percent.¹⁴ In the absence of any current Chinese production data,¹⁵ I infer that China's current production capacity is at least *** pounds. I therefore find that China has the ability to match or exceed pre-order subject import volumes in the event of revocation.

Based upon all of the foregoing, the record indicates that, in the event of revocation, subject imports from China will likely have a discernible adverse impact on the domestic INC industry. Such imports are therefore amenable to cumulation.

3. Japan

At the time of the original investigation, the highest level of Japanese imports was *** pounds, or *** percent of U.S. apparent consumption.¹⁶ Asahi, which reportedly represented *** percent of Japanese INC production in 1998 and was the only producer to respond to the Commission's questionnaire,¹⁷ reported capacity to be *** pounds during the period reviewed.¹⁸ The capacity utilization of Asahi was reported to be *** percent in 1998.¹⁹ Accordingly, Asahi's excess capacity is equivalent to *** percent of 1998 apparent consumption in the United States.

Based upon all of the foregoing, the record indicates that, in the event of revocation, subject imports from Japan will likely have a discernible adverse impact on the domestic INC industry. Such imports are therefore amenable to cumulation.

¹² CR and PR at Table IV-1 and Table C-1.

¹³ CR and PR at Table I-2.

¹⁴ Original CR at a-46.

¹⁵ The current number of INC producers in China is unknown. The record indicates that Bergerac, a French INC producer, has an ownership interest in two Chinese INC producers, Xingxiang T.N.C. Chemical Corp. Ltd. and Shanghai T.N.C. Chemical Corp., through China CNC, its joint venture in China. Pursuant to an agreement of the joint venture, China CNC is not authorized to sell "technical nitrocellulose" manufactured by Xingxiang or Shanghai in either the United States or China. However, these two Chinese producers reportedly account for only 35 percent of INC production in China. Respondents' Posthearing Brief at Attachment C.

¹⁶ CR and PR at Table I-2.

¹⁷ CR at IV-12, PR at IV-6.

¹⁸ CR and PR at Table IV-7.

¹⁹ CR and PR at Table IV-7.

4. Korea

U.S. imports from Korea represented *** percent of U.S. apparent consumption in 1997, as compared to *** percent in 1989.²⁰ At the time of the original investigation, the production capacity of Miwon, one of the two known Korean producers, was *** pounds and its capacity utilization was *** percent.²¹ In the absence of current Korean production data, I infer that Korea's production capacity is at least *** pounds. This accounts for *** percent of U.S. apparent consumption in 1998. I therefore find that Korea has the ability to match or exceed pre-order subject import volumes in the event of revocation.

Based upon all of the foregoing, the record indicates that, in the event of revocation, subject imports from Korea will likely have a discernible adverse impact on the domestic INC industry. Such imports are therefore amenable to cumulation.

5. France

U.S. imports from France represented *** percent of U.S. apparent consumption in 1999, as compared to *** percent in 1982.²² The quantity of French imports increased from 1997 to 1999 by *** percent.²³ The capacity utilization of Bergerac, the only known French producer, was *** percent in 1998, and *** percent of its shipments were exports, although only *** percent were to the United States.²⁴ Accordingly, in 1998, France's excess capacity was equivalent to *** percent of apparent consumption in the United States.

Based upon all of the foregoing, the record indicates that, in the event of revocation, subject imports from France will likely have a discernible adverse impact on the domestic INC industry. Such imports are therefore amenable to cumulation.

6. Germany

U.S. imports from Germany represented *** percent of U.S. apparent consumption in 1999, as compared to *** percent in 1989.²⁵ The quantity of German imports increased from 1997 to 1999 by *** percent.²⁶ The capacity utilization of Wolff, the only known German producer, was *** percent in 1998, and *** percent of its shipments were exports, although only *** percent were to the United States.²⁷ Accordingly, in 1998, Germany's excess capacity was equivalent to *** percent of apparent consumption in the United States.

Based upon all of the foregoing, the record indicates that, in the event of revocation, subject imports from Germany will likely have a discernible adverse impact on the domestic INC industry. Such imports are therefore amenable to cumulation.

²⁰ CR and PR at Table I-2.

²¹ Original CR at a-46-47, Table 17.

²² CR and PR at Table I-1, Table C-1.

²³ CR and PR at Table C-1.

²⁴ CR and PR at Table IV-5.

²⁵ CR and PR at Table I-2, Table C-1.

²⁶ CR and PR at Table C-1.

²⁷ CR and PR at IV-6.

7. United Kingdom

U.S. imports from the United Kingdom represented *** percent of U.S. apparent consumption in 1999, as compared to *** percent in 1989.²⁸ The quantity of imports from the United Kingdom increased from 1997 to 1999 by *** percent.²⁹ The capacity utilization of Nobel, the only known British producer, was over *** percent in 1998, and a majority of its shipments were exports, of which *** percent were to the United States.³⁰ Accordingly, in 1998, the United Kingdom's excess capacity was equivalent to *** percent of apparent consumption in the United States.

Based upon all of the foregoing, the record indicates that, in the event of revocation, subject imports from the United Kingdom will likely have a discernible adverse impact on the domestic INC industry. Such imports are therefore amenable to cumulation.

8. Yugoslavia

There were no imports of INC from Yugoslavia during the period reviewed.³¹ During the original investigation, Milan Blagojevic was the only known INC producer in Yugoslavia, and both respondents and the domestic industry in these reviews reported that this producer's facilities were destroyed or severely damaged as a result of military action.³² It is the opinion of the domestic industry that the destruction of the manufacturing facilities and the continuing U.S. sanctions on Serbia make it unlikely that any producer will return to production and U.S. distribution within a reasonably foreseeable time.³³

Based upon all of the foregoing, the record indicates that subject imports from Yugoslavia will likely have no discernible adverse impact on the domestic INC industry. Such imports are therefore not amenable to cumulation.

II. CONCLUSION

Based upon the foregoing analysis, I find that revocation of the antidumping duty orders on subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom is likely to have a discernible adverse impact on the domestic industry; and that revocation of the antidumping duty order on subject imports from Yugoslavia is likely to have no discernible adverse impact on the domestic industry. I therefore cumulate subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom; and do not cumulate subject imports from Yugoslavia. I join the Commission in finding that revocation of the antidumping duty orders covering subject imports from Brazil, China, France, Germany, Japan, Korea, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time; and that revocation of the antidumping duty order covering subject imports from Yugoslavia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

²⁸ CR and PR at Table I-2, Table C-1.

²⁹ CR and PR at Table C-1.

³⁰ CR and PR at Table IV-8.

³¹ CR and PR at Table IV-1, Table IV-2.

³² Response to the Notice of Institution of Nobel Enterprises and ICI Americas, Inc. at 8 (July 21, 1999); Prehearing Brief of Hercules and Green Tree at 11, n.7.

³³ Prehearing brief of Hercules and Green Tree at 11, n.7.

CONCURRING AND DISSENTING VIEWS OF COMMISSIONER THELMA J. ASKEY

Section 751(d) of the Tariff Act of 1930, as amended, requires the Department of Commerce to revoke an antidumping duty or countervailing duty order in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the Commission determines that material injury would be likely to continue or recur within a reasonably foreseeable time.¹

Based on the record in these five-year reviews, I determine that revocation of the antidumping duty orders covering industrial nitrocellulose (“INC”) from China, France, Germany, Japan, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I also determine that revocation of the antidumping duty orders covering INC from Brazil, Korea, and Yugoslavia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I write separately to explain my determinations in this proceeding. However, I concur with my colleagues with respect to their findings concerning the domestic like product and the domestic industry. Accordingly, I join the Commission’s views on these issues, as well their discussion of the legal standards governing the Commission’s cumulation and causation analysis in sunset reviews.

I. CUMULATION

A. *General*

In sunset reviews, the Commission has the discretion to cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews were initiated on the same day if those imports would be likely to compete with each other and with the domestic like product within a reasonably foreseeable time if the orders are revoked.² Thus, in five-year reviews, the relevant inquiry is whether there would likely be competition among the domestic and subject merchandise within the reasonably foreseeable future, even if none currently exists. Because of the prospective nature of five-year reviews and the discretionary nature of the cumulation decision, the Commission has also examined other conditions of competition that are likely to prevail upon revocation when deciding whether to cumulate in sunset reviews.

Although cumulation is discretionary in sunset reviews, the statute unambiguously states that the Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise if those imports are “likely to have no discernible adverse impact on the domestic industry” upon revocation of the order covering those imports.³ As can be seen, the statute does not direct the Commission to focus its discernability analysis solely on the likely volume levels of the imports; instead, the statute expressly directs the Commission to assess whether the subject imports will have a discernible adverse “impact” on the industry upon revocation. Accordingly, when I assess whether I am permitted to cumulate the subject imports in sunset reviews, I first focus on whether the imports will

¹ 19 U.S.C. §§ 1675(d)(2), 1675a(a)(1) (1994).

² 19 U.S.C. §1675a(a)(7).

³ Section 752(a)(7) of the Act, 19 U.S.C. 1675a(a)(7)

impact the condition of the industry in a discernible way as a result of revocation, and not simply on whether there will be a small (i.e., negligible) volume of imports after revocation.⁴

In this case, the reviews of the orders covering INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia were initiated on the same day. Accordingly, I must first assess whether subject imports from these countries are likely to have a “discernible adverse impact” on the domestic industry upon revocation of the orders. If I find that imports from any of these countries are not likely to have a discernible adverse impact on the domestic industry upon revocation of the order, then I am precluded from cumulating the imports from that country with those of the other subject countries. If I find that they are likely to have a discernible adverse impact on the industry upon revocation of the order, I must then consider whether it is appropriate to exercise my discretion to cumulate imports from the subject countries.

I discuss my cumulation analysis for each of these countries below.

B. Discernible Adverse Impact

1. The Subject Imports from Yugoslavia Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within the Reasonably Foreseeable Future Upon Revocation of The Order

I find that the subject imports from Yugoslavia are likely to have no discernible adverse impact on the domestic industry if the antidumping duty order covering Yugoslavia is revoked. The record of this review indicates that Yugoslavia currently has no available production facilities for INC because they were destroyed during NATO’s bombing raids.⁵ As a result, Yugoslavia has had no imports of INC into the United States during the period of review.⁶ Moreover, the United States has continuing sanctions against imports from Serbia. In addition, I note that counsel for petitioners concede that Yugoslavia is not likely to have a discernible impact on the industry.

Accordingly, because of their current inability to produce any INC, I find that the Yugoslavian producers are not likely to export any INC to the United States within the reasonably foreseeable future. In light of this, I also find that the subject Yugoslavian imports are not likely to have any discernible adverse volume or price impact on the domestic industry upon revocation of the order. I have, therefore, not cumulated the subject imports of INC from Yugoslavia with imports from the other subject countries for purposes of my analysis in these reviews.

2. The Subject Imports from Brazil Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within The Reasonably Foreseeable Future Upon Revocation of the Brazilian Order

I also find that the subject imports from Brazil are likely to have no discernible adverse impact on the domestic industry if the antidumping order covering Brazil is revoked. During the original period of investigation, the market share of the subject Brazilian imports was small, ranging between *** and ***

⁴ I discussed the rationale for my approach in more detail in my Additional Views in Potassium Permanganate from China and Spain, Invs. Nos. 731-TA-125-126 (Review), USITC Pub. 3245, at 31 (October 1999). I also further explained my views in Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Invs. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 & 379-380 (Review), USITC Pub. 3290, at 36-37 (April 2000).

⁵ CR at IV-16, PR at IV-7.

⁶ CR and PR at Table I-5.

percent.⁷ Although Brazil's market share increased to *** percent in 1997, its market share declined to minimal levels in 1998 and 1999 after a major explosion substantially destroyed its INC production facilities in November 1997.⁸ Although the petitioner asserts that the Brazilian producer now has several production lines running, an importer related to the Brazilian producer indicates that the producer's facility has been destroyed by the explosion and that the producer has no plans to ship merchandise to the United States.⁹ I therefore find that the record indicates the Brazilian producer is unlikely to ship more than miniscule levels of INC merchandise to the United States upon revocation of the order and that these miniscule levels are unlikely to have any discernible price or volume impact on the industry.

Accordingly, I find that the subject imports from Brazil are likely to have no discernible adverse impact on the domestic industry upon revocation of the order. I have, therefore, not cumulated the subject imports from Brazil with imports from the other subject countries for purposes of my analysis in these reviews.

3. The Subject Imports from Korea Are Likely to Have No Discernible Adverse Impact on the Domestic Industry Within The Reasonably Foreseeable Future Upon Revocation of the Korean Order

I also find that the subject imports from Korean are likely to have no discernible adverse impact on the domestic industry if the antidumping duty order covering Korean is revoked. During the original period of investigation, the market share of the subject imports from Korea was extremely small, ranging from *** percent in 1987 to *** percent in 1988 to *** percent in 1989.¹⁰ During the period of review, Korea's market share levels have also been very small, being *** percent in 1997, *** percent in 1998, and *** percent in 1999.¹¹ Moreover, although the Commission has no data concerning the Korean producers' capacity and production levels, the record indicates that, despite the imposition of low cash deposit rates on a significant Korean producer in late 1998 and 1999 of 2.1 percent, no Korean imports have entered the market during that period.¹² This suggests that the Korean producers remain focused on their home and other export markets and that they are not interested in exporting to the United States market. Finally, purchasers report that the Korean product is of lower quality than the domestic product, which indicates that it is unlikely that the minimal levels of Korean merchandise that might be expected upon revocation of the order would have a noticeable impact on the domestic industry. Given the historically low market share levels of the Korean imports, the Korean producers' apparent lack of interest in the U.S. market, and their low level of substitutability with the domestic merchandise, I find that it is unlikely that Korea would have a discernible volume or price impact on the domestic industry upon revocation of the order.

Accordingly, I find that the subject imports from Korea are likely to have no discernible adverse impact on the domestic industry upon revocation of the order. I have, therefore, not cumulated the subject imports from Korea with imports from the other subject countries for purposes of my analysis in these reviews.¹³

⁷ CR and PR at Table I-2.

⁸ CR and PR at Table I-5; CR at IV-1-2, PR at IV-1.

⁹ CR at IV-1-2, PR at IV-1.

¹⁰ CR and PR at Table I-2.

¹¹ Cr and PR at Tables I-2 & C-1.

¹² See CR at I-16, PR at I-13; CR and PR at Table I-4.

¹³ In accordance with the statute, I have also considered whether the subject imports from China, France, Germany, Japan and United Kingdom would be likely to have a discernible adverse impact on the industry upon

(continued...)

C. Reasonable Overlap of Competition

I have chosen to exercise my discretion to cumulate the subject imports of INC from China, France, Germany, Japan and the United Kingdom for purposes of my analysis in these reviews. The record indicates that there is likely to be a reasonable overlap of competition among the subject imports and the domestic merchandise upon revocation of the orders. In particular, the record indicates that the French, German, Japanese, and British imports of INC are generally viewed as being similar in quality by purchasers and by market participants as being interchangeable in their end uses.¹⁴ Moreover, although the subject imports from China, like those from Korea and Yugoslavia, are reported to be of poorer quality and not generally used interchangeably with the other subject and domestic merchandise,¹⁵ low quality INC reportedly can be used by itself or blended with higher quality merchandise for most applications.¹⁶ Accordingly, I find that there is a high level of fungibility among the French, German, Japanese and British imports and domestic merchandise, while there is a limited but reasonable degree of fungibility between the other subject and domestic merchandise and the Chinese imports. Moreover, I note that the record indicates the subject and domestic merchandise are sold in similar channels of trade and that it is likely that they will be simultaneously present in the market upon revocation of the order.

On the whole, I find that the record contains sufficient evidence of likely competitive overlap between the domestic and subject merchandise to warrant cumulation. Accordingly, I have chosen to exercise my discretion to cumulate the subject imports from China, France, Germany, Japan and the United Kingdom for purposes of my analysis in this review.

II. CONDITIONS OF COMPETITION

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹⁷ The market for INC in the United States is characterized by the following conditions of competition:

First, demand for INC has declined significantly since the original periods of investigation. Apparent U.S. consumption has decreased from *** million pounds in 1982 and *** million pounds in 1989 to *** million pounds in 1998 and 1999.¹⁸ Demand has declined due to the gradual replacement of INC by water-based systems that do not require the use of organic solvents, such as acetone, which are listed as toxic air pollutants by the EPA and OSHA. In addition, the need for INC has been reduced by advancements in polymer technologies.¹⁹ Demand for INC in the United States is expected to remain flat or to decline slightly during the reasonably foreseeable future.²⁰

¹³ (...continued)

revocation of the orders. As I discuss below, I find that the record indicates that the producers in these countries have sufficient incentive and capacity to increase their exports to the United States upon revocation of the order in a manner that will have a discernible impact on the industry.

¹⁴ CR at II-9, PR at II-6.

¹⁵ Ibid.

¹⁶ Prehearing Brief of Hercules and Green Tree at 6-7.

¹⁷ 19 U.S.C. § 1675a(a)(4).

¹⁸ CR and PR at Tables I-1, I-2 & I-5.

¹⁹ CR at I-19-20 & II-5, PR at I-14,16 & II-3.

²⁰ CR at II-5, PR at II-3.

Second, the German, French, British and Japanese producers all report that demand for INC is expected to remain flat or to decline in their home markets.²¹ Nonetheless, demand in other Asian markets, such as China, is expected to increase. One Chinese importer reported that demand in China is growing in double digits.²²

Third, Hercules, the sole domestic producer during the original period of investigations and most of the period of review, sold its INC production facilities to Green Tree Chemical Technologies (“Green Tree”) this year. Late in 1999, Hercules announced that it intended either to sell its INC operations or to phase out its production of INC by the third quarter of 2000. However, on January 28, 2000, Hercules announced its intention to advance the phaseout and divestiture while it stated there were interested buyers for its INC operations. On June 16, 2000, Green Tree acquired all of Hercules’ INC operations and commenced operation on June 17, 2000. Green Tree reports that it will generally produce most of the broad line of INC products formerly produced by Hercules but that its fixed costs of operating the Parlin facility will be lower, and that it will shorten its operating hours, lower its production volumes, and reduce its export levels.²³

Fourth, price and quality are the two most important factors in the purchase decision. Four of ten responding purchasers rated price as the most important factor in the purchase decision, four rated it the second most important factor, and two rated it the third most important factor.²⁴ Similarly, four purchasers rated quality the most important factor and four rated it the second most important factor.²⁵ However, eleven of fifteen purchasers reported that their purchase decision was always or usually based on price.²⁶

Fifth, the record indicates that there is a reasonably high degree of substitutability between the domestic and subject merchandise from France, Germany, Japan, and the United Kingdom. Purchasers reported that the quality of these imports and the domestic merchandise is similar and that the domestic merchandise can be used interchangeably with the subject merchandise.²⁷ The substitutability of the Chinese product with the domestic merchandise is lower than that of the other four countries, primarily because there are quality differences between the Chinese and domestic merchandise.²⁸

Sixth, there is a substantial and increasing volume of non-subject sources in the INC market. Non-subject imports accounted for *** percent of the market in 1997, *** percent in 1998 and *** percent in 1999.²⁹ Generally, the non-subject imports are reported to be reasonably substitutable with the domestic and subject merchandise.³⁰

I find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide a reasonable basis on which to assess the likely effects of revocation within the reasonably foreseeable future.

²¹ CR at II-6, PR at II-4.

²² CR at IV-8, PR at IV-1.

²³ CR at IV-3, III-1-5, III-9-10, & III-15-19; PR at IV-3, III-1-2, 6-8.

²⁴ CR at II-7-8, PR at II-5.

²⁵ CR at II-7, PR at II-5.

²⁶ CR at II-7, PR at II-5.

²⁷ CR at II-9, PR at II-6.

²⁸ CR at II-9, PR at II-6.

²⁹ CR and PR at Table I-5.

³⁰ CR at II-9, PR at II-6.

III. REVOCATION OF THE ANTIDUMPING DUTY ORDERS COVERING IMPORTS OF INDUSTRIAL NITROCELLULOSE FROM CHINA, FRANCE, GERMANY, JAPAN, AND THE UNITED KINGDOM IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME³¹

A. Likely Volume of the Cumulated Subject Imports

In evaluating the likely volume of imports of subject merchandise if an antidumping order is revoked, the statute directs the Commission to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.³² In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.³³

In the original investigation on France, the Commission found that the trends in the volume of subject imports, coupled with other factors, indicated that the domestic industry was materially injured by reason of the French imports of INC.³⁴ In the original investigations on INC from all the other subject countries, the Commission found that both market penetration and the absolute volume of the cumulated subject imports increased significantly during the period of investigation, noting that the subject imports’ U.S. market share doubled from 1986 to 1989.³⁵

I find that the volume of the cumulated subject imports from China, France, Germany, Japan, and the United Kingdom is likely to be significant upon revocation of the orders. As an initial matter, I note that imposition of the orders does not appear to have resulted in a significant reduction of INC imports from France, Germany, and the United Kingdom. In fact, the current market share levels of these countries are the same or higher than the levels attained by these countries during the original periods of investigation.³⁶ However, I note that imposition of the orders does appear to have had some restraining effect on the subject imports from China and Japan, with the market share of imports from these two countries declining to minimal levels after issuance of the orders.³⁷ Moreover, although the subject imports from France, Germany, and the United Kingdom remain in the market in substantial volumes even now, I find that revocation of the orders will allow the producers in these countries to

³¹ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review investigation. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year review investigations as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). *See also* SAA at 887. I find that the likely dumping margins announced by Commerce for the cumulated subject countries in this proceeding provide further support for my affirmative finding for China, France, Germany, Japan and the United Kingdom.

³² 19 U.S.C. § 1675a(a)(2).

³³ 19 U.S.C. § 1675a(a)(2)(A)-(D).

³⁴ USITC Pub. 1409 at 6.

³⁵ USITC Pub. 2295 at 19.

³⁶ CR and PR at Table I-1 & I-2.

³⁷ CR and PR at Table I-1 & I-2.

increase their exports to the United States significantly upon revocation of the order, for the reasons discussed below.

First, the subject producers in the subject countries have ample available capacity and are likely to use that capacity to increase their export shipments to the United States upon revocation of the orders. For example, the record indicates that neither the French producer nor the Japanese producers are currently operating at high capacity utilization rates. The sole French producer of INC has a total production capacity that could easily have supplied all of U.S. demand for INC in 1999 and operated at less than full capacity utilization rates throughout the period of review, with their capacity utilization rates ranging between *** percent and *** percent.³⁸ Thus, if the French producer operated at a capacity utilization rate of approximately *** percent in the reasonably foreseeable future, the record indicates that the producer would be able to ship more than *** million additional pounds of INC to the United States on an annual basis, which would be equivalent to more than *** percent of domestic consumption in 1999. Moreover, because France currently maintains a significant presence in the United States market and generally exports the large majority of its INC production, I find that the French producer is likely to increase its exports significantly to the United States upon revocation of the order.

With respect to Japan, the record indicates that the Japanese industry has less than half the total production capacity of the French producer but that it has been operating at substantially lower capacity utilization rates during the period of review. The total production capacity of the Japanese producers in 1999 was apparently equivalent to *** percent of domestic consumption in 1999. The available data indicate that the Japanese industry was operating at capacity utilization rates of *** percent in 1998 and *** percent in interim 1999. Thus, the record evidence indicates that, if the Japanese producers were to increase their capacity utilization rates to the *** percent level in the reasonably foreseeable future, they would be able to ship between *** million and *** million pounds of INC to the United States upon revocation of the order.³⁹ Moreover, although Japan now ships the vast majority of its production to its home market, I believe that the industry's very low capacity utilization rates will provide it with a significant incentive to resume exportation of INC to the United States upon revocation, especially given the expected flat level of demand in the Japanese market. In this regard, I note that, although the Japanese market share declined during the original period of investigation, the subject imports did obtain a market share of *** percent at one point during the original period of investigation.⁴⁰ Accordingly, given the substantial available capacity of the Japanese industry and its market share levels during the original investigation, I find it likely that the Japanese producers will ship significant amounts of INC to the United States upon revocation of the Japanese order.

Unlike the French and Japanese producers, the subject producers in Germany and England have been operating throughout the period of investigation at high to very high capacity utilization rates. During the period of review, the only reporting German producer was operating at capacity utilization rates of *** percent in 1997, *** percent in 1998 and *** percent in the first nine months of 1999.⁴¹ Similarly, the sole British producer reported that it was operating at capacity utilization rates of *** percent in 1997, *** percent in 1998, and *** percent in interim 1999.⁴² Although the German and British producers are operating at high capacity utilization rates, I note that the record indicates that their capacity utilization rates have declined somewhat during the period of review and they have both proven

³⁸ CR and PR at Table IV-5.

³⁹ See CR and PR at Table IV-7.

⁴⁰ CR and PR at Table I-2.

⁴¹ CR and PR at Table IV-6.

⁴² CR and PR at Table IV-8.

that they are able to operate at higher capacity utilization rates than their recent levels in 1998 and 1999. Given that the producers in both countries have substantial amounts of total capacity compared to total U.S. consumption in 1999,⁴³ even the small amounts of capacity that are now available to these producers would permit them to ship significant additional volumes of INC to the United States upon revocation of the orders. In fact, if the German and British producers were to increase their capacity utilization rates to their highest reported levels upon revocation of the order, they would be able to ship approximately *** million additional pounds to the United States market, which would equal nearly *** percent of total U.S. consumption in 1999. Finally, I note that the German and British producers generally export more than *** percent of their total production and have maintained a significant continuing presence in the United States market. Given the foregoing, I find that the British and German producers are likely to increase their exports significantly to the United States upon revocation of the order.⁴⁴

There is little record evidence with respect to the capacity and production levels of the subject Chinese producers in this proceeding.⁴⁵ The Commission was unable to obtain capacity, production and shipment levels for the Chinese producers for the period of review. However, during the original investigation, five Chinese producers were reported to be producing INC and China's production capacity was estimated to be *** million pounds.⁴⁶ Moreover, the Chinese producers were able to obtain a market share of *** percent during the original period of investigation. While these total capacity levels and historic market share levels are not particularly troubling in and of themselves, I note that, when they are considered on a cumulated basis with the capacity and likely volume trends of the other subject imports, they indicate that the subject Chinese imports are likely to increase the future adverse volume impact of the cumulated subject imports.⁴⁷

I further note that a number of the subject producers report that there are substantial barriers to trade with respect to INC in third countries. For example, the French producer Bergerac reports that Mexico and Venezuela impose quotas on INC imports, that Brazil prohibits INC imports from France and that India imposes high tariffs on imports of INC.⁴⁸ Moreover, the Japanese producer Asahi reports that China, Indonesia and Thailand have very high tariffs on INC.⁴⁹ The existence of substantial barriers to trade in other export markets provides the subject producers with an additional incentive to ship significant volumes of additional merchandise to the United States upon revocation of the orders.

Finally, I note that there is little possibility of product shifting in the production facilities of the subject producers and that the inventory levels of subject merchandise in both their home market and the United States are not so large that they indicate, by themselves, a likelihood of significant volume increases upon revocation of the orders. However, these factors do not outweigh the fact that the subject producers in the cumulated countries have significant levels of available capacity that are likely to be

⁴³ The total capacity of the reporting German producer is *** million pounds, which is larger than all of U.S. consumption of INC in 1999, CR and PR at Table IV-6, while reported capacity for the British producer is *** million pounds, which would be equivalent to approximately *** of domestic consumption in 1999. CR and PR at Table IV-8.

⁴⁴ In this regard, I note that the record indicates that there is a reasonably high degree of substitutability between the domestic and subject merchandise and that price is a very important factor in the purchase decision. As a result, the subject imports from France, Germany, Japan and the United Kingdom will be able to take market share directly from the sole domestic producer, primarily through underselling upon revocation of the order.

⁴⁵ CR at IV-7-8, PR at IV-1.

⁴⁶ Original Staff Report at A-46.

⁴⁷ I note, however, that my affirmative determination for France, Germany, Japan and the United Kingdom would not have changed if I had not cumulated the subject imports.

⁴⁸ CR at IV-10, PR at IV-6.

⁴⁹ CR at IV-12, PR at IV-6.

used to ship significant additional amounts of merchandise to the United States within the reasonably foreseeable future.

Accordingly, I find that the volume of the cumulated subject imports from China, France, Germany, Japan, and the United Kingdom is likely to be significant upon revocation of the orders.

B. Likely Price Effects of the Cumulated Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with the domestic like product, and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product.⁵⁰

In the original investigation on France, the Commission found that, given the price sensitive nature of INC, the margins of underselling were commercially significant and that the subject imports suppressed domestic prices and caused lost sales.⁵¹ In the original investigations on the other subject countries, the Commission found that there was significant underselling by the cumulated subject imports and that this underselling resulted in lost sales and lost revenue to the domestic producer.⁵²

I find that the increased volumes of imports from the cumulated subject countries likely to enter the United States upon revocation of the orders are also likely to undersell the domestic merchandise and to have significant price-suppressive effects on the prices of the domestic merchandise. In this regard, as I discussed above, the record indicates that there is a reasonably high degree of substitutability between the domestic and subject merchandise and that price is a very important aspect of the purchase decision. Moreover, the record indicates that demand is not particularly price-elastic⁵³ and that demand is expected to remain flat in the United States for the foreseeable future. Finally, the record indicates that the substantial volumes of French, German and British subject merchandise in the U.S. market now consistently undersell the domestic merchandise and that domestic prices have been generally falling during the period of review.⁵⁴ Given all of the foregoing, I find that revocation of the antidumping duty orders will be likely to result in an increase in aggressive price competition from the subject imports and a significant increase in the decline of domestic prices as a result of that price competition.

Accordingly, I find that the cumulated subject imports are likely to have significant adverse effects on domestic prices upon revocation of the order.

C. Likely Impact of the Cumulated Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and

⁵⁰ 19 U.S.C. § 1675a(a)(3). The SAA states that “***onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

⁵¹ USITC Pub. 1409 at 6-7.

⁵² USITC Pub. 2295 at 20-21.

⁵³ See CR at II-11, PR at II-7.

⁵⁴ CR and PR at Tables V-1-V-11; CR at V-35-40, PR at V-9-13, 31; CR and PR at Table V-12.

investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁵⁵ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.⁵⁶

In the original investigation on France, the Commission found that the trends in the volume of imports, suppressed domestic prices, the margins of underselling by imports, and the sales lost by the domestic industry to imports revealed material injury to the domestic industry.⁵⁷ In the original investigations on INC from all the other subject countries, the Commission found that underselling by the cumulated subject imports caused a shift in market share within a relatively fixed level of consumption, to the detriment of the domestic industry. It also found that, while the domestic industry raised its prices during the period of investigation, persistent underselling by the subject imports prevented the domestic industry from raising its prices sufficiently to cover fixed costs. It further found that, when the industry did raise prices, it lost market share, which had an adverse effect on plant capacity utilization and the economies of scale inherent in chemical processes.⁵⁸

I find that the U.S. industry is currently in a vulnerable state. The industry's condition has deteriorated significantly since imposition of the antidumping duty orders. As subject imports from France, Germany and the United Kingdom have continued to enter the market in substantial volumes despite the imposition of the order and continued to undersell the domestic merchandise, the industry's market share and its production, sales, and profitability levels have declined significantly since the original investigations. In particular, the industry's market share levels have fallen considerably since the original investigations, decreasing from levels above *** percent in the 1983 investigation and *** percent in the 1989 investigations to market share levels below *** percent in 1998 and 1999.⁵⁹ The industry's production levels have been cut significantly, declining from *** million pounds in 1980 and *** million pounds in 1987 to *** million pounds in 1998 and *** million pounds in 1999.⁶⁰ The industry's sales revenues and domestic shipments have exhibited similar declines.⁶¹ Moreover, the industry's operating income levels have declined precipitously, decreasing from a *** percent operating income margin in 1982 and a *** percent operating margin in 1989 to *** operating losses throughout the period of review, ending in a *** percent operating loss in 1999.⁶² Moreover, although the INC operations of Hercules were acquired by new management this year, the new entity remains essentially a new entrant into the INC market. While I recognize that Green Tree has optimistically projected that it will be able to reduce its costs significantly and achieve a significant profit in the foreseeable future,⁶³ I believe that the new entity will be especially vulnerable to continued aggressive competition from the subject imports as it tries to maintain its hold on Hercules' old customer base. In my view, the continuation of the orders is necessary to help the new firm get on its feet in a very competitive, relatively price-sensitive market.

As I discussed above, the record of these reviews indicates that the subject imports from China, France, Germany, Japan, and the United Kingdom are likely to have significant adverse volume and price effects on the domestic industry within the reasonably foreseeable future if the orders were

⁵⁵ 19 U.S.C. § 1675a(a)(4).

⁵⁶ 19 U.S.C. § 1675a(a)(4).

⁵⁷ USITC Pub. 1409 at 6.

⁵⁸ USITC Pub. 2295 at 21-22.

⁵⁹ CR and PR at Tables I-1 & I-2 & I-5.

⁶⁰ CR and PR at Tables I-1 & I-2 & III-1.

⁶¹ CR and PR at Tables I-1 & I-2 & III-8.

⁶² CR and PR at Tables I-1 & I-2 & III-8.

⁶³ CR and PR at Table III-11, CR at III-15-19, PR at III-6-8.

revoked. Accordingly, I also find that the cumulated subject imports would be likely to have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, investment or development efforts within a reasonably foreseeable time if the orders were revoked. Further, I find that revocation of the orders would be likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

Accordingly, I find that revocation of the antidumping duty orders covering INC from China, France, Germany, Japan and the United Kingdom would be likely to have a significant impact on the domestic industry. I therefore determine that revocation of the antidumping duty orders covering these imports would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

IV. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING INDUSTRIAL NITROCELLULOSE FROM YUGOSLAVIA IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from Yugoslavia are not likely to have a discernible adverse impact on the domestic industry if the Yugoslavian order is revoked. Accordingly, I have not cumulated the subject imports from Yugoslavia with the other subject imports for purposes of my sunset analysis. In addition, for the reasons I outlined previously, I find that the subject imports from Yugoslavia are not likely to have significant adverse volume or price effects on the domestic industry after revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Yugoslavia would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁶⁴

V. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING INDUSTRIAL NITROCELLULOSE FROM BRAZIL IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from Brazil are not likely to have a discernible adverse impact on the domestic industry if the Brazilian order is revoked. Accordingly, I have not cumulated the subject imports from Brazil with the other subject imports for purposes of my sunset analysis. In addition, for the reasons I outlined previously, I find that the subject imports from Brazil are not likely to have significant adverse volume or price effects on the domestic industry after revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁶⁵

⁶⁴ As discussed above, I find that the domestic industry is currently vulnerable to imports and I have taken into account the Commission's affirmative findings in its original determination in my analysis. I also note that Commerce found that the Yugoslavian producers would be likely to dump at a rate of 10.81 percent upon revocation of the order. However, I find that these considerations do not outweigh the factors I previously discussed that indicate that the Yugoslavian imports are not likely to have a discernible adverse impact on the industry upon revocation of the order.

⁶⁵ As discussed above, I find that the domestic industry is currently vulnerable to imports and I have taken into

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VI. REVOCATION OF THE ANTIDUMPING DUTY ORDER COVERING INDUSTRIAL NITROCELLULOSE FROM KOREA IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

As discussed above, I determined that the subject imports from Korea are not likely to have a discernible adverse impact on the domestic industry if the Korean order is revoked. Accordingly, I have not cumulated the subject imports from Korea with the other subject imports for purposes of my sunset analysis. In addition, for the reasons I outlined previously, I find that the subject imports from Korea are not likely to have significant adverse volume or price effects on the domestic industry after revocation of the order. Accordingly, I find that revocation of the order on the subject imports from Korea would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁶⁶

⁶⁵ (...continued)

account the Commission's affirmative findings in its original determination in my analysis. I also note that Commerce found that the Brazilian producers would be likely to dump at a rate of 61.25 percent upon revocation of the order. However, I find that these considerations do not outweigh the factors I previously discussed that indicate that the Brazilian imports are not likely to have a discernible adverse impact on the industry upon revocation of the order.

⁶⁶ As discussed above, I find that the domestic industry is currently vulnerable to imports and I have taken into account the Commission's affirmative findings in its original determination in my analysis. I also note that Commerce found that the Korean producers would be likely to dump at a rate of 66.3 percent upon revocation of the order. However, I find that these considerations do not outweigh the factors I previously discussed that indicate that the Korean imports are not likely to have a discernible adverse impact on the industry upon revocation of the order.

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On June 1, 1999, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted reviews to determine whether revocation of the antidumping duty orders on industrial nitrocellulose (INC)¹ from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective September 3, 1999, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the reviews is provided in the following tabulation.²

¹ INC is defined by the Department of Commerce (Commerce) as a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent. INC is produced from the reaction of cellulose with nitric acid. The product comes in several viscosities and is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of these orders does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent. The subject product falls in subheading 3912.20.00 of the Harmonized Tariff Schedule of the United States (HTS), with a normal trade relations duty rate of 5.2 percent ad valorem.

² The Commission's notice of institution, notice to conduct full reviews, scheduling notice, rescheduling notices, and statement on adequacy appear in app. A and may also be found at the Commission's web site (internet address www.usitc.gov). Commissioners' votes on whether to conduct an expedited or full review may also be found at the web site.

Effective date	Action
June 1, 1999	Commission's institution of reviews (64 FR 29344)
September 3, 1999	Commission's decision to conduct full reviews (64 FR 50107, September 15, 1999)
October 15, 1999	Commission's scheduling of the reviews (64 FR 57483, October 25, 1999) ¹
October 27, 1999	Commerce's final results of expedited review on INC from Brazil (64 FR 57854)
October 27, 1999	Commerce's final results of expedited review on INC from China (64 FR 57857)
October 27, 1999	Commerce's final results of expedited review on INC from France (64 FR 57859)
October 27, 1999	Commerce's final results of expedited review on INC from Germany (64 FR 57843)
October 27, 1999	Commerce's final results of expedited review on INC from Japan (64 FR 57845)
October 27, 1999	Commerce's final results of expedited review on INC from Korea (64 FR 57847)
October 27, 1999	Commerce's final results of expedited review on INC from the United Kingdom (64 FR 57850)
October 27, 1999	Commerce's final results of expedited review on INC from Yugoslavia (64 FR 57852)
June 8, 2000	Commission's hearing ²
August 11, 2000	Commission's votes
August 24, 2000	Commission's determinations sent to Commerce
<p>¹ Upon receiving a request from foreign respondent interested parties to the full five-year reviews to extend the period of time for making determinations, the Commission revised its schedule of these reviews. The domestic industry supported the request. The revised notice of scheduling is presented in app. A (65 FR 5889, February 7, 2000). The Commission later determined to further extend the review period to evaluate recent important developments in the industrial nitrocellulose industry. The second revised notice of scheduling is also presented in app. A (65 FR 39426, June 26, 2000).</p> <p>² A list of witnesses appearing at the hearing is presented in app. B.</p>	

The Original Investigations

On July 2, 1982, a petition was filed with Commerce and the Commission alleging that imports of INC from France were being sold in the United States at less than fair value (LTFV).³ Following an affirmative final determination by Commerce,⁴ the Commission instituted investigation No. 731-TA-96

³ The petition was filed by Hercules, Inc. (Hercules), Washington, DE. Hercules also filed another petition on September 14, 1982, alleging that firms in France received bounties or grants on the production and/or exportation of INC. In June 1983, the Commission determined that an industry in the United States was materially injured by reason of imports of INC from France that had been found by Commerce to be subsidized by the Government of France (inv. No. 701-TA-190). The countervailing duty order on INC from France was revoked on February 8, 1989 (54 FR 6157).

⁴ After making a negative preliminary determination, Commerce made an affirmative final determination. The statute directed the Commission to make its final injury determination within 75 days after notification by

(continued...)
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(Final), and determined, in July 1983, that an industry in the United States was materially injured by reason of LTFV INC imports.

On September 19, 1989, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of LTFV imports of INC from Brazil, China, Germany, Japan, Korea, the United Kingdom, and Yugoslavia.⁵ Following preliminary affirmative LTFV determinations by Commerce, the Commission instituted investigations Nos. 731-TA-439-445 (Final). Commerce issued final affirmative LTFV determinations with respect to all countries, and the Commission determined, in June 1990, that an industry in the United States was materially injured by reason of LTFV INC imports from Brazil, China, Germany, Japan, Korea, and the United Kingdom. The Commission further determined, in October 1990, that an industry in the United States was materially injured by reason of LTFV INC imports from Yugoslavia.⁶

Statutory Criteria and Organization of the Report

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”⁷

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

(D) in an antidumping proceeding . . . , (Commerce’s findings) regarding duty absorption . . .

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the

⁴ (...continued)

Commerce, or by July 25, 1983.

⁵ The petition was filed by Hercules, Washington, DE.

⁶ The determination on INC imports from Yugoslavia was delayed because the Commission revised its schedule to conform with Commerce’s extension of its date for its final determination.

⁷ Certain transition rules apply to the scheduling of reviews (such as these) involving antidumping and countervailing duty orders and suspensions of investigations that were in effect prior to January 1, 1995 (the date the WTO Agreement entered into force with respect to the United States). Reviews of these transition orders will be conducted over a three-year transition period running from July 1, 1998, through June 30, 2001. Transition order reviews must be completed not later than 18 months after institution.

Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

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

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement."

A summary of data collected in these reviews is presented in appendix C, tables C-1 and C-2. U.S. industry data are based on the questionnaire response of one firm (Hercules) that accounted for 100 percent of U.S. production of INC from 1978 through 1999.⁸ Questionnaire data are used for imports from all subject countries except Japan; official Commerce statistics are used for imports from Japan and all nonsubject sources due to poor coverage of questionnaire data.

Available comparative data from the original investigation and the current review on INC from France are presented in table I-1. Available comparative data from the original investigations and the

current reviews on INC from Brazil, China, Germany, Japan, Korea, the United Kingdom, and Yugoslavia are presented in table I-2. Figure I-1 shows U.S. imports of INC from France from 1979 to 1999. Figure I-2 shows U.S. imports of INC from Brazil, Germany, the United Kingdom, and Yugoslavia from 1986 to 1999. Figure I-3 shows U.S. imports of INC from China, Japan, and Korea from 1986 to 1999. Figure I-4 shows U.S. imports from France, Germany, and the United Kingdom by quarter from the first quarter of 1999 to the first quarter of 2000.⁹ Figure I-5 shows U.S. imports of subject, nonsubject, and total INC by quarter from the first quarter of 1999 to the first quarter of 2000. Responses by U.S. producers, importers, and purchasers of INC and producers of INC in Japan, France, Germany, and the United Kingdom to a series of questions concerning the significance of the existing antidumping duty orders and the likely effects of revocation are presented in appendix D.

Table I-1

INC from France: Summary data from the original investigation and current review, 1980-82 and 1997-98

* * * * *

Table I-2

INC from Brazil, China, Germany, Japan, Korea, the United Kingdom, and Yugoslavia: Summary data from the original investigations and current reviews, 1987-89 and 1997-98

(Quantity=1,000 wet pounds; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per wet pound)

Item	1987	1988	1989	1997	1998
U.S. consumption quantity:	***	***	***	***	***
Producers' share ¹	***	***	***	***	***
Importer's share: ¹					
Brazil	***	***	***	***	***
China	***	***	***	***	***
Germany ²	***	***	***	***	***
Japan	***	***	***	***	***
Korea	***	***	***	***	***
United Kingdom	***	***	***	***	***
Yugoslavia	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	***	***	***	***	***
Continued on next page.					

⁹ According to official Commerce statistics, there were no imports of INC from Japan, Korea, or Yugoslavia during this period. There were no imports of INC from Brazil or China in the first quarter of 2000.

Table I-2--Continued

**INC from Brazil, China, Germany, Japan, Korea, the United Kingdom, and Yugoslavia:
Summary data from the original investigations and current reviews, 1987-89 and 1997-98**

(Quantity=1,000 wet pounds; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per wet pound)

Item	1987	1988	1989	1997	1998
U.S. consumption value: Amount	***	***	***	***	***
Producers' share ¹	***	***	***	***	***
Importer's share: ¹					
Brazil	***	***	***	***	***
China	***	***	***	***	***
Germany ²	***	***	***	***	***
Japan	***	***	***	***	***
Korea	***	***	***	***	***
United Kingdom	***	***	***	***	***
Yugoslavia	***	***	***	***	***
All other sources	***	***	***	***	***
Total imports	***	***	***	***	***
U.S. imports from--					
Brazil:					
Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
China:					
Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
Germany: ²					
Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
Continued on next page.					

Table I-2--Continued

**INC from Brazil, China, Germany, Japan, Korea, the United Kingdom, and Yugoslavia:
Summary data from the original investigations and current reviews, 1987-89 and 1997-98**

(Quantity=1,000 wet pounds; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per wet pound)

Item	1987	1988	1989	1997	1998
Japan:					
Quantity	***	***	***	(⁴)	35.4
Value	***	***	***	3	80
Unit value	***	***	***	\$13.38	\$2.25
Korea:					
Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
United Kingdom:					
Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
Yugoslavia:					
Quantity	***	***	***	0	0
Value	***	***	***	0	0
Unit value	***	***	***	(³)	(³)
All other sources:					
Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
All countries:					
Quantity	***	***	***	26,458	26,821
Value	***	***	***	30,237	29,706
Unit value	***	***	***	\$1.14	\$1.11
Continued on next page.					

Table I-2--Continued

**INC from Brazil, China, Germany, Japan, Korea, the United Kingdom, and Yugoslavia:
Summary data from the original investigations and current reviews, 1987-89 and 1997-98**

(Quantity=1,000 wet pounds; value=1,000 dollars; unit values, unit labor costs, and unit financial data are per wet pound)

Item	1987	1988	1989	1997	1998
U.S. producer's-- Capacity quantity	***	***	***	***	***
Production quantity	***	***	***	***	***
Capacity utilization ¹	***	***	***	***	***
U.S. shipments: Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***
Inventories/total shipments ¹	***	***	***	***	***
Production workers	***	***	***	***	***
Hours worked (1,000 hours)	***	***	***	***	***
Wages paid (1,000 dollars)	***	***	***	***	***
Hourly wages	***	***	***	***	***
Productivity (wet pounds per hour)	***	***	***	***	***
Net sales: Value	***	***	***	***	***
Unit value	***	***	***	***	***
Cost of goods sold	***	***	***	***	***
Gross profit	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***
Unit cost of goods sold	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***
Cost of goods sold/sales ¹	***	***	***	***	***
Operating income or (loss)/sales ¹	***	***	***	***	***

¹ In percent.

² In the original investigation, Germany was not yet unified; the data refer to West Germany only.

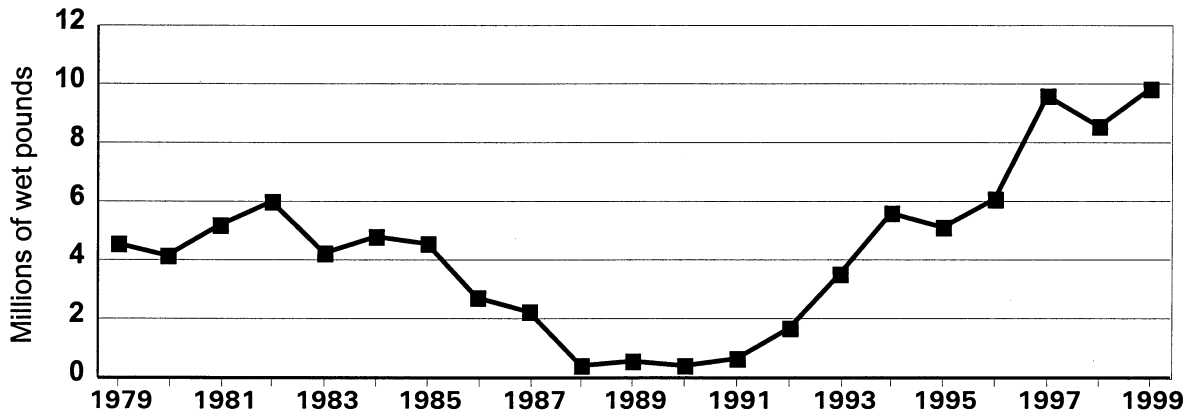
³ Not applicable.

⁴ Less than 500 wet pounds.

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

Source: Data for 1987-89 are derived from the staff report of June 1990. Data for 1997-98 are compiled from Commission questionnaires, except for imports from Japan and "all other sources," which are based on official Commerce statistics.

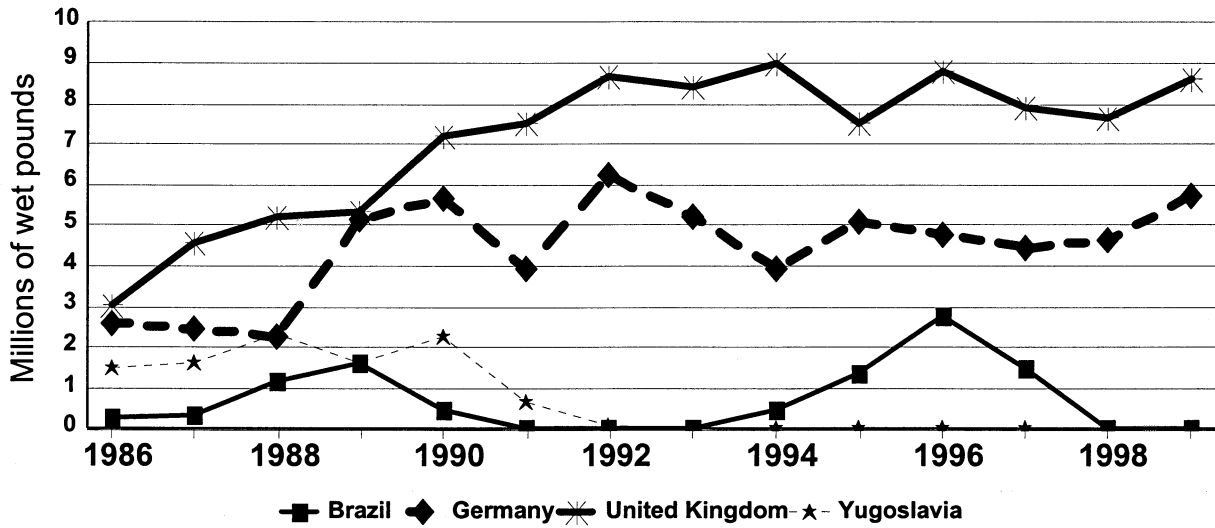
Figure I-1
INC: U.S. imports from France, 1979-99¹



¹ Data for 1979-88 may be overstated because former Tariff Schedules of the United States (TSUS) item 445.25, the predecessor to the HTS subheading 3912.20.00, also included data for goods falling in HTS subheading 3912.90.00. In addition, data for all periods may be overstated because they include nonsubject propellant grade nitrocellulose.

Source: Official statistics of the U.S. Department of Commerce.

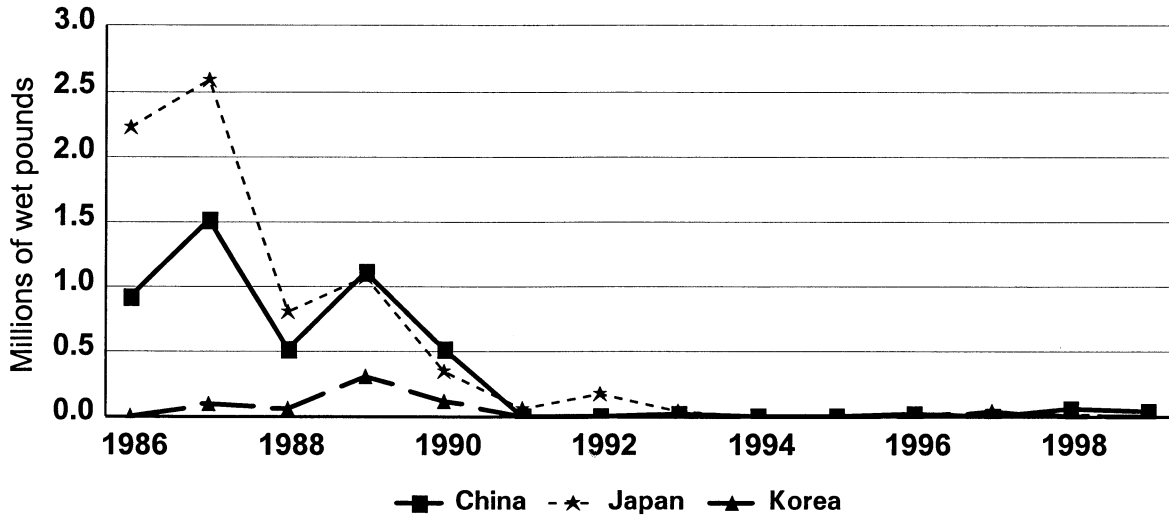
Figure I-2
INC: U.S. imports from Brazil, Germany, the United Kingdom, and Yugoslavia, 1986-99¹



¹ Data for 1986-88 may be overstated because former TSUS item 445.25, the predecessor to HTS subheading 3912.20.00, also included data for goods falling in HTS subheading 3912.90.00. In addition, data for all periods may be overstated because they include nonsubject propellant grade nitrocellulose.

Source: Official statistics of the U.S. Department of Commerce.

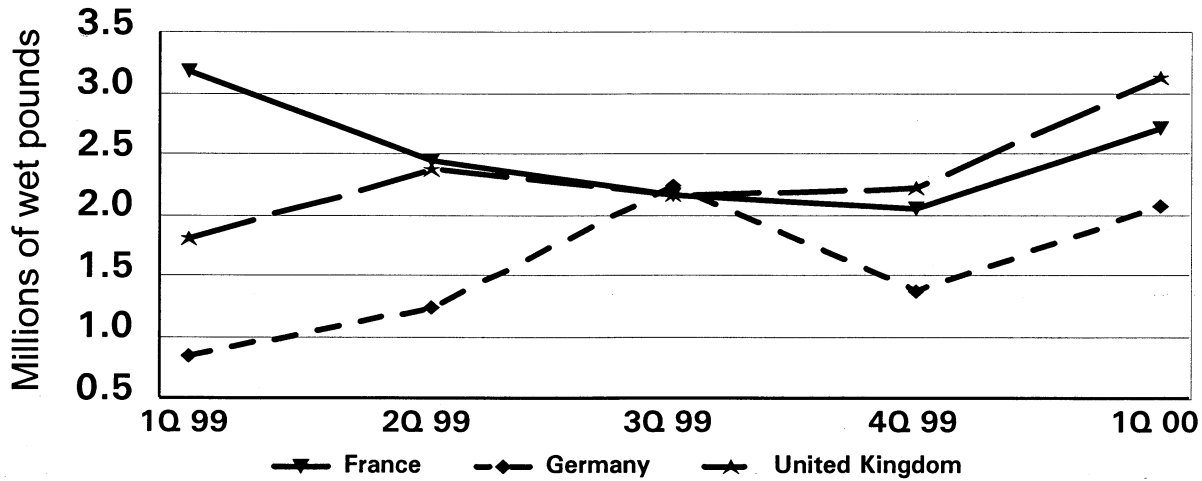
Figure I-3
INC: U.S. imports from China, Japan, and Korea, 1986-99¹



¹ Data for 1986-88 may be overstated because former TSUS item 445.25, the predecessor to HTS subheading 3912.20.00, also included data for goods falling in HTS subheading 3912.90.00. In addition, data for all periods may be overstated because they include nonsubject propellant grade nitrocellulose.

Source: Official statistics of the U.S. Department of Commerce.

Figure I-4
INC: U.S. imports from France, Germany, and the United Kingdom, by quarters, first quarter 1999-first quarter 2000¹

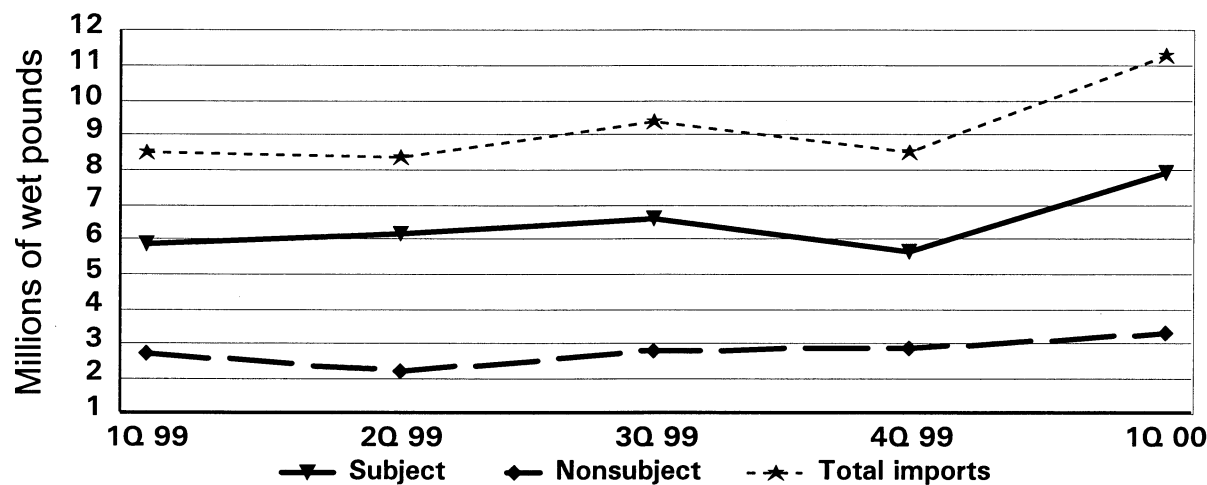


¹ Data may be overstated because they include nonsubject propellant grade nitrocellulose.

Source: Official statistics of the U.S. Department of Commerce.

Figure I-5

INC: U.S. subject, nonsubject, and total imports, by quarters, first quarter 1999-first quarter 2000¹



¹ Data may be overstated because they include nonsubject propellant grade nitrocellulose.

Source: Official statistics of the U.S. Department of Commerce.

COMMERCE'S RESULTS OF EXPEDITED REVIEWS

The Department of Commerce published the final results of its expedited sunset reviews on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia in the *Federal Register* on October 27, 1999. In those determinations, Commerce found that revocation of the antidumping orders would likely lead to continuation or recurrence of dumping. Commerce determined that the company-specific, weighted-average margins in the original investigations are probative of how producers/exporters in the eight countries would act if the orders were revoked. For companies not specifically investigated in the original investigations and for companies that did not begin shipping until after the orders were issued, Commerce determined margins based on the "all others" rate from the original investigations. Commerce determined that dumping would occur at the following rates: Companhia Nitro Quimica Brasileira (Quimica) and all other Brazilian manufacturers, 61.25 percent; all Chinese manufacturers, 78.40 percent; Bergerac, 13.35 percent, and all other French firms, 1.38 percent; Wolff Walsrode AG (Wolff) and all other German firms, 3.84 percent; Asahi Chemical Industry Co., Ltd. (Asahi) and all other Japanese manufacturers, 66.00 percent; Miwon Corp., Daesang Corp. (Daesang), and all other Korean manufacturers, 66.30 percent; Imperial Chemical Industries PLC (Imperial) and all other British manufacturers, 11.13 percent; and Milan Blagojevic (Milan) and all other Yugoslav manufacturers, 10.81 percent. Commerce also noted that no duty absorption findings have been issued with respect to the orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia. Commerce's notices are presented in appendix A.

COMMERCE'S ADMINISTRATIVE REVIEWS

Brazil

The original LTFV margin in 1983 was 61.25 percent for all entries of INC from Brazil. Since then, Commerce has conducted one administrative review as shown in the following tabulation.

Period of review	Date review results issued	Quimica	All others
07/01/91-06/30/92	July 20, 1993 (58 FR 38750)	5.81	61.25

China

The original LTFV margin in 1983 was 78.40 percent for all entries of INC from China. Since then, Commerce has conducted one administrative review as shown in the following tabulation.

Period of review	Date review results issued	All entries ¹
07/01/95-06/30/96	December 15, 1997 (62 FR 65667)	0.0

¹ In this review, Commerce determined not to grant a separate rate for China North Industries Guangzhou Corp. (CNIGC), which it found to be the only exporter during the review period.

France

The original LTFV margin in 1983 was 1.38 percent for all entries of INC from France. Since then, Commerce has conducted five administrative reviews as shown in the following tabulation.

Period of review	Date review results issued	Bergerac, N.C. ¹	All others
05/13/83-07/31/84	December 1, 1986 (51 FR 43227)	0.17	0.17
08/01/84-07/31/85	April 28, 1988 (53 FR 15262) ²	0	(³)
08/01/85-07/31/86	April 28, 1988 (53 FR 15262) ²	0.07	(³)
08/01/86-07/31/87	July 19, 1988 (53 FR 27185) ²	4.39	(³)
08/01/96-07/31/97	September 14, 1998 (63 FR 49085)	13.35	1.38

¹ Bergerac, N.C. (Bergerac) was formerly identified by the name of its parent company, Societe Nationale des Poudres et Explosifs (SNPE). Bergerac, a successor company with respect to production of the subject merchandise and a subsidiary of SNPE, became the subject of the most recent administrative review (Commerce's Sunset Review Update).

² Commerce stated that SNPE was the only known manufacturer and/or exporter of French INC to the United States during the period August 1, 1984 through July 31, 1987.

³ Not given.

Germany

The original LTFV margin in 1990 was 3.84 percent for all entries from Germany. Since then, Commerce has conducted one administrative review as shown in the following tabulation:

Period of review	Date review results issued	Wolff	All others
07/01/96-06/30/97	August 13, 1998 (63 FR 43372)	7.18	3.84

Japan

The original LTFV margin in 1990 was 66.0 percent for all entries from Japan. Since then, Commerce has not conducted any administrative reviews.

Korea

The original LTFV margin in 1990 was 66.30 percent for all entries from Korea. Since then, Commerce has conducted one administrative review as shown in the following tabulation:

Period of review	Date review results issued	Korea CNC ¹	All others
07/01/96-06/30/97	November 9, 1998 (63 FR 60302)	2.1	66.30

¹ Korea CNC (KCNC) is the successor-in-interest to Daesang. On April 1, 1990, China Nitrocellulose Co. (CNC) purchased Daesang's INC business, including Daesang's only manufacturing and research and development facility for the subject merchandise, which was renamed KCNC. Commerce, therefore, determined that KCNC will be assigned Daesang's antidumping duty cash deposit rate of 2.1 percent (65 FR 2115, January 13, 2000).

The United Kingdom

The original LTFV margin in 1990 was 11.13 percent for all entries from the United Kingdom. Since then, Commerce has conducted four administrative reviews as shown in the following tabulation:

Period of review	Date review results issued	Imperial	All others
07/01/92-06/30/93	August 14, 1995 (60 FR 41876) ¹	6.62	11.13
07/01/93-06/30/94	June 10, 1996 (61 FR 29342)	1.48	11.13
07/01/96-06/30/97	March 10, 1999 (64 FR 11836) ²	13.00	11.13
07/01/97-06/30/98	August 6, 1999 (64 FR 42908) ³	19.87	11.13

¹ Final results of this administrative review, which were published on December 28, 1994 (59 FR 66902), were amended due to a ministerial error in calculating the final antidumping duty margin.

² Final results of this administrative review, which were published on February 10, 1999 (64 FR 6609), were amended due to a ministerial error.

³ The results of this administrative review are preliminary.

Yugoslavia

The original LTFV margin in 1990 was 10.81 percent for all entries from Yugoslavia. Since then, Commerce has not conducted any administrative reviews.

ANTIDUMPING DUTIES COLLECTED

Table I-3 presents the actual amount of customs duties collected under the antidumping duty orders from 1994 to 1998.

THE SUBJECT PRODUCT

Commerce has defined the product subject to the scope of these reviews as follows: “The product covered by this review is industrial nitrocellulose. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks.” The scope of these reviews does not include explosive grade nitrocellulose,¹⁰ which has a nitrogen content greater than 12.2 percent, and was excluded from the antidumping duty orders. The subject merchandise is classified in HTS subheading 3912.20.00 with a general duty rate of 5.2 percent ad valorem in 2000.

Product Description

INC,¹¹ except for a few specialty grades, is a solid, flaked, free-flowing granular mixture consisting of 70 percent nitrocellulose and 30 percent isopropyl alcohol by weight, packaged in 55-gallon drums. INC is packaged wet in sealed drums because it is flammable and/or explosive in the dry state. When blended with solvents, fillers, pigments, and/or other materials, INC is an excellent film former, preferred particularly for wood finishes by furniture manufacturers and in various types of lacquers, adhesives, printing inks, and a myriad of other applications, including fingernail polish. Hercules’ ParCell® line of INC products is available in three solubility types, **R**, **A**, and **S**, determined by nitrogen content. ParCell **R** (11.7 - 12.2 percent nitrogen) is the most commonly used type due to its solubility in a broad range of solvents, finding extensive use in major applications. ParCell **S** (10.9 - 11.3 percent nitrogen), next in line of importance, is used predominantly in flexographic printing inks. ParCell **A** (11.3 - 11.7 percent nitrogen) has intermediate solubility. All grades of ParCell comply with the requirements of the U.S. Food and Drug Administration (FDA) for use in contact with food or in food-packaging, including adhesives, coatings on metal substrates, and components of paper and paperboard and cellophane.

U.S. INC demand has experienced limited growth for most of the 1990s, in part because of its gradual replacement by water-based systems that do not require the use of organic solvents, such as acetone, listed as toxic air pollutants by the U.S. Environmental Protection Agency (EPA) and the

¹⁰ Hercules and Alliant Techsystems are the only two U.S. producers of nonsubject explosive or propellant grade products. Phone interview with ***, May 16, 2000.

¹¹ The term “INC” as used in this report refers to the subject product as defined by Commerce.

Table I-3

INC: Actual duties collected and imports from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia, fiscal years 1994-98¹

(In 1,000 dollars)

Item	1994	1995	1996	1997	1998
Brazil					
Total duties collected	(²)	(²)	(²)	***	(²)
Total imports	(²)	(²)	(²)	***	(²)
China					
Total duties collected	(³)	(³)	(²)	(³)	(²)
Total imports	(³)	(³)	(²)	(³)	(²)
France					
Total duties collected	218	184	201	292	220
Total imports	4,935	4,185	4,585	6,662	5,013
Germany					
Total duties collected	141	(²)	(²)	***	(²)
Total imports	3,685	(²)	(²)	***	(²)
Japan					
Total duties collected	(²)	(²)	38	***	(²)
Total imports	(²)	(²)	57	***	(²)
Korea					
Total duties collected	(³)	(³)	(³)	***	(³)
Total imports	(³)	(³)	(³)	***	(³)
United Kingdom					
Total duties collected	821	(²)	340	91	(²)
Total imports	7,376	(²)	7,923	6,117	(²)
Yugoslavia					
Total duties collected	(³)	(³)	(³)	(³)	(³)
Total imports	(³)	(³)	(³)	(³)	(³)

¹ The federal fiscal year is October 1-September 30.

² Business proprietary information not divulged by Customs.

³ Case number not listed in Customs Report for this year, indicating no duties and no imports.

Source: U.S. Customs Service Annual Report, Part A.

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Occupational Safety and Health Administration (OSHA),¹² and because of advancements in modern day polymer technologies.¹³

Uses

The superior film-forming characteristics of INC when dissolved or dispersed with other solid components in solvents account for its wide range of use. Typical end uses for Hercules' ParCell INC products are shown below:¹⁴

Furniture and fixtures—Furniture lacquers.

Floor coverings—Floor lacquers.

Paints and coatings—Protective decorative coating applications and heat-seal coatings.

Graphics and inks—Fast dry film former; flexographic inks.

Personal care/cosmetics—Film former in nail polishes.

Food containers—Paper and paperboard; cellophane; closures with sealing gaskets; adhesives.

Estimates of U.S. INC consumption in relative order of importance by end use sector are shown in the following tabulation:

U.S. INC sales by industry, 1998¹⁵

<u>Industry</u>	<u>Percent</u>
Wood finishes	35
Printing ink	19
Solutions	12
Lacquers	12
Fingernail polish	7
Adhesive/sealants	5
Paper/book covers	5
Pigment dispersions	2
Auto refinish	1
Canned heat	1
<u>Leather</u>	<u>1</u>
Total	100

The estimates indicate that 85 percent of total INC sales were in the top five categories.

¹² From 1992 to 1997, acetone was listed as a hazardous product by OSHA and companies moved away from acetone-based coatings containing nitrocellulose to water-based coatings not containing nitrocellulose. Response on behalf of Wolff Walsrode A.G., and Bayer; Kirkland & Ellis, Washington, DC, July 21, 1999, p. 8.

¹³ Commission staff plant trip, Hercules, Parlin, NJ, December 15, 1999.

¹⁴ Hercules' public information product literature, Wilmington, DE.

¹⁵ Submission on behalf of Bergerac (foreign manufacturer/exporter), SNPE North America LLC (importer), and TEVCO, Inc. (importer), Ablondi, Foster, Sobin & Davidow, P.C., Washington, DC, July 21, 1999, p. 7.

Manufacturing Process¹⁶

Hercules, the only producer of INC in North America,¹⁷ produces the subject product using a continuous process design, as opposed to the batch processes which are reported to be used in several foreign plants.¹⁸ The plant also has the capability for production of nonsubject propellant, or explosive, grade nitrocellulose on a separate production line.¹⁹ Subject INC is produced in four basic steps: (1) acid preparation, concentration, and recycle (nitric and sulfuric acids); (2) nitration of cellulose; (3) digestion (viscosity regulation and reduction); and (4) dehydration (replacement of water-saturated nitrocellulose with isopropyl alcohol). An overview of the basic production process follows.

The mixed nitrating acids (concentrated nitric and sulfuric acids) and cellulose cubes chopped from rolls of dry wood pulp-based cellulose²⁰ are fed simultaneously and continuously into a nitration vessel.²¹ After nitration, the slurry of nitrocellulose and spent acid is passed into a centrifuge that removes the spent acids and water. While in the centrifuge, the product is sprayed with successively decreasing concentrations of acid. Spent acid is recycled to the mixed nitrating acid section for fortification. The centrifuged nitrocellulose is then boiled for stabilization purposes and fed into a continuous digester for proper molecular weight and viscosity control (known as digestion). Nitrocellulose is manufactured over a wide range of viscosities depending upon the intended use; thus, the digestion process is a special treatment given nitrocellulose to produce the desired viscosity distribution for lacquers and other products. In continuous digestion, nitrocellulose is heated under moderate pressure in water and the heated slurry is pumped through a series of parallel vertical pipes until the proper viscosity properties are achieved. Additional washing is necessary to remove any decomposition products generated during digestion. Following this process, water is evaporated from the product and displaced with isopropyl alcohol (dehydration); it is then densified in a steel roller mill, delivered by gravity into 55-gallon barrels, and capped for shipment by truck. The densified free-flowing granular product typically consists of 70-percent nitrocellulose and 30-percent isopropyl alcohol by weight. Empty barrels are returned for reuse. Exports and imports of nitrocellulose shipped by vessel are also stored in 55-gallon drums housed in compartmentalized containers.

A diagram and overview of the Hercules nitrocellulose (NC) manufacturing processes follow:

¹⁶ Information obtained by Commission staff as a result of plant trip to Hercules' Parlin, NJ, production facility, December 15, 1999.

¹⁷ Hercules completed the sale of its INC assets to Green Tree in June 16, 2000. See *Sayreville: Hercules gets new owners*, Home News Tribune, June 17, 2000, as obtained online at <http://www.thnt.com>.

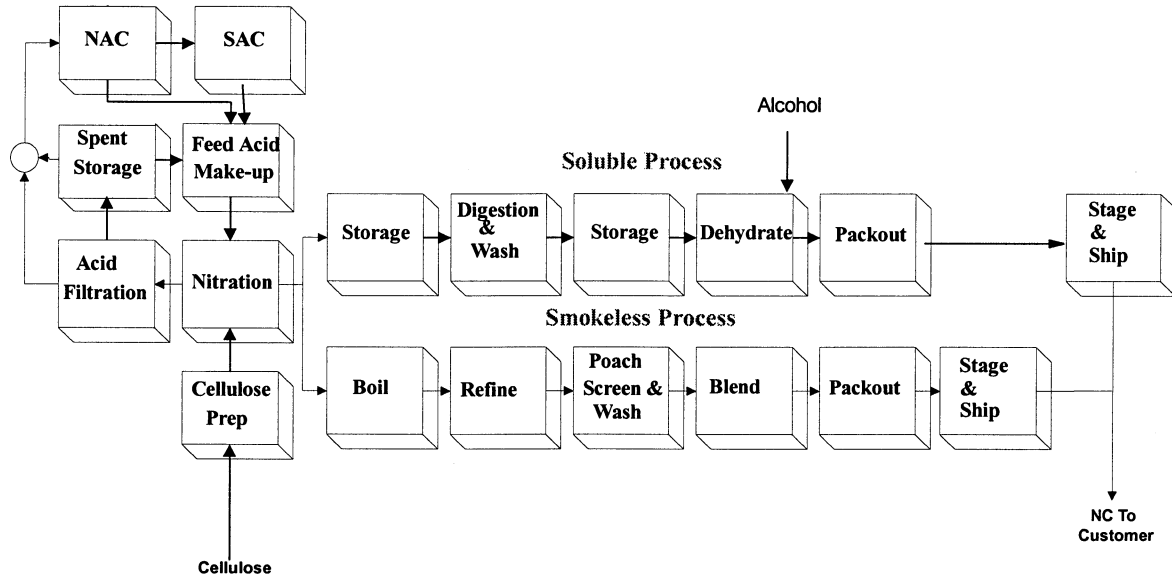
¹⁸ Commission staff trip to Hercules' Parlin, NJ, plant, December 15, 1999. Hercules officials reported no significant differences in the quality of product produced by the two processes.

¹⁹ Nonsubject propellant, or explosive, grade used by the military and private customers has a higher nitrogen content than the subject product and is basically explosive-sensitive. Explosive grade material is saturated with water prior to storage.

²⁰ The chopped cellulose is processed by equipment known as a "Stern cube cutter" which sizes the cellulose into 1 millimeter (mm) by 2 mm by 4 mm cubes.

²¹ Cellulose contains organic alcohol (-OH) linkages which react with nitric acid in the presence of sulfuric acid to produce nitrocellulose ester in a reaction known as "esterification" in organic chemistry.

Figure I-6
Hercules' manufacturing processes for nitrocellulose²²



- **Nitric acid concentrator (NAC)**—concentrates nitric acid from 60 to 98 percent for use in nitration acid mixes. Also recovers component nitric and sulfuric acid from recovered acids returning from nitration.
- **Sulfuric acid concentrator (SAC)**—concentrates sulfuric acid from 73 to 93 percent for use in nitration acid mixes.

DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY ISSUES

In the 1983 investigation on *Industrial Nitrocellulose from France*, the Commission defined the domestic like product as “all soluble industrial nitrocellulose,” whereas in the 1990 investigation on *Industrial Nitrocellulose from Brazil, China, Germany, Japan, Korea, the United Kingdom, and Yugoslavia*, the Commission defined the domestic like product as “all industrial nitrocellulose.”²³ The word “soluble” is superfluous. All INC is produced using what is called the “soluble process” and is soluble in the solvents used to dissolve it for producing commercial products such as lacquers and inks. Nonsubject merchandise, pertaining primarily to “military” or propellant grade nitrocellulose, is produced using the smokeless process. (By contrast, propellant grade nitrocellulose is not soluble in those solvents that dissolve INC for end uses.) In the original investigations, the Commission made no like product distinctions between the wetting agents used when producing INC. Furthermore, the

²² Prepared by Hercules technical staff; transmitted by counsel for Hercules, January 3 and May 5, 2000.

²³ *Nitrocellulose from France*, Investigation No. 731-TA-96 (Final), USITC Pub. 1409, July 1983, p. 4. *Industrial Nitrocellulose from Brazil, Japan, The People's Republic of China, The Republic of Korea, The United Kingdom and West Germany*, Investigations Nos. 731-TA-439 through 444 (Final), USITC Pub. 2295, June 1990, p. 8.

Commission, in the original determinations, defined the domestic industry as U.S. producers of INC, of which Hercules was the sole producer.

The domestic industry has made no assertions regarding the Commission's domestic like product or domestic industry determinations during these reviews. However, the domestic industry stated that the "plasticized" nitrocellulose from Germany is not wetted with alcohol, is preferable for a very limited range of applications, and is not interchangeable with the alcohol wet product.²⁴ Respondents stated that, historically, about *** percent of Wolff's shipments to the United States have been of plasticized nitrocellulose.²⁵ The domestic industry also stated that "cuboid" nitrocellulose produced by ICI is merely another form of alcohol wet nitrocellulose and is "widely interchangeable" with other forms (i.e., different particle shapes) of the product.²⁶ All respondent parties, with the exception of Wolff (a German producer and exporter of INC) and Bayer Corp. (a U.S. importer of INC), agreed with the Commission's definition of the domestic like product and the domestic industry. Counsel for Wolff and Bayer stated in the institution phase that Wolff and Bayer "challenge the ITC's definition of like product and domestic industry" without providing any explanations or alternative definitions.²⁷

U.S. MARKET PARTICIPANTS

U.S. Producer

Hercules, with headquarters in Wilmington, DE, and a plant in Parlin, NJ, has been the sole U.S. producer of INC since 1978 (before any of the orders were put in place).²⁸ The INC operations of Hercules were reorganized, effective January 1, 1990, into a subsidiary corporation, Aqualon; however, the name Hercules is used to refer to the firm in this report. It does not have any related firms, either domestic or foreign, that are engaged in producing or importing INC. On June 16, 2000, Hercules sold its INC business to Green Tree Chemical Technologies, Inc. (Green Tree) of Seaford, DE.²⁹ Both firms oppose the revocation of the subject orders. Hercules did not import the subject product during the period examined, with the exception of ***.

U.S. Importers

The Commission sent questionnaires to 23 firms that were believed to import INC subject to these reviews. Of the 17 responses submitted to the Commission, 13 supplied usable data and 4 indicated that they had not imported the product since 1983. Twelve of the 13 that returned usable data reported imports from subject countries.³⁰

²⁴ Posthearing brief of Hercules and Green Tree, p. 21.

²⁵ Joint posthearing brief of respondents, exhibit 1, p. 5.

²⁶ Posthearing brief of Hercules and Green Tree, p. 22.

²⁷ Response to the Notice of Institution on Behalf of Producer/Exporter Wolff Walsrode A.G. and Importer Bayer Corp. in Favor of Sunset of the Antidumping Duty Order, July 21, 1999, p. 9.

²⁸ According to industry sources, DuPont held approximately 40 percent of the U.S. INC market in 1977 and Hercules controlled the other 60 percent. Imports were nonexistent in the U.S. market at the time.

²⁹ Posthearing brief of Hercules and Green Tree, p. 2. Green Tree Chemical Technologies, Inc., ***. See posthearing brief of Hercules and Green Tree, p. 17 and attachment 2, p. 1.

³⁰ The Commission sent supplemental questionnaires to these firms after the hearing in order to collect certain updated information. Data collected from the supplemental questionnaires are presented in the various sections of this report.

Based on official Commerce statistics, which include nonsubject nitrocellulose, the responding firms accounted for approximately *** percent of INC imports from China, *** percent of INC imports from France, *** percent of INC imports from Germany, *** percent of INC imports from Japan, *** percent of INC imports from Korea,³¹ and *** percent of INC imports from the United Kingdom in 1998.³² Although official Commerce statistics reported no Brazilian imports in 1998, Commission questionnaire responses identified *** pounds of INC imports from Brazil in 1998.³³ Commission questionnaires accounted for *** percent of 1998 INC imports from nonsubject sources (such sources included Hungary and Taiwan). Because official statistics cover products that are not included in the scope of these reviews (i.e., explosive-grade nitrocellulose³⁴), questionnaire data are generally used in this report. However, official statistics are used with respect to INC imports from Japan and nonsubject sources due to poor questionnaire coverage.

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table I-4 presents apparent U.S. consumption for the review period, and table I-5 presents U.S. market shares for the same period. U.S. consumption of INC declined by *** percent from 1987 to 1999 (tables I-2 and I-4), reportedly as a result of decreased use in applications such as car repair paints and cellophane. Such uses were virtually eliminated as a result of environmental legislation and competition from substitute products, respectively.³⁵

³¹ ***.

³² There were no imports from Yugoslavia reported in questionnaire responses or official Commerce statistics.

³³ Based on official Commerce statistics, responding firms accounted for approximately *** percent of INC imports from Brazil in 1997.

³⁴ Explosive-grade nitrocellulose is used in smokeless gun powder and explosives (such as dynamite) and is generally more viscous and higher in nitrogen content (12.6 to 13.4 percent compared with 10.8 to 12.2 percent) than is INC. Further, explosive-grade nitrocellulose is not soluble in the solvents used to dissolve INC and is, therefore, unsuitable for use as INC. Explosive-grade nitrocellulose is usually shipped wet with water rather than with alcohol.

³⁵ Hearing transcript, pp. 163-164.

Table I-4

INC: U.S. shipments of domestic product, U.S. import shipments, and apparent U.S. consumption, 1997-99

Item	1997	1998	1999
<i>Quantity (1,000 wet pounds)</i>			
U.S. producer's U.S. shipments	***	***	***
U.S. shipments of imports from--			
Brazil	***	***	30
China	***	***	***
France	***	***	***
Germany	***	***	***
Japan	(1)	35	0
Korea	***	0	0
United Kingdom	***	***	***
Yugoslavia	0	0	0
Subtotal	19,359	17,805	19,105
Other sources	6,668	9,755	10,554
Total imports	26,027	27,560	29,659
Apparent consumption	***	***	***
<i>Value (\$1,000)</i>			
U.S. producers' U.S. shipments	***	***	***
U.S. shipments of imports from--			
Brazil	***	***	28
China	***	***	***
France	***	***	***
Germany	***	***	***
Japan	3	80	0
Korea	***	0	0
United Kingdom	***	***	***
Yugoslavia	0	0	0
Subtotal	23,139	21,029	21,558
Other sources	7,793	10,556	10,769
Total imports	30,932	31,584	32,327
Apparent consumption	***	***	***

¹ Less than 500 wet pounds.

Source: Compiled from data submitted in response to Commission questionnaires supplemented by official Commerce statistics for imports from Brazil (in 1999), Japan, and other sources.

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Table I-5
INC: U.S. market shares, 1997-99

* * * * *

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

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

U.S. producers and importers are able to respond to changes in domestic demand for INC with increased production, sales from inventories, and increased imports. As a result of these factors, the U.S. supply elasticity is estimated to be high.

Domestic Production

Domestic production of INC increased by *** percent from 1997 to 1998 but decreased by *** percent from 1998 to 1999. U.S. shipments decreased by *** percent from 1997 to 1998 and by *** percent from 1998 to 1999. Hercules attributed the decrease in production and shipments in 1999 to a combination of factors including reduced dehydration capacity at the New Jersey plant, which was the result of an accident in May 1999, and some customers' increased purchases of imported product.¹

U.S. capacity utilization increased from *** percent in 1997 to *** percent in 1998, decreased to *** percent in 1999, and increased to *** percent during January-June 2000. The 1999 decrease in capacity utilization is attributable to the accident in May 1999 at Hercules' New Jersey plant. Capacity utilization increased during the last quarter of 1999 as Hercules, which ***.

U.S. exports of INC increased by *** percent from 1997 to 1998 but decreased by *** percent from 1998 to 1999. Major U.S. markets for exports of INC include Mexico, Canada, Colombia, and the Netherlands.

According to ***, occupational and safety regulations in Europe prohibit the standard 55 gallon drums that Hercules uses to export INC, except for foreign customers that have the necessary equipment for handling heavy drums. As a result, Hercules has little ability to shift excess production capacity to foreign markets.

U.S. inventories of INC increased by *** percent from 1997 to 1998 but decreased by *** percent from 1998 to 1999. During the fourth quarter of 1999, inventories increased. Inventories as a share of total shipments increased from *** percent in 1997 to *** percent in 1998 and then fell back to *** percent in 1999. Inventories were *** percent higher than shipments during January-June 2000.

¹ In light of the sale of Hercules' INC plant in Parlin, NJ, Commission staff contacted INC purchasers to determine whether any supply disruptions had occurred or were expected to occur as a result of the sale. Of the purchasers contacted, none reported supply disruptions resulting from the potential sale of the Hercules plant. Five purchasers reported that supply disruptions had occurred as a result of the May 1999 accident that reduced capacity in the hydration unit at the Parlin, NJ plant (repairs were expected to take until spring of 2000 for completion). During this time, Hercules reportedly imported the necessary supplies of INC from *** for sale to its contract customers.

In addition, the Commission sent supplemental questionnaires to purchasers of INC. Of the 16 responding purchasers, 5 reported that Hercules' December 1999 announced exit from the industry had little or no effect on their supply of INC; 2 of these 5 purchasers reported that they began stockpiling larger inventories of INC. Eleven purchasers stated that supplies had tightened and delays in shipments had occurred but that adequate supplies were available from import sources. One company further stated that Hercules had advised them to find alternative sources for INC supplies.

Eleven of the 16 responding purchasers reported that the May 2000 shutdown had little or no effect on INC prices; 2 firms reported that prices increased.

Subject Imports

U.S. imports from the subject countries decreased by 13.8 percent from 1997 to 1998 and increased by 21.0 percent from 1998 to 1999. U.S. imports from France decreased by *** percent from 1997 to 1998 and increased by *** percent from 1998 to 1999. U.S. imports from Germany increased by *** percent from 1997 to 1998 and increased by *** percent from 1998 to 1999. U.S. imports from the United Kingdom increased by *** percent from 1997 to 1998 and by *** percent from 1998 to 1999.²

Industry capacity

No capacity data were obtained from the INC producers in Brazil, China, Korea, and Yugoslavia. Data from the French producer show that capacity utilization rates increased from *** percent in 1997 to *** percent in 1998 but declined from *** percent during January-September 1998 to *** percent during January-September 1999. Data from the German producer show that capacity utilization rates increased from *** percent in 1997 to *** percent in 1998 but declined from *** percent during January-September 1998 to *** percent during January-September 1999. Data from the Japanese producer show that capacity utilization rates decreased from *** percent in 1997 to *** percent in 1998 but increased from *** percent during January-September 1998 to *** percent during January-September 1999. Data obtained from the producer in the United Kingdom show that capacity utilization rates decreased from *** percent in 1997 to *** percent in 1998 and from *** percent during January-September 1998 to *** percent during January-September 1999.

Alternative markets

Data obtained from the French producer indicate that the U.S. share of its exports of INC decreased from *** percent of total exports in 1997 to *** percent in 1998 but increased from *** percent during January-September 1998 to *** percent during January-September 1999. Data obtained from the German producer indicate that the U.S. share of its exports of INC increased from *** percent of total exports in 1997 to *** percent in 1998 and from *** percent during January-September 1998 to *** percent during January-September 1999. Data obtained from the producer in the United Kingdom indicate that the U.S. share of its exports of INC increased from *** percent of total exports in 1997 to *** percent in 1998 and increased slightly from *** percent during January-September 1998 to *** percent during January-September 1999. The data indicate that shipments in these countries can be diverted to the U.S. market.

Inventories

Data obtained from the French producer indicate that inventories increased from *** million wet pounds in 1997 to *** million wet pounds in 1998 but decreased from *** million wet pounds during January-September 1998 to *** million wet pounds during the corresponding period in 1999. Inventories as a share of total shipments of INC in France increased from *** percent in 1997 to *** percent in 1998 and were *** percent during January-September of both 1998 and 1999.

² U.S. imports of INC from Hungary increased by 479.8 percent from 1997 to 1998 and by 6.3 percent from 1998 to 1999 and from Taiwan by 24.4 percent from 1997 to 1998 and by 20.2 percent from 1998 to 1999.

Data obtained from the German producer indicate that inventories increased from *** million wet pounds in 1997 to *** million wet pounds in 1998 and were *** million wet pounds during January-September of both 1998 and 1999. Inventories as a share of total shipments of INC in Germany increased from *** percent in 1997 to *** percent in 1998 and increased from *** percent during January-September 1998 to *** percent during January-September 1999.

Data obtained from the INC producer in Japan indicate that inventories decreased from *** million wet pounds in 1997 to *** million wet pounds in 1998 and decreased from *** million wet pounds during January-September 1998 to *** million wet pounds during the corresponding period in 1999. Inventories as a share of total shipments of INC in Japan decreased from *** percent in 1997 to *** percent in 1998 and from *** percent during January-September 1998 to *** percent during January-September 1999.

Data obtained from the INC producer in the United Kingdom indicate that inventories increased from *** million wet pounds in 1997 to *** million wet pounds in 1998 but decreased from *** million wet pounds during January-September 1998 to *** million wet pounds during the corresponding period in 1999. Inventories as a share of total shipments of INC in the United Kingdom increased from *** percent in 1997 to *** percent in 1998 but decreased from *** percent during January-September 1998 to *** percent during January-September 1999.

U.S. Demand

Based on available information, the overall demand for INC is not likely to change in response to changes in the price of the product. The low degree of price sensitivity is the result of the lack of substitute products that meet the specific requirements of U.S. purchasers.

Demand Characteristics

According to Hercules, demand for INC has declined since 1983 primarily because of environmental considerations associated with its use in certain applications.³ Responding importers reported that U.S. demand is expected to remain flat or decline slightly because of the environmental regulations limiting VOCs emissions. At the same time, importers expect demand in Asia to increase. Purchasers reported that demand for INC has declined and is expected to continue to decline as water-based products gain more market share in response to more stringent environmental regulations. Of the companies reporting purchases of INC from Hercules during 1998 and 1999, eight reported purchasing less INC from Hercules during January-June 2000, four purchased the same amount, and four discontinued purchases from Hercules after Hercules announced its exit from the industry.

Substitute Products

There are no substitutes for INC across all applications. For some applications, such as wood finishes, polyurethane resins and other water-soluble polymers can be substituted for INC. Also, water-based resins can replace INC in some coating and ink applications. Generally, these substitutes lack the speedy drying and binding properties of INC. Changeover to water-based resins has been, and is expected to continue to be, gradual and occurring only in certain specialty applications.

³ The market for INC is controlled by environmental regulations restricting the emissions of volatile organic compounds (VOCs) allowable.

Cost Share

INC is primarily used in the production of wood and metal coatings and finishes, lacquers, inks, paints, adhesives, and nail polishes. The cost of INC relative to the total cost of production of the end-use products varies, ranging from 30 to 78 percent.

Supply and Demand in the Brazilian, Chinese, French, German, Japanese, Korean, British, and Yugoslavian Home Markets⁴

The French producer, Bergerac, reported that demand in France has declined because of decreased demand for finished wood furniture; also, demand for INC has decreased because of environmental concerns as INC is classified in most developed countries as a "flammable solid" that is restricted in terms of allowable VOCs emissions. Demand for INC in France is expected to continue to decline.

The German producer, Wolff, reported a growth in demand for water-based coatings as substitutes for INC but noted that these coatings are difficult to use in wood applications. Overall demand in Germany was reported to have remained constant during the review period; however, INC's use in some applications declined. Wolff anticipates that future demand for INC in Germany will grow by only 1-2 percent per year.

The Japanese producer, Asahi, reported that demand in Japan has decreased annually since 1990 as other products have been substituted for INC in paint applications. Demand in Japan is expected to continue to decrease. According to ICI Americas, demand in the United Kingdom has remained relatively constant and is expected to continue at current levels.

SUBSTITUTABILITY ISSUES

The degree of substitutability between domestic and imported INC depends primarily on quality (including color), price, and availability. Producers and importers reported that the U.S. product and the imported product are used interchangeably. Most end users do not generally have specific "Buy American" requirements; however, purchasers reported that they do require suppliers to become certified or prequalified with respect to the quality, chemistry, strength, and/or other performance characteristics of INC before purchases are made.

Factors Affecting Purchasing Decisions

Producers, importers, and purchasers were asked a variety of questions to determine what factors influenced the decisions of customers when buying INC. Information obtained from these sources indicates that quality and price were the most important factors affecting purchasing decisions and that availability and other factors, such as contract terms and service, were also important factors (table II-1).

⁴ No information was provided by the producers of INC in Brazil, China, Korea, and Yugoslavia.

Table II-1**INC: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers**

Factor	Number one factor	Number two factor	Number three factor
	<i>Number of firms reporting</i>		
Availability	1	1	4
Quality	4	4	0
Price	4	4	2
Other ¹	1	1	4

¹ Other factors include prearranged contracts, service, deliverability, and customer preference.

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

In response to the question “How often are your firm’s purchasing decisions for INC based mainly on price?” 10 of 15 responding purchasers stated that purchasing decisions were “usually” based mainly on price; however, 7 of the 10 also reported that quality was equally important in purchasing decisions. Three of 15 responding purchasers stated that their purchasing decisions were “sometimes” based mainly on price; 1 stated that its purchasing decisions were “always” based mainly on price; and 1 stated that its purchasing decisions were “never” based mainly on price. Purchasers were also asked questions to determine whether “Buy American” policies influenced decisions when buying INC. All 15 purchasers responded that these policies did not influence their purchasing decisions.

Of the 16 purchasers responding to the Commission’s supplemental questionnaire, 8 reported that there has been no change in the price of INC since Hercules announced its exit from the industry; 7 reported that prices increased; and 1 reported that U.S. prices stabilized. After Green Tree’s announced intention of purchasing the INC production line from Hercules, 11 of the 16 purchasers reported that Green Tree officials contacted them, either in person or by phone, about retaining their business while 5 purchasers reported that they have had no contact from Green Tree. Nine of the purchasers reported that Green Tree would have to qualify their product line before they would purchase from them; 5 firms reported that no such qualification was necessary; 1 firm reported that any qualification requirement would depend on customer specifications; and 1 firm reported that an agreement had been reached with Green Tree for shipments of INC through the end of 2000.

In addition, the supplemental questionnaire asked purchasers whether a domestic source of INC was necessary. While most purchasers reported a preference for a domestic supply source, some stated that they will not purchase all of their required INC supplies from Green Tree and risk losing foreign supply sources. Of the 14 purchasers responding to this question, 7 reported that if Green Tree proves to be a reliable source of INC supply, they will purchase anywhere from 50 to 100 percent of their requirements from Green Tree. Seven purchasers stated that under all circumstances, less than 50 percent of their purchases would go to Green Tree. All of the purchasers responding to the Commission’s supplemental questionnaire reported that quality, price, and service would have to equal or exceed that provided by Hercules in order for Green Tree to secure their business.

Comparisons of Domestic Products and Subject Imports

There is a relatively high degree of substitution between U.S.-produced INC and the imported product. Factors that tend to enhance the degree of substitution include the fact that INC from various countries is viewed as interchangeable in its uses and most purchasers found the subject imports to be similar with regard to their specific requirements.

Purchasers responding to the Commission's supplemental questionnaire reported that they were very satisfied with INC from France, Germany, and the United Kingdom. INC from France, Germany, Japan, and the United Kingdom was reported to be used interchangeably in the same applications as the domestic product; however, Germany was reported to produce "superior" grades of plasticized INC required in certain applications. INC from Brazil reportedly could be used interchangeably with domestically produced INC; however, INC from China, Korea, and Yugoslavia was reported to be of poorer quality and generally not used interchangeably with the domestic product.

Comparisons of Imports From Subject Countries

Some U.S. producers, importers, and purchasers reported that imports from Brazil, France, Germany, Japan, and the United Kingdom were comparable and could be used interchangeably. Imports from China, Korea, and Yugoslavia were reportedly inferior in terms of quality when compared with INC produced in the other subject countries.

Comparisons of Domestic Products and Nonsubject Imports

Imports from nonsubject countries were available during the period for which data were collected. Comparisons were made concerning product from Hungary and Taiwan. Generally, purchasers considered INC from these nations to be comparable to the domestic product, and therefore interchangeable with the domestic product.

Comparisons of Subject Imports and Nonsubject Imports

Available information from purchasers' questionnaires indicates that INC from subject and nonsubject countries are generally viewed as interchangeable. Respondents stated that the sourcing can vary as long as the producer has been certified or prequalified in terms of the quality and chemical composition of the product.

ELASTICITY ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for INC measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the

availability of alternative markets for U.S.-produced INC. Analysis of these factors indicates that the U.S. supply elasticity is likely to be within the 4 to 6 range.⁵

Import Supply Elasticity

The import supply elasticity depends on the same general factors as the domestic supply elasticity. Analysis of these factors indicates that suppliers of the subject product are likely to experience more flexibility as compared with U.S. suppliers regarding the ability to increase or decrease shipments to the U.S. market. An estimate in the range of 10 to 15 is suggested for Brazil, China, France, Japan, and Korea; an estimate in the range of 8 and 12 is suggested for Germany and the United Kingdom as both nations have little available unused capacity.⁶

U.S. Demand Elasticity

U.S. demand elasticity for INC measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of the product. This estimate depends on factors such as the existence, availability, and commercial viability of substitute products, as well as the share of the INC in the cost of production of downstream products. Questionnaire responses indicate the U.S. producers, importers, and purchasers agree that substitutes for INC in most applications are limited. Also, the share of the total cost of the end products accounted for by INC varies by usage; however, based on available information, it appears that the cost component of INC in most end uses is moderate to high. Therefore, the aggregate demand elasticity for INC is likely to be within the 0.5 to 1.0 range.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported product.⁷ Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced INC and the subject imported product is likely to be within the 2 to 4 range, with the lower end of the range being applied to imports of INC from China, Korea, and Yugoslavia and the higher end of the range being applied to INC imports from Brazil, France, Germany, Japan, and the United Kingdom.

MODEL RESULTS

This analysis uses a nonlinear partial equilibrium model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used for the analysis of trade policy changes in both

⁵ The domestic industry stated that supply is not responsive to changes in the market price and recommended that the domestic supply elasticity should be in the range of 4 to 6. Petitioners' posthearing brief, May 30, 2000, exhibit A, p. 4. The respondents stated that the domestic supply elasticity should be in the range of 1 to 3. Respondents' prehearing brief, June 1, 2000, pp. 23-24.

⁶ No estimates are being made for Yugoslavia since the hydration unit in that country was destroyed; therefore, Yugoslavia is not being included in the modeling exercise.

⁷ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and U.S. like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products, or vice versa, when prices change.

partial and general equilibrium. Based on discussion earlier, staff has selected a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticities) in the U.S. INC market. The model uses these estimates along with data on market shares and Commerce's margin which represents its estimation of the likely level of dumping that will recur or continue. In this modeling exercise, staff has calculated a weighted-average margin for subject imports based on subject producers' exports to the U.S. market in 1999.⁸

The analysis uses the most recent one year period, 1999, as the base year. The model results suggest the possible effects of recurrence or continuation of the dumping on the domestic INC industry over a one year time period only. The possible effects over a longer time period are not part of this modeling exercise. Finally, the model does not assume a full pass-through of the dumping margin to U.S. prices of the subject imports (table II-2 and appendix E).

Table II-2
Model results

* * * * *

The modeling results indicate that there would be a change from the current levels in U.S. prices of between *** percent in the event that the dumping of INC recurs or continues. The model results indicate that there would be a change of between *** percent from the current quantity levels of U.S. producers. Finally, revenues of the U.S. INC producer would change by *** percent (from current levels) if dumping recurred or continued.⁹

⁸ Staff calculated the share of total subject exports to the U.S. market accounted for by each subject producer. This share was then applied to the margin (estimated by Commerce to represent the likely level of dumping that will recur or continue) for each of these producers; these margins were combined for a weighted-average margin for all subject producers from all subject countries.

⁹ Both petitioners and respondents presented modeling results using COMPAS simulations based on January-September 1999 data. See petitioners' prehearing brief, May 30, 2000, exhibit A-7 and respondents' posthearing brief, June 19, 2000, exhibit G.

PART III: CONDITION OF THE U.S. INDUSTRY

Information in this section is based on the questionnaire response of Hercules, the sole U.S. producer that accounted for 100 percent of U.S. production during the period for which data were available. Green Tree, the successor to Hercules' INC business, provided data on the projected results of its operations.

U.S. PRODUCER'S CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Hercules was asked to document changes to company operations or interruptions to production since 1983, the year that the first order under review became effective. The following capital improvements have been completed or are currently underway:

* * * * *

Hercules' capacity, production, and capacity utilization during 1997-99 are shown in table III-1.

Table III-1

INC: U.S. producer's capacity, production, and capacity utilization, 1997-99

* * * * *

Hercules reported the following reductions to capacity/production: ***,¹ and a ***.²

In response to a question regarding the constraints that set the limits on production capacity, Hercules stated that it "****." However, it also reported that "****."

On December 10, 1999, Hercules announced it would phase out production and sale of nitrocellulose beginning in early 2000, with all production ending during the third quarter of 2000.³ On January 28, 2000, Hercules publicly stated that the company and a potential buyer had entered into a non-binding letter of intent for sale of its nitrocellulose product line in Parlin, NJ.⁴ On March 29, 2000, Green Tree was cited as the new owner of Hercules' nitrocellulose division.⁵ The plant shut down for two weeks (May 15 to May 28) while Green Tree decided how many and which employees it would retain.⁶ On June 16, 2000, Hercules completed the sale of its INC business to Green Tree and on June 17, 2000, Green Tree commenced production of INC. Green Tree has stated its intention to produce the same broad line of INC products formerly manufactured by Hercules.⁷ There are currently no toll

¹ ***.

² ***.

³ See press release dated December 10, 1999, as obtained online at <http://www.herc.com>: *Hercules Will Phase Out Nitrocellulose Business*.

⁴ See press release dated January 28, 2000, as obtained online at <http://www.herc.com>: *Hercules Reports on Status of Nitrocellulose Business*.

⁵ March 29, 2000, Home Town News, *Hundreds may lose jobs at Hercules*, p. A1.

⁶ See *Sayreville: Hercules employees ponder future prospects*, Home News Tribune, May 11, 2000, as obtained online at <http://www.thnt.com>.

⁷ Posthearing brief of Hercules and Green Tree, pp. 1, 2, and 4.

agreements for production of INC in the United States and there is no U.S. production of INC in foreign trade zones.

Supplemental questionnaires were sent to Hercules and Green Tree. Hercules stated that it made ***. Hercules' capacity, production, and capacity utilization during October 1999-June 2000 are shown in table III-2.

Table III-2
INC: U.S. producer's capacity, production, and capacity utilization, October-December 1999, January-March 2000, and April-June 2000

* * * * *

Green Tree began operation of the INC plant on June 17, 2000. Its capacity ***. Since Green Tree operated for *** days in June, its capacity for that month equals *** wet pounds. Therefore, ***.⁸

Green Tree asserted that its business will "involve streamlining administrative, labor, and other costs; ***."⁹ "****."¹⁰

U.S. PRODUCER'S DOMESTIC SHIPMENTS AND EXPORT SHIPMENTS

Hercules' domestic and export shipments during 1997-99 are shown in table III-3 and its domestic shipments during October 1999-June 2000 are shown in table III-4. It reported ***. ***.

Table III-3
INC: U.S. producer's shipments, by types, 1997-99

* * * * *

Table III-4
INC: U.S. producer's domestic shipments, October-December 1999, January-March 2000, and April-June 2000

* * * * *

U.S. PRODUCER'S INVENTORIES

Hercules' end-of-period inventories increased by *** percent from 1997 to 1998 and then fell by *** percent from 1998 to 1999, as shown in table III-5. The ratios of inventories to production, U.S. shipments, and total shipments rose from 1997 to 1998 and then roughly dropped back to 1997 levels in 1999. Hercules' end-of-period inventories from December 1999 to June 2000 are shown in table III-6.

⁸ Green Tree's supplemental questionnaire response, p. 2.

⁹ Posthearing brief of Hercules and Green Tree, p. 4.

¹⁰ Ibid., attachment 3.

Table III-5

INC: U.S. producer's end-of-period inventories, 1997-99

* * * * *

Table III-6

INC: U.S. producer's end-of-period inventories, December 1999, March 2000, and June 2000

* * * * *

U.S. PRODUCER'S EMPLOYMENT, WAGES, AND PRODUCTIVITY

From 1997 to 1998, Hercules' average number of production and related workers (PRWs) decreased by *** percent, as shown in table III-7. ***.

Table III-7

INC: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 1997-98, January-September 1998, and January-September 1999

* * * * *

Green Tree stated that it employs *** persons, of which *** are PRWs.¹¹ Every Green Tree employee is a former Hercules employee.¹² Green Tree hired its employees at pay cuts of up to 25 percent.¹³ ***.¹⁴ By agreement between Hercules and Green Tree, the purchase price of the INC plant included a ***.¹⁵

FINANCIAL EXPERIENCE OF THE U.S. INDUSTRY

Background

The sole U.S. producer of INC, Hercules, Inc., provided usable financial data.¹⁶ This multibillion dollar company manufactures miscellaneous chemical products at many locations in the United States and abroad. Its businesses are organized into three segments, including two that manufacture and sell chemical additives, resins, and polypropylene staple fiber, among other products. The remaining segment includes the manufacture of water-soluble and solvent-soluble polymers, including

¹¹ Posthearing brief of Hercules and Green Tree, p. 3 and attachment 4.

¹² *Ibid.*, p. 4.

¹³ See *Hercules plant reopens under new owners*, Home News Tribune, June 18, 2000, as obtained online at <http://www.thnt.com>.

¹⁴ Posthearing brief of Hercules and Green Tree, p. 4.

¹⁵ *Ibid.*, attachment 6.

¹⁶ Hercules has a fiscal year end of ***. There are *** between the data reported in the trade and financial sections of the Commission's questionnaire.

nitrocellulose.¹⁷ INC is a film-forming agent that is used in furniture lacquers, printing inks, and nail polish; other grades of nitrocellulose are primary ingredients in smokeless propellants for military and commercial applications. INC operations accounted for a *** of Hercules' total business activities. For example, net sales of INC comprised approximately *** percent of total company revenues of \$2.1 billion; in 1998, INC operations incurred a loss of \$*** compared with a company-wide operating profit of \$421 million.¹⁸

Hercules produced many grades of INC at a facility located within its plant at Parlin, NJ. Until October 1999, this facility also produced an out-of-specification grade of INC ("Z" grade), which accounted for *** percent of total production of INC in 1997 and 1998, but improvements in physical handling, physical changes in the facility, and other technical improvements to the production process *** the production of "Z"-grade.¹⁹ It also produced propellant grade nitrocellulose, which accounted for *** percent of total sales of nitrocellulose in 1998.²⁰

Hercules announced its intention to phase out production and sale of nitrocellulose in a company press release that was issued on December 10, 1999.²¹ The reason provided by the company for its decision was the "persistent over-capacity of the global nitrocellulose market." Hercules initially announced it would continue to produce INC through the third quarter of 2000, but subsequently advanced its timetable to sell the plant because of the deteriorating market. Prior to ceasing production in May 2000, however, Hercules produced considerable quantities of INC for inventory and stated to certain of its customers that it could meet their needs for up to ***. Hercules also stated its intention to focus manufacturing operations in Parlin, NJ solely on hydroxyethylcellulose (HEC), a water-based solvent used for similar applications as INC. That facility reportedly is separate and distinct from the one used to make INC.

As noted elsewhere in this report, Hercules sold the facility making nitrocellulose at Parlin, NJ, to Green Tree Chemical Technologies, Inc. on June 16, 2000. Green Tree began production of INC on June 17, 2000, and the company has stated its intention to produce the same grades of INC as did Hercules, as well as to maintain a certain level of exports, ***.²² An examination of Green Tree's budgeted operations and its operations' cost-volume-profit relationships follows at the end of this section.

¹⁷ Hercules, Inc., *Annual Report to Shareholders for 1998*, pp. 22-23.

¹⁸ Calculated from revenue and operating profit data presented in Hercules' annual report for 1998. See Management's Discussion and Analysis of Results of Operations and Financial Condition in Hercules' *Annual Report to Shareholders for 1998*, pp. 25-27.

¹⁹ Producers' questionnaire response of Hercules, p. 24.

²⁰ Producers' questionnaire response of Hercules, p. 9.

²¹ See *Hercules Will Phase Out Nitrocellulose Business*, Business Wire, December 10, 1999, as obtained online at <http://biz.yahoo.com> and press release dated January 31, 2000, as obtained online at <http://biz.yahoo.com>: *Hercules Reports on Status of Nitrocellulose Business*.

²² Petitioner's posthearing brief, pp. 1, 2, 4, 17, and 22. Green Tree Chemical Technologies, Inc. is owned by Green Tree Technologies, Inc. and the purchase price included payment in the form of cash in the amount of \$***; two notes payable that total \$***; and a Warrant to purchase up to *** of common stock of Green Tree Technologies, Inc. at ***, exercisable by July 31, 2003. Hercules is financing approximately *** of the sales price. See petitioner's posthearing brief, pp. 4 and 17, and attachment 1.

Operations on INC

Hercules reported only trade sales of INC. The company stated in its 1998 10-K that it does not produce against a backlog of firm orders, and that production is geared primarily to the level of incoming orders and the projections of future demand. Hercules also stated that its INC business is not seasonal to any significant extent. The results of Hercules' INC operations are presented in table III-8. Total sales quantities decreased between 1997 and 1998 as well as between January-September 1998 and the same period in 1999, and the value of sales declined as well. The effect of this decrease in quantity on sales and income was exacerbated by a sales price decline of *** cents per pound between 1997 and 1998, and a further price decrease of *** cents per pound between January-September 1998 and the same period in 1999.²³ Primarily because of these two factors, operating losses and margins worsened from a loss in 1997 of \$*** to a loss in 1998 of \$***, or from a negative *** percent of sales to a negative *** percent of sales. These two indicators declined further from an operating loss of \$*** to an operating loss of \$***, and from a negative *** percent of sales to a negative *** percent, respectively, between January-September 1998 and the same period in 1999. Total cost of goods sold (COGS) and total selling, general, and administrative (SG&A) expenses decreased between 1997 and 1998, as well as between January-September 1998 and the same period in 1999. However, costs in these categories did not fall to the same extent as did sales, thereby contributing to a decline in the company's operating performance.²⁴ The May 1999 industrial accident at Parlin, NJ contributed to a decline in the quantity and value of sales, particularly export sales, and to increased "other factory costs."²⁵

Table III-8

Results of operations of Hercules in the production of INC, fiscal years 1997-98, January-September 1998, and January-September 1999

* * * * *

Changes in Hercules' operating income are further evidenced by the variance analysis that shows the effects of prices and volume on net sales and of costs and volume on its total costs (table III-9). This analysis shows that the decrease in operating income between 1997 and 1998 of \$*** was attributable to a \$*** unfavorable price variance that was not offset by favorable variances on net cost/expense and volume. A decrease in operating income between January-September 1998 and the same period in 1999 of \$*** was attributable to unfavorable price and net cost/expense variances that were not offset by a favorable volume variance.

Table III-9

Variance analysis for INC operations of Hercules, fiscal years 1997-98 and January-September 1998-99

* * * * *

²³ The average unit value of Hercules' exports was well below that of the company's domestic sales. This tends to depress the overall average unit value of net sales.

²⁴ Hercules provided a detailed explanation of how the company allocated variable and fixed costs to its operations producing INC in such categories as ***.

²⁵ Petitioner's posthearing brief, app. p. 22.

**Capital Expenditures, Research and Development (R&D) Expenses, and
Investment in Productive Facilities**

Capital expenditures, R&D expenses, and the original cost and book value of property, plant, and equipment used in the production of INC are shown in table III-10. Capital expenditures amounted to \$*** and \$*** in 1997 and 1998, respectively. The year-end original cost and book value of fixed assets increased in 1998 as a result of the capital expenditures. Between 1997 and 1998, depreciation expense decreased by \$***. R&D expenses increased slightly between 1997 and 1998, but fell between January-September 1998 and the same period in 1999.

Table III-10

Capital expenditures, research and development expenses, and the value of assets of Hercules with respect to INC, fiscal years 1997-98, January-September 1998, and January-September 1999

* * * * *

Producer's Comments on Effects of the Orders

Hercules' comments regarding the significance of the existing antidumping duty orders on imports of INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia on the firm's revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values are shown in appendix D. Hercules' comments regarding any anticipated changes in these indicators that might occur in the future if the antidumping duty orders on imports of INC from these countries were revoked also are shown in appendix D.

Projected Results of Green Tree in Producing INC

As noted earlier, Green Tree Chemical Technologies, Inc. acquired the nitrocellulose business of Hercules, Inc. on June 16, 2000. Hercules provided historical (1998-2000) and projected (2000-05, based on Green Tree assuming ownership) manufacturing cost data for its plant at Parlin, NJ, in its prehearing brief.²⁶ Green Tree provided a projected profit and loss statement for 2000-02, together with a monthly budget covering June 2000 through May 2001, and other projections in its posthearing brief.²⁷ These two data sets are not completely comparable because of the inclusion of nonsubject products with INC, the exclusion of SG&A costs in the prehearing brief (but which are included in the posthearing brief), and some small differences in what costs are included in certain cost categories. The greatest difference, however, lies in the projected cost savings of the operations of Green Tree for fiscal year 2000 and thereafter; comparing Green Tree's operating costs with those of Hercules indicates that Green Tree expects to achieve significant cost savings, on the order of \$***, in the production of INC. These cost savings are slated to occur in labor (reduction in the number and wage rates of hourly employees as well as management salaries); energy and material costs; and a reduction in allocated indirect costs.

Table III-11 presents a pro-forma income statement for Green Tree during 2000-02 that utilizes the data provided by Green Tree, as described above. Following this table is a discussion of cost-volume-profit relationships and breakeven analysis for Green Tree's operations producing INC.

²⁶ Petitioner's prehearing brief, exhibit 1.

²⁷ Petitioner's posthearing brief, attachment 6.

Table III-11

Projected results of operations of Green Tree in the production of INC, fiscal years 2000-02

* * * * *

Cost-Volume-Profit Relationship of Green Tree

Cost-volume-profit (CVP) analysis involves a study of the interrelationships of product prices, volume, variable costs, fixed costs, and product mix.²⁸ This may be used to compute the impact on profitability of changes in price and volume of INC. The data in this discussion are based on the budgeted projections shown in table III-11 and petitioner's estimates of its fixed and variable components. The impact on profitability of changes in price is the increase in price times quantity, which also is the increase in revenue and in profit (assuming no additional quantity of INC is produced). The impact on profitability of changes in volume is more difficult to determine; the increase in quantity times price is the increase in revenue, but not in profit as the variable cost of the additional production of the additional quantity must be determined. There are no increases in fixed costs for increases in quantity (if all costs were fixed, there would be no additional costs and the additional revenues would all be profit). This explains the importance of disaggregating costs into their fixed and variable components in CVP analysis.²⁹

Based on data derived from table III-11, the fixed costs of Green Tree's Parlin plant for the production of INC are \$*** in 2000.³⁰ The variable unit costs (based on raw materials and the variable portion of direct labor and SG&A) are \$*** per pound. Based on the projected fixed and variable costs and a sales volume of ***, the selling price per pound could drop to \$*** and Green Tree would still break even. Alternatively, at the projected costs and a budgeted unit sales price of \$*** per pound, the sales volume could drop to the breakeven point of ***. The CVP relationships, based on a unit sales price of \$***, are shown graphically in figure III-1, where the breakeven point is the intersection of the lines denoting sales revenues and total costs.

²⁸ Variable and fixed costs of production relate differently to production or sales volume. "Fixed costs" refers to those total plant costs or to an operating expense as a class that does not vary with changes in the volume of business; i.e., the absolute value of the cost tends to remain constant, although the unit cost may change with changes in the volume of activity. Examples of fixed costs include interest on company bonds or debt, rent, property taxes, most factory overhead, and depreciation, as well as most general and administrative expenses. "Fixed costs" are contrasted with "variable costs," which vary directly with changes in sales, production volume, or other measures of business activity; as opposed to unit fixed costs, unit variable costs tend to remain constant despite changes in the level of activity. Variable costs typically include raw materials. An intermediate category is that of semivariable costs, which are generally fixed up to a certain point but then vary with changes in sales or production volume. Semivariable costs include most direct labor (because of automation), and some factory overhead costs as well as some SG&A expenses.

²⁹ CVP typically starts with an analysis of the "contribution margin," which is the amount remaining from sales revenue after variable expenses have been deducted that can be used to contribute toward covering fixed expenses, and then toward profits for the period. Once the breakeven point has been reached, net income increases by the unit contribution margin for each additional unit sold. For a discussion of CVP, see Roy H. Garrison, *Managerial Accounting* (Plano, TX: Business Publications, 1988, 5th Ed.), chapter 6.

³⁰ This figure compares favorably with the Parlin plant's fixed costs of \$*** under Hercules' stewardship (calculated from petitioner's prehearing brief, exhibit 1). Green Tree's fixed costs of \$*** that are related to INC operations have been calculated as the sum of *** of direct labor and SG&A plus *** of factory overhead and interest expense.

Figure III-1
CVP analysis for Green Tree's INC operations in 2000

* * * * *

The aggregate net sales revenue is increased (decreased) by the combination of increases (decreases) in both price and quantity. Changes in the slope of the revenue line indicate changes in the unit sales price, while changes in quantity would be indicated by a new intersection point of the revenue and total cost lines (total costs are changed by the extent to which variable costs change due to changes in quantity). As illustrated in these projections, Green Tree's margin of safety (the excess of budgeted or actual sales over the breakeven volume of sales) is small; Green Tree's operating results would, therefore, be sensitive to changes in price and volume.

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

U.S. IMPORTS

As shown in table IV-1, U.S. imports of INC from all sources remained relatively flat from 1997 to 1998 before increasing in 1999. Subject imports decreased from 19.8 million pounds in 1997 to 17.1 million pounds in 1998, and then rose to 20.6 million pounds in 1999. According to questionnaire data and official Commerce statistics, there were no imports of INC from Yugoslavia during 1997-99.

U.S. imports of INC from October 1999 to June 2000, by quarters, are shown in table IV-2. According to official Commerce statistics, there were no imports of INC from China, Japan, Korea, or Yugoslavia from October 1999 to April 2000 (the latest month for which Commerce's statistics are available).

U.S. IMPORTERS' INVENTORIES

As shown in table IV-3, end-of-period inventories of imports from Brazil, France, and Germany represented virtually all inventories of subject imports. There were ***. End-of-period inventories of imports for December 1999, March 2000, and June 2000 are presented in table IV-4.

THE INDUSTRY IN BRAZIL

The staff report from the original investigations stated that there is one INC producer in Brazil, Nitro Quimica. The current number of INC producers in Brazil is unknown and there are no Brazilian firms participating in these reviews. ***. According to official Commerce statistics, imports from Brazil fell sharply after 1997.

However, the domestic industry asserted that Brazil has recovered from the accident in 1997 and has resumed production with two lines.¹ Further, official Commerce statistics show U.S. imports of Brazilian nitrocellulose in May and November 1999, but none from December 1999 to April 2000.

THE INDUSTRY IN CHINA

A limited amount of information was received in the original investigations on behalf of China North Industries, which participated in the preliminary but not in the final investigations. The staff report from the original investigations stated that China North Industries handled exports for some of the five Chinese producers of INC. The current number of INC producers in China is unknown. Counsel for Bergerac identified the following three INC producers in China known to Bergerac: ***,² ***,³ ***.

¹ Posthearing brief of Hercules and Green Tree, pp. 5 and 6.

² China CNC owns ***. Bergerac owns *** percent of China CNC's stock. TNC Group, a Taiwan company and a producer of INC in Taiwan, owns the remaining *** percent. Although Bergerac ***, Counsel for Bergerac, SNPE, and Tevco, Response to Notice of Institution, July 21, 1999, pp. 4-5.

³ Joint posthearing brief of respondents, attachment C.

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

Source	1997	1998	1999
<i>Quantity (1,000 wet pounds)</i>			
Brazil	***	***	***
China	***	***	***
France	***	***	***
Germany	***	***	***
Japan	(1)	35	0
Korea	***	***	***
United Kingdom	***	***	***
Yugoslavia	0	0	0
Subtotal	19,790	17,066	20,646
Other sources	6,668	9,755	10,554
Total	26,458	26,821	31,200
<i>Value (1,000 dollars)</i>			
Brazil	***	***	***
China	***	***	***
France	***	***	***
Germany	***	***	***
Japan	3	80	0
Korea	***	***	***
United Kingdom	***	***	***
Yugoslavia	0	0	0
Subtotal	22,444	19,151	21,225
Other sources	7,793	10,556	10,769
Total	30,237	29,706	31,762
<i>Unit value (per wet pound)</i>			
Brazil	***	***	***
China	***	***	***
France	***	***	***
Germany	***	***	***
Japan	\$13.38	\$2.25	(2)
Korea	***	***	***
Continued on next page.			

United Kingdom	***	***	***
Yugoslavia	(²)	(²)	(²)
Average	1.13	1.12	\$1.03
Other sources	1.17	1.08	1.02
Average	1.14	1.11	1.03
<i>Share of quantity (percent)</i>			
Brazil	***	***	***
China	***	***	***
France	***	***	***
Germany	***	***	***
Japan	0.0	0.1	0.0
Korea	***	***	***
United Kingdom	***	***	***
Yugoslavia	0.0	0.0	0.0
Subtotal	74.8	63.6	66.2
Other sources	25.2	36.4	33.8
Total	100.0	100.0	100.0
<i>Share of value (percent)</i>			
Brazil	***	***	***
China	***	***	***
France	***	***	***
Germany	***	***	***
Japan	0.0	0.3	0.0
Korea	***	***	***
United Kingdom	***	***	***
Yugoslavia	0.0	0.0	0.0
Subtotal	74.2	64.5	66.8
Other sources	25.8	35.5	33.2
Total	100.0	100.0	100.0

¹ Less than 500 wet pounds.

² Not applicable.

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

Source: Compiled from data submitted in response to Commission questionnaires supplemented by official Commerce statistics for imports from Brazil in (fourth quarter 1999), Japan, and other sources.

Table IV-2

INC: U.S. imports, by sources, October-December 1999, January-March 2000, and April-June 2000

Source	October-December 1999	January-March 2000	April-June 2000 ¹
<i>Quantity (1,000 wet pounds)</i>			
Brazil	10	0	0
China	0	0	0
France	***	***	***
Germany	***	***	***
Japan	(²)	(²)	(²)
Korea	0	0	0
United Kingdom	***	***	***
Yugoslavia	0	0	0
Subtotal	5,277	7,173	6,976
Other sources	***	***	***
Total	***	***	***
<i>Value (1,000 dollars)</i>			
Brazil	9	0	0
China	0	0	0
France	***	***	***
Germany	***	***	***
Japan	(²)	(²)	(²)
Korea	0	0	0
United Kingdom	***	***	***
Yugoslavia	0	0	0
Subtotal	5,369	7,724	7,404
Other sources	***	***	***
Total	***	***	***
<i>Unit value (per wet pound)</i>			
Brazil	\$0.96	(³)	(³)
China	(³)	(³)	(³)
France	***	***	***
Germany	***	***	***
Japan	(³)	(³)	(³)
Korea	(³)	(³)	(³)
Continued on next page.			

United Kingdom	***	***	***
Yugoslavia	(³)	(³)	(³)
Average	1.02	1.08	1.06
Other sources	***	***	***
Average	***	***	***

¹ Data for Brazil, China, Korea, and Yugoslavia are based on official Commerce statistics for the month of April 2000.

² Less than *** wet pounds, valued at less than ***.

³ Not applicable.

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

Source: Compiled from data submitted in response to Commission supplemental questionnaires for France, Germany, Japan, the United Kingdom, and nonsubject countries. Compiled from official Commerce statistics for Brazil, China, Korea, and Yugoslavia.

Table IV-3

INC: U.S. importers' end-of-period inventories of imports, by sources, 1997-99

* * * * *

Table IV-4

INC: U.S. importers' end-of-period inventories of imports, by sources, December 1999, March 2000, and June 2000

* * * * *

THE INDUSTRY IN FRANCE

Bergerac, the successor company with respect to the production of INC and a subsidiary of SNPE (an INC producer in France during the original investigation), is the only known producer in France. It exports INC to the United States through an importer, SNPE North America. SNPE North America and Bergerac are owned by the same parent company in France, Groupe SNPE. Bergerac reported that it accounted for *** percent of INC production in France and *** percent of France's exports to the United States in 1998.

Since 1983, Bergerac ***. Similarly, Bergerac ***, with the exception that from time to time ***. It reported that it is not possible to ***. *** percent of its total sales in its most recent fiscal year was represented by sales of INC. Data on its operations are shown in table IV-5.

Table IV-5

INC: France's capacity, production, inventories, and shipments, 1997-98, January-September 1998, and January-September 1999

* * * * *

In addition to U.S. antidumping duties, Bergerac's exports are subject to tariff and non-tariff barriers to trade (which were reported as restrictive import regulations that apply to all imports) in the following countries: Brazil does not allow the importation of INC; India imposes very high import duties on INC; Mexico imposes quotas granted to each importer year by year, based on the quantities actually imported in the previous year; and Venezuela imposes quotas on each importer, year by year.

THE INDUSTRY IN GERMANY

In the original investigations, there were two German producers of INC, Wolff and Hagedorn. Wolff, a participating party to these reviews, reported that it accounted for *** percent of INC production in Germany and *** percent of Germany's exports of INC to the United States in 1998. No other responses were received from German producers. However, ***.

Data on Hagedorn are limited. Respondents stated that "fifty percent of Hagedorn's INC sales are in Germany. Their main export markets are Italy, Benelux, Scandinavia, France, and the UK ... Hagedorn's capacity is believed to be between 6,000 and 7,000 metric tons. It is believed to be currently running at a high level of capacity utilization of ***."⁴

Wolff *** INC in Germany in the future. Since 1990, Wolff ***. Similarly, Wolff ***. It reported that it is ***. *** percent of its total sales in its most recent fiscal year was represented by sales of INC. Data on its operations are shown in table IV-6. Other than U.S. antidumping duties, having no import licenses for importing INC into Brazil and Thailand were reported as barriers to trade.

Table IV-6

INC: Germany's capacity, production, inventories, and shipments, 1997-98, January-September 1998, and January-September 1999

* * * * *

THE INDUSTRY IN JAPAN

According to the staff report from the original investigations, there were three producers of INC in Japan (information obtained from the State Department): Asahi Chemical Co. Ltd., Daicel Chemical Industries Ltd., and Taihei Chemical Products Ltd. ***. The current number of INC producers in Japan is unknown. Asahi was the only producer in Japan to respond to the Commission's questionnaire, but did not retain counsel and is not a party to these reviews. It reported that it accounted for *** percent of INC production in Japan in 1998 and *** INC to the United States in 1998.

In response to the question on anticipated changes in the character of its operations relating to the production of INC in the future if the antidumping duty order on INC from Japan were to be revoked, Asahi stated that "****." The raw materials Asahi uses are ***. The processes it applies are ***. Asahi reported that ***. INC represented *** percent of its total sales in its most recent fiscal year. Data on its operations are shown in table IV-7. Other than U.S. antidumping duties, Asahi reported that its exports of INC were subject to tariff barriers in China, Indonesia, and Thailand.

⁴ Respondents' posthearing brief, attachment 1, p. 2.

Table IV-7

INC: Japan's capacity, production, inventories, and shipments, 1997-98, January-September 1998, and January-September 1999

* * * * *

THE INDUSTRY IN KOREA

The petition in the original investigations alleged that there were two producers of INC in Korea, Poongsan Metal and Miwon Commercial Co. No Korean firms were participating parties in the original investigations. The current number of INC producers in Korea is unknown. None have responded to the Commission's questionnaires for the current reviews. ***. Daesang America's parent company, Daesang Co., was sold to CNC and renamed Korea CNC.

THE INDUSTRY IN THE UNITED KINGDOM

Imperial Chemical Industries PLC (ICI) was identified as a United Kingdom producer in the original investigations. Nobel Enterprises (Nobel) of Ayrshire, Scotland, a wholly owned subsidiary of ICI PLC in London, United Kingdom, is a participating party to the reviews as a United Kingdom producer and exporter of INC. ICI Americas is an affiliate that imports INC from the United Kingdom. Nobel is also related to ***. Nobel reported that it accounted for *** percent of INC production in the United Kingdom and *** percent of exports of INC from the United Kingdom to the United States in 1998.

***. The main production material inputs reported are ***. Three main production areas are ***. There have been *** in the production process since 1980. ***. *** percent of its sales in 1998 was represented by sales of INC. Data on its operations are shown in table IV-8. Other than U.S. antidumping duties, Nobel's exports of INC are not subject to tariff or non-tariff barriers to trade in the home or third-country markets.

Table IV-8

INC: United Kingdom's capacity, production, inventories, and shipments, 1997-98, January-September 1998, and January-September 1999

* * * * *

THE INDUSTRY IN YUGOSLAVIA

Milan Blagojevic was cited as the only producer of INC in Yugoslavia in the staff report from the original investigations. The current number of producers in Yugoslavia is unknown. No INC producer in Yugoslavia responded to the Commission's questionnaires. *** reported that "it is understood that the facilities of the Yugoslavian producer were destroyed or severely damaged as a result of military action."⁵ According to questionnaire data and official Commerce statistics, there were no imports from Yugoslavia during the period examined.

⁵ ***.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

INC is prepared commercially by reacting cellulose with an aqueous mixture of nitric acid and sulfuric acid. According to ***, the raw material prices for INC fluctuate with general economic conditions, a pattern that is expected to continue. Importers reported that raw material prices remained stable during 1997-99 but are expected to rise in 2000.

Transportation Costs to the U.S. Market

Transportation costs for INC from Brazil to the United States (excluding U.S. inland costs) are estimated to be 3.6 percent of the 1999 landed, duty-paid value. Transportation costs from France, Germany, and the United Kingdom to the United States are estimated to be 4.6 percent and from Yugoslavia, 4.4 percent, of the landed, duty-paid value. Transportation costs to the United States from China are estimated to be 5.3 percent; from Japan, 5.0 percent; and from Korea, 5.9 percent. These estimates are derived from official U.S. import data and represent the transportation and other charges on imports.¹

U.S. Inland Transportation Costs

Transportation costs of INC within the United States vary from firm to firm but are estimated to account for a relatively small percentage of the total cost of the product. *** reported that U.S. inland transportation costs accounted for *** percent of the total delivered cost of INC; importers reported that these costs accounted for *** percent, and U.S. purchasers reported that these costs accounted for approximately *** percent. *** reported that the proportion of its sales occurring within 100 miles of its storage facility or plant was *** percent; the proportion of sales within 1,000 miles was *** percent. Importers reported that the proportion of their sales occurring within 100 miles of their storage facility or port of entry ranged from *** to *** percent; the proportion of sales within 1,000 miles ranged from *** to *** percent.

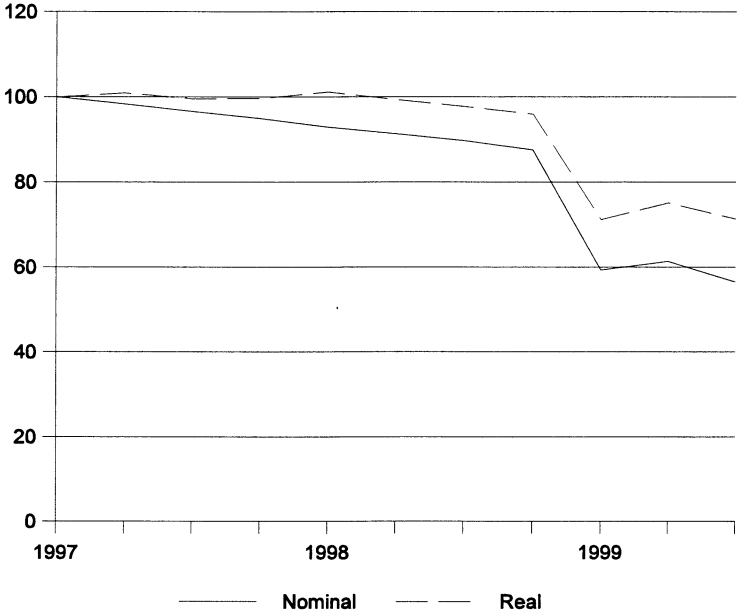
Exchange Rates

Quarterly data reported by the International Monetary Fund (IMF) indicate that the nominal value of the Brazilian leva depreciated by 43.5 percent and the real value depreciated by 28.6 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999; the bulk of the depreciation occurred during 1999 (figure V-1). The nominal value of the Chinese yuan appreciated by 0.2 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999 (figure V-2). The nominal value of the French franc depreciated by 10.6 percent and the real value depreciated by 11.0 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999 (figure V-3). The nominal value of the German mark depreciated by 4.8 percent and the real value depreciated by 2.8 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999 (figure

¹ Staff estimated these transportation and other charges by deducting the customs value and calculated duty paid from the landed, duty-paid value of imports.

Figure V-1

Exchange rates: Indices of the nominal and real exchange rates of the Brazilian leva relative to the U.S. dollar, by quarters, January 1997-September 1999

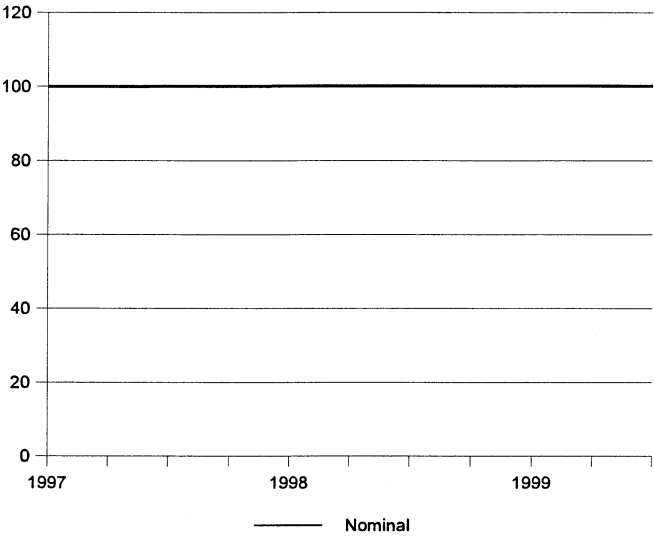


Source: International Monetary Fund, *International Financial Statistics*, March 2000.

V-4). The nominal value of the Japanese yen appreciated by 6.7 percent and the real value appreciated by 3.3 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999 (figure V-5). The nominal value of the Korean won depreciated by 27.1 percent and the real value depreciated by 17.8 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999 (figure V-6). The nominal value of the British pound appreciated by 1.8 percent and the real value appreciated by 5.6 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999 (figure V-7). The nominal value of the Yugoslavian denan depreciated by 23.8 percent relative to the U.S. dollar from the first quarter of 1997 to the third quarter of 1999 (figure V-8).

Figure V-2

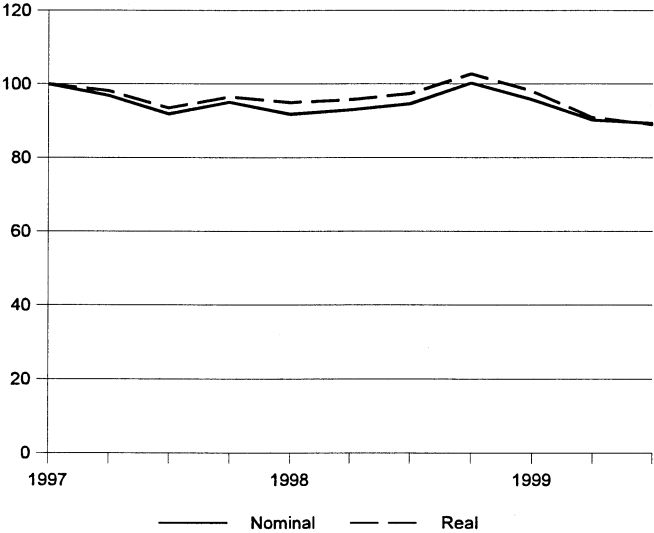
Exchange rates: Index of the nominal exchange rate of the Chinese yuan relative to the U.S. dollar, by quarters, January 1997-September 1999



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

Figure V-3

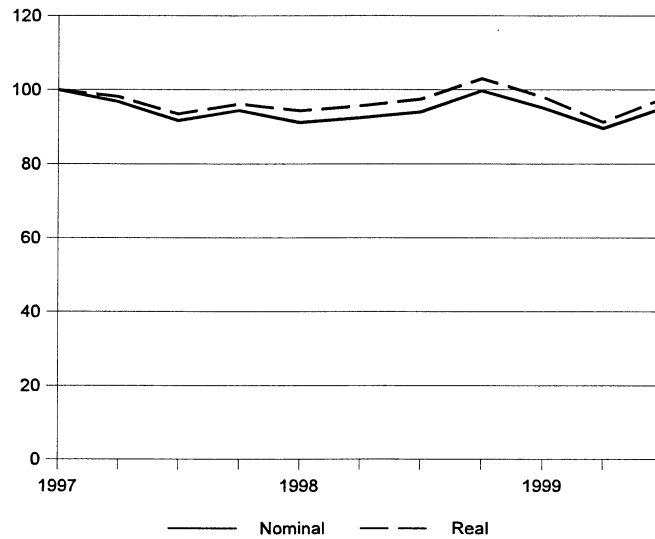
Exchange rates: Indices of the nominal and real exchange rates of the French franc relative to the U.S. dollar, by quarters, January 1997-September 1999



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

Figure V-4

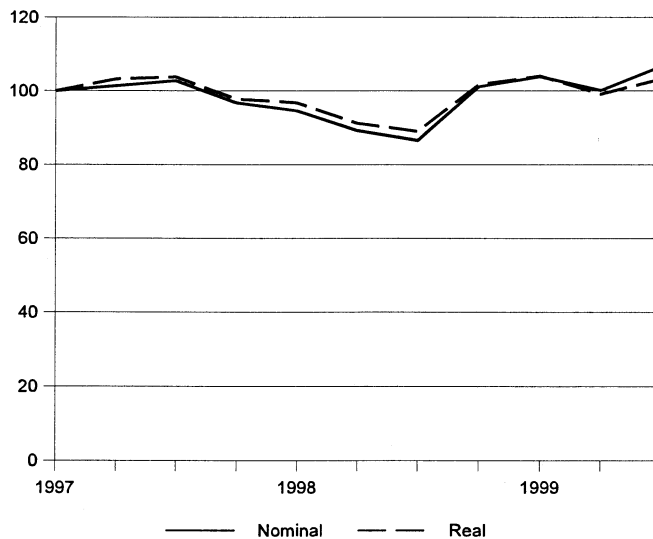
Exchange rates: Indices of the nominal and real exchange rates of the German mark relative to the U.S. dollar, by quarters, January 1997-September 1999



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

Figure V-5

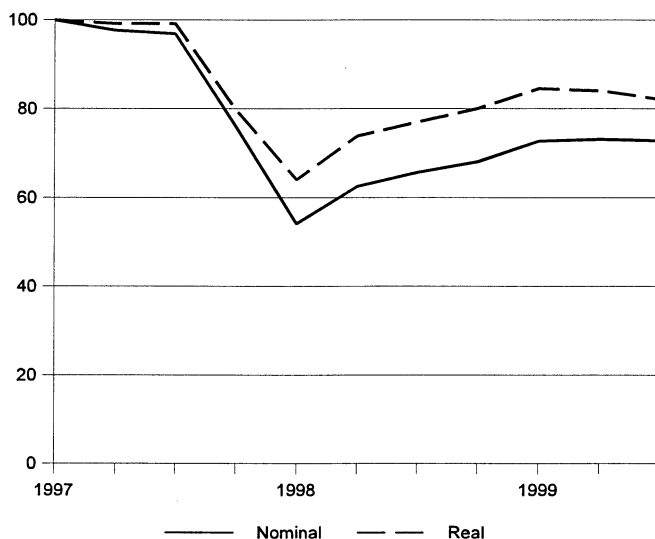
Exchange rates: Indices of the nominal and real exchange rates of the Japanese yen relative to the U.S. dollar, by quarters, January 1997-September 1999



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

Figure V-6

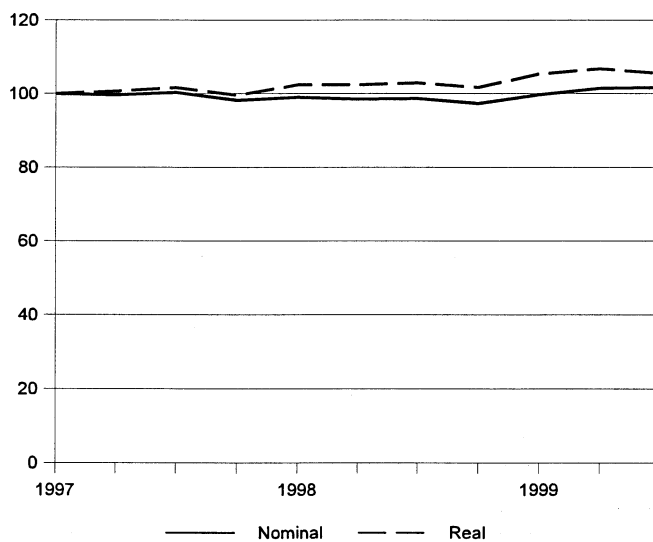
Exchange rates: Indices of the nominal and real exchange rates of the Korean won relative to the U.S. dollar, by quarters, January 1997-September 1999



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

Figure V-7

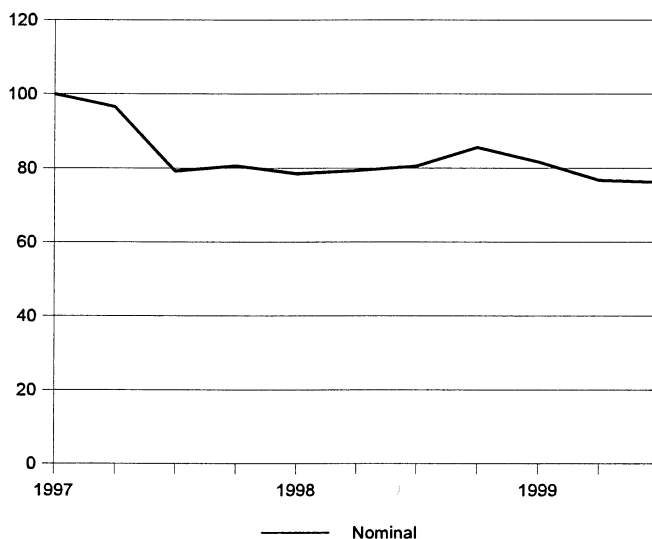
Exchange rates: Indices of the nominal and real exchange rates of the British pound relative to the U.S. dollar, by quarters, January 1997-September 1999



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

Figure V-8

Exchange rates: Index of the nominal exchange rate of the Yugoslavian denan relative to the U.S. dollar, by quarters, January 1997-September 1999



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

PRICING PRACTICES

Pricing Methods

Sales of INC are usually based on annual contracts; however, spot market sales are also prevalent. *** reported that *** percent of its sales were on a contract basis and the remaining *** percent were on a spot market basis. Most of the responding importers reported that contract sales ranged from *** to *** percent of sales, with spot market sales accounting for the remainder; one importer reported that spot sales accounted for *** percent of total sales. Market conditions are a major factor in determining prices, which are determined on a transaction-by-transaction basis, with quantities fixed and prices subject to negotiation. *** reported that INC was sold on an f.o.b. plant basis; three responding importers reported that INC was sold on a port-of-entry basis while six responding importers reported that the product was sold on a delivered basis.

Sales Terms and Discounts

*** reported that price lists for all grades of INC are issued to customers but that prices can be negotiated for specialty products. Also, prices can be negotiated in response to competition from lower priced products on the market. Discounts are offered for sales meeting minimum quantity requirements or if a customer's overall purchases exceed certain levels. Eight importers reported that sales are on a transaction-by-transaction basis; one importer reported using price lists. Three importers reported that discounts are not offered; four importers reported that discounts are offered based on minimum purchases and/or market price conditions.

PRICE DATA

The Commission requested U.S. producers and importers of INC to provide quarterly data for the total quantity and value of specific INC products that were shipped to unrelated end users.² Data were requested for the period January 1997 through June 2000. The 11 products for which pricing data were requested are as follows:

- Product 1.** -- Industrial nitrocellulose, 11.7 to 12.2 percent nitrogen content by weight, 1/4 second (corresponding to Hercules Parcell® R-type, 1/4 second), isopropyl alcohol-based wetting agent.
- Product 2.** -- Industrial nitrocellulose, 11.7 to 12.2 percent nitrogen content by weight, 1/2 second (corresponding to Hercules Parcell® R-type, 1/2 second), isopropyl alcohol-based wetting agent.
- Product 3.** -- Industrial nitrocellulose, 11.7 to 12.2 percent nitrogen content by weight, 19-28 centipoise (corresponding to Hercules Parcell® R-type, 20 centipoise), isopropyl alcohol-based wetting agent.
- Product 4.** -- Industrial nitrocellulose, 11.7 to 12.2 percent nitrogen content by weight, 29-39 centipoise (corresponding to Hercules Parcell® R-type, 30 centipoise), isopropyl alcohol-based wetting agent.
- Product 5.** -- Industrial nitrocellulose, 11.7 to 12.2 percent nitrogen content by weight, 5-7 second (corresponding to Hercules Parcell® R-type, 5 second), isopropyl alcohol-based wetting agent.
- Product 6.** -- Industrial nitrocellulose, 11.7 to 12.2 percent nitrogen content by weight, 12-25 second (corresponding to Hercules Parcell® R-type, 15 second), isopropyl alcohol-based wetting agent.
- Product 7.**-- Industrial nitrocellulose, 11.7 to 12.2 percent nitrogen content by weight, 1,000-1,500 second (corresponding to Hercules Parcell® R-type, 1,300 second), isopropyl alcohol-based wetting agent.
- Product 8.** -- Industrial nitrocellulose, 10.8 to 11.3 percent nitrogen content by weight, 1/4 second (corresponding to Hercules Parcell® S-type, 1/4 second), isopropyl alcohol-based wetting agent.
- Product 9.** -- Industrial nitrocellulose, 10.8 to 11.3 percent nitrogen content by weight, 1/2 second (corresponding to Hercules Parcell® S-type, 1/2 second), isopropyl alcohol-based wetting agent.

² Importers were asked to provide data on each of the specified products imported from each supplier of subject product in Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia. Values were f.o.b. U.S. point of shipment, net of all discounts and rebates.

Product 10. -- Industrial nitrocellulose, 10.8 to 11.3 percent nitrogen content by weight, 5-7 second (corresponding to Hercules Parcell® S-type, 5 second), isopropyl alcohol-based wetting agent.

Product 11. -- Industrial nitrocellulose, 10.8 to 11.3 percent nitrogen content by weight, 29-39 centipoise (corresponding to Hercules Parcell® S-type, 30 centipoise), isopropyl alcohol-based wetting agent.

One U.S. producer and 12 importers of subject INC provided usable pricing data for sales of requested products; not all firms reported prices for all products or for all quarters.

The Commission also requested U.S. purchasers of INC to provide quarterly price data. Fifteen firms provided pricing data for purchases of INC from the subject countries; however, not all firms reported prices for all products or for all quarters.

Price Trends

Prices for domestically produced products 1 through 9 and 11 generally declined during the period for which data were collected; however, domestic prices for product 10 fluctuated (tables V-1 to V-11).

Table V-1

INC: Weighted-average delivered prices and quantities of product 1 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-2

INC: Weighted-average delivered prices and quantities of product 2 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-3

INC: Weighted-average delivered prices and quantities of product 3 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-4

INC: Weighted-average delivered prices and quantities of product 4 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-5

INC: Weighted-average delivered prices and quantities of product 5 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-6

INC: Weighted-average delivered prices and quantities of product 6 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-7

INC: Weighted-average delivered prices and quantities of product 7 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-8

INC: Weighted-average delivered prices and quantities of product 8 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-9

INC: Weighted-average delivered prices and quantities of product 9 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-10

INC: Weighted-average delivered prices and quantities of product 10 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Table V-11

INC: Weighted-average delivered prices and quantities of product 11 shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * *

Product 1

Weighted-average prices for domestic product 1 declined by *** percent from the first quarter of 1997 to the last quarter of 1999 but increased by *** percent, respectively, during the first and second quarters of 2000. Prices for product 1 from Brazil, France, Germany, and the United Kingdom fluctuated

but showed overall declines. Prices for product 1 from Korea were only reported for one quarter in 1997. Prices from Taiwan showed a relatively steady decline.

Product 2

Weighted-average prices for domestic product 2 declined by *** percent from the first quarter of 1997 to the last quarter of 1999 but increased by *** percent during the first quarter of 2000 and declined by *** percent during the second quarter of 2000. Prices for product 2 from France, Germany, Taiwan, and the United Kingdom declined. Prices from Brazil fluctuated for the 4 quarters reported while prices from China declined by *** percent for the three quarters for which data were reported.

Product 3

Weighted-average prices for domestic product 3 fluctuated irregularly but declined by *** percent during the period. Prices for product 3 from France, Taiwan, and the United Kingdom declined while German prices fluctuated.

Product 4

Weighted-average prices for domestic product 4 declined by *** percent from the first quarter of 1997 to the last quarter of 1999 but increased by about *** percent during the first 2 quarters of 2000. Prices for product 4 from France, Germany, and Taiwan generally declined; prices from the United Kingdom fluctuated but increased slightly. Prices for product 4 from Brazil fluctuated for the 4 quarters for which data were reported.

Product 5

Weighted-average prices for domestic product 5 decreased by *** percent from the first quarter of 1997 to the last quarter of 1999 but increased by *** percent during the first 2 quarters of 2000. Prices from France, Taiwan, and the United Kingdom generally declined while prices for product 5 from Brazil fluctuated, but increased overall by *** percent from the first quarter of 1997 to the first quarter of 1998. Prices from Germany increased slightly.

Product 6

Weighted-average prices for domestic product 6 decreased by *** percent from the first quarter of 1997 to the second quarter of 2000. Prices for product 6 from France, Taiwan, and the United Kingdom generally declined while prices for product 6 from Brazil and Germany fluctuated but increased overall.

Product 7

Weighted-average prices for domestic product 7 decreased by *** percent from the first quarter of 1997 to the second quarter of 2000. Prices for product 7 from Brazil showed an overall decrease of *** percent for the four quarters for which data were reported. Prices for product 7 from France declined overall by *** percent.

Product 8

Weighted-average prices for domestic product 8 showed an overall decrease of *** percent from the first quarter of 1997 to the fourth quarter of 1998 but increased *** percent during the first quarter of 2000 and by *** percent during the second quarter of 2000. Prices for product 8 from France increased by *** percent. Prices for product 8 from Germany decreased by *** percent and from the United Kingdom by *** percent during the review period.

Product 9

Weighted-average prices for domestic product 9 decreased by *** percent from the first quarter of 1997 to the second quarter of 2000. Prices for product 9 from France increased by *** percent during the period and prices for product 9 from the United Kingdom generally increased by *** percent during the review period.

Product 10

Weighted-average prices for domestic product 10 increased by *** percent from the first quarter of 1997 to the second quarter of 2000. Prices for product 10 from France generally decreased by *** percent during the review period.

Product 11

Weighted-average prices for domestic product 11 decreased slightly during the period covered. Prices for product 11 from France generally decreased by *** percent during the review period. Prices for product 11 from Germany fluctuated but decreased by *** percent from the first quarter of 1997 to the second quarter of 2000. Prices were reported from Brazil for one quarter. Prices for product 11 from the United Kingdom increased by *** percent during the period.

Price Comparisons

Price comparisons can be made for all 11 products but not from all countries and not for all quarters (tables V-1 through V-11). The margins of underselling for product 1 from Brazil ranged from a low of *** percent during the third quarter of 1997 to a high of *** percent during the first quarter of 1997. Margins of underselling from France ranged from a low of *** percent during the fourth quarter of 1999 to a high of *** percent during the fourth quarter of 1997; overselling was reported during the first quarter of 2000. Margins of underselling for product 1 from Germany ranged from *** percent during the fourth quarter of 1999 to *** percent during the fourth quarter of 1997. Margins of underselling from Taiwan ranged from 10.5 percent to 18.2 percent and from the United Kingdom from 7.8 percent to 19.5 percent.

The margins of underselling for product 2 from Brazil ranged from a low of *** percent during the third quarter of 1997 to a high of *** percent during the first and second quarters of 1997. Margins of underselling from China ranged from 15.0 percent to 17.0 percent; from France, margins of underselling ranged from 1.4 percent to 12.6 percent; overselling was reported during the fourth quarter of 1999. Margins of underselling from Germany ranged from 5.9 percent to 23.7 percent; from Taiwan, from 14.0 percent to 20.9 percent; and from the United Kingdom, from 4.2 percent to 17.9 percent.

The margins of underselling for product 3 from France ranged from a low of 0.5 percent to a high of 10.9 percent; margins of overselling from France ranged from 0.6 percent to 23.7 percent. The

margins of underselling for product 3 from Germany ranged from a low of 4.4 percent to a high of 15.2 percent; overselling was reported during the fourth quarter of 1999. Margins of underselling from Taiwan ranged from 2.0 percent to 15.7 percent and the margin of overselling during the fourth quarter of 1997 was *** percent. Margins of underselling from the United Kingdom ranged from 1.9 percent to 10.8 percent and margins of overselling ranged from 0.2 percent to 23.8 percent.

The margins of underselling for product 4 from Brazil ranged from a low of 27.6 percent to a high of 30.3 percent; during the third quarter of 1997, Brazil oversold the domestic product by *** percent. Margins of underselling from France ranged from 0.5 percent to 3.9 percent; margins of overselling for product 4 from France ranged from a low of 0.1 percent to a high of 7.2 percent. Margins of underselling from Germany ranged from 0.4 percent to 13.7 percent. Margins of underselling from Taiwan ranged from less than 0.05 percent to 4.6 percent; margins of overselling ranged from 0.3 percent to 4.2 percent. Margins of underselling from the United Kingdom ranged from 1.0 percent to 12.8 percent and margins of overselling ranged from 0.4 percent to 5.0 percent.

The margins of underselling for product 5 from Brazil ranged from a low of 0.4 percent to a high of 38.7 percent; margins of underselling from France ranged from 0.3 percent to 5.4 percent and margins of overselling ranged from a low of 1.6 percent to a high of 16.2 percent. Margins of underselling from Germany ranged from 3.7 percent to 16.3 percent. Margins of underselling from Taiwan ranged from 0.1 percent to 7.6 percent, and product 5 from Taiwan oversold the domestic product by *** percent during the second quarter of 1998. Margins of underselling from the United Kingdom ranged from 1.0 percent to 16.3 percent and the United Kingdom product oversold the domestic product by *** percent during the first quarter of 1999.

The margins of underselling for product 6 from Brazil ranged from a low of 16.6 percent to a high of 47.8 percent. Margins of underselling from France ranged from 0.8 percent to 17.6 percent, and product 6 from France oversold the domestic product by *** percent during the fourth quarter of 1998 and by *** percent during the fourth quarter of 1999. Margins of underselling from Germany ranged from 0.5 percent to 21.2 percent; margins of overselling were reported for 2 quarters. Margins of underselling from Taiwan ranged from 8.3 percent to 24.1 percent; and from the United Kingdom, from 5.2 percent to 20.8 percent.

The margins of underselling for product 7 from Brazil ranged from a low of 35.1 percent to a high of 51.2 percent. Margins of underselling from France ranged from 13.7 percent to 30.5 percent; margins of overselling from France ranged from 1.1 percent to 52.7 percent.

The margins of underselling for product 8 from France ranged from a low of 0.9 percent to a high of 15.9 percent; the French product oversold the domestic product during 2 quarters. Margins of underselling from Germany ranged from 8.8 percent to 25.2 percent, and Germany oversold the domestic product by *** percent during the second quarter of 1999. Margins of underselling from the United Kingdom ranged from 1.7 percent to 21.1 percent; overselling was *** percent during the fourth quarter of 1999.

The margins of underselling for product 9 from France ranged from a low of 4.0 percent to a high of 17.3 percent; margins of overselling ranged from a low of 4.1 percent to a high of 13.1 percent. Margins of underselling from the United Kingdom ranged from 5.6 percent to 19.4 percent; margins of overselling were reported for 2 quarters.

The margins of underselling for product 10 from France ranged from a low of 0.6 percent to a high of 33.9 percent. Product 10 from France oversold the domestic product during two quarters.

Product 11 from Brazil undersold the domestic product by *** percent during the first quarter of 1997. The margins of underselling for product 11 from France ranged from a low of 1.5 percent to a high of 19.1 percent; margins of overselling were reported for two quarters. Margins of underselling from Germany ranged from 8.0 percent to 17.6 percent. Margins of underselling from the United Kingdom ranged from 3.3 percent to 24.4 percent.

A summary of the number of quarters for which underselling and overselling were reported is presented in table V-12.

Table V-12
Number of quarters of underselling/(overselling), by product and by country¹

Product	Brazil	China	France	Germany	Korea	Taiwan	United Kingdom
Product 1	4	(²)	13/(1)	14	1	11	14
Product 2	4	3	13/(1)	14	(²)	11	14
Product 3	(²)	(²)	8/(6)	9/(1)	(²)	9/(1)	10/(4)
Product 4	3/(1)	(²)	3/(9) ³	14	(²)	4/(6)	5/(9)
Product 5	4	(²)	6/(8)	14	(²)	9/(1)	13/(1)
Product 6	4	(²)	12/(2)	6/(2)	(²)	6	14
Product 7	4	(²)	3/(7)	(²)	(²)	(²)	(²)
Product 8	(²)	(²)	12/(2)	9/(1)	(²)	(²)	12/(1)
Product 9	(²)	(²)	7/(7)	(²)	(²)	(²)	12/(2)
Product 10	(²)	(²)	11/(2)	(²)	(²)	(²)	(²)
Product 11	1	(²)	12/(2)	10	(²)	(²)	14
Total	24/(1)	3	100/(47)	90/(4)	1	50/(8)	108/(17)

¹ No data were reported for any product from Japan or Yugoslavia.

² No data were reported.

³ For 2 quarters, the French price for product 4 equaled the U.S. price.

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

APPENDIX A

***FEDERAL REGISTER* NOTICES AND ADEQUACY STATEMENT**

**INTERNATIONAL TRADE
COMMISSION**

**[Investigations Nos. 731-TA-96, 439-445
(Review)]**

**Industrial Nitrocellulose from Brazil,
China, France, Germany, Japan, Korea,
United Kingdom, and Yugoslavia**

AGENCY: United States International
Trade Commission.

ACTION: Institution of five-year reviews
concerning the antidumping duty orders
on industrial nitrocellulose from Brazil,
China, France, Germany, Japan, Korea,
United Kingdom, and Yugoslavia.

SUMMARY: The Commission hereby gives
notice that it has instituted reviews
pursuant to section 751(c) of the Tariff
Act of 1930 (19 U.S.C. 1675(c)) (the Act)
to determine whether revocation of the
antidumping duty orders on industrial
nitrocellulose from Brazil, China,
France, Germany, Japan, Korea, United
Kingdom, and Yugoslavia would be
likely to lead to continuation or
recurrence of material injury. Pursuant
to section 751(c)(2) of the Act, interested
parties are requested to respond to this
notice by submitting the information
specified below to the Commission;¹ to
be assured of consideration, the
deadline for responses is July 21, 1999.
Comments on the adequacy of responses
may be filed with the Commission by
August 16, 1999.

For further information concerning
the conduct of these reviews and rules
of general application, consult the
Commission's rules of practice and
procedure, part 201, subparts A through
E (19 CFR part 201), and part 207,
subparts A, D, E, and F (19 CFR part
207). Recent amendments to the rules of
practice and procedure pertinent to five-
year reviews, including the text of
subpart F of part 207, are published at
63 F.R. 30599, June 5, 1998, and may be
downloaded from the Commission's
World Wide Web site at [http://
www.usitc.gov/rules.htm](http://www.usitc.gov/rules.htm).

EFFECTIVE DATE: June 1, 1999.

¹ No response to this request for information is
required if a currently valid Office of Management
and Budget (OMB) number is not displayed; the
OMB number is 3117-0016/USITC No. 99-5-011.
Public reporting burden for the request is estimated
to average 7 hours per response. Please send
comments regarding the accuracy of this burden
estimate to the Office of Investigations, U.S.
International Trade Commission, 500 E Street, SW,
Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), 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.—On the dates listed below, the Department of Commerce issued antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	F.R. cite
8/10/83	Industrial nitrocellulose/France	731-TA-96	48 F.R. 36303.
7/10/90	Industrial nitrocellulose/Brazil	731-TA-439	55 F.R. 28266.
7/10/90	Industrial nitrocellulose/China	731-TA-441	55 F.R. 28267.
7/10/90	Industrial nitrocellulose/Germany	731-TA-444	55 F.R. 28271.
7/10/90	Industrial nitrocellulose/Japan	731-TA-440	55 F.R. 28268.
7/10/90	Industrial nitrocellulose/Korea	731-TA-442	55 F.R. 28266.
7/10/90	Industrial nitrocellulose/United Kingdom	731-TA-443	55 F.R. 28270.
10/16/90	Industrial nitrocellulose/Yugoslavia	731-TA-445	55 F.R. 41870.

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: industrial nitrocellulose.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined one Domestic Industry: producers of industrial nitrocellulose.

(5) The Order Dates are the dates that the antidumping duty orders under

review became effective. In these reviews, the Order Dates are as presented in the preceding tabulation.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the

Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 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. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a

certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION:

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C.

1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in France that currently export or have exported Subject Merchandise to the United States or other countries since 1982. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Brazil, China, Germany, Japan, Korea, United Kingdom, and Yugoslavia that currently export or have exported Subject Merchandise to the United States or other countries since 1989.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on the product during calendar year 1998 (report quantity data in wet pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in wet pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including

antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in wet pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include

end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: May 24, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-13844 Filed 5-28-99; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION**

[Investigations Nos. 731-TA-96 and 439-445 (Review)]

**Industrial Nitrocellulose From Brazil,
China, France, Germany, Japan, Korea,
United Kingdom, and Yugoslavia**

AGENCY: International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on industrial nitrocellulose from Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on industrial nitrocellulose from Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B); a schedule for the reviews will be established and announced at a later date.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: September 3, 1999.

FOR FURTHER INFORMATION CONTACT:

Robert Carpenter (202-205-3172), 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: On September 3, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act.

With regard to industrial nitrocellulose from France, Germany, and United Kingdom, the Commission found that both the domestic interested party group responses and the respondent interested party group responses to its notice of institution¹ were adequate and voted to conduct full reviews.

With regard to industrial nitrocellulose from Brazil, China, Japan, Korea, and Yugoslavia, the Commission found that the domestic interested party group responses were adequate and the respondent interested party group responses were inadequate. The Commission also found that other circumstances warranted conducting full reviews.²

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 9, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-24067 Filed 9-14-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-96 and 439-445 (Review)]

Industrial Nitrocellulose from Brazil, China, France, Germany, Japan, Korea, The United Kingdom, and Yugoslavia

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on industrial nitrocellulose from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on industrial nitrocellulose from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: October 15, 1999.

FOR FURTHER INFORMATION CONTACT: John Fry (202-708-4157), 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

On September 3, 1999, the Commission determined that responses to its notice of institution of the subject

five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (64 FR 50107, September 15, 1999). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's web site.

Participation in the Reviews and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of these reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

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 these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on March 17, 2000, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on April 6, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 29,

2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 3, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is March 28, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is April 17, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before April 17, 2000. On May 10, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 12, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a

document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: October 18, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-27819 Filed 10-22-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE**International Trade Administration****[A-428-803]****Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Germany**

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

ACTION: Notice of final results of expedited sunset review: industrial nitrocellulose from Germany.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from Germany (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of

sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from Germany. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Germany was published in the **Federal Register** on July 10, 1990 (55 FR 28270).¹ In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 3.84 percent.² Since that time, the Department has completed one administrative review.³ We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Germany (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of

¹ See Antidumping Duty Order: Industrial Nitrocellulose from Germany, 55 FR 28271 (July 10, 1990).

² However, the underlying investigation and the subsequent review dealt with only one German company, Wolff Walsrode AG ("Wolff").

³ See Industrial Nitrocellulose From Germany: Final Results of Antidumping Duty Administrative Review, 63 FR 43372 (August 13, 1998).

the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in the administrative review proceeding. (See Hercules' July 1, 1999 Substantive Response at 1-2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Germany is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.⁴

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period

⁴ See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3-5). In support of its assertion,

Hercules stresses that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order. *Id.* Citing the Sunset Policy Bulletin, 63 FR at 18872, Hercules argues that continued dumping at any level above *de minimis* after the issuance of the order is highly probative of a likelihood of future dumping. *Id.* Furthermore, Hercules argues that an increase of weighted-average dumping margins of the subject merchandise in the most recent review clearly manifests Wolff's willingness to dump at an increasing rate in order to hold onto its U.S. market share.⁵ *Id.*

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined slightly.⁶ Therefore, the Department determines that the import volumes of the subject merchandise were reduced slightly after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63-64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative review,⁷ the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject

merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Wolff and all-others: 3.84 percent.⁸ We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the Department, nevertheless, should report to the Commission a more recently calculated margin because Wolff increased its dumping in order to hold onto its market share in the United States. (See the July 1, 1999 Substantive Response of Hercules at 5-6.) Hercules urges, the Department, therefore, should provide to the Commission the more recent, increased margin, because that margin is the better indicator of the Wolff's likely behavior in the event the order is revoked.

The Department disagrees with Hercules' suggestion pertaining to the margin that is likely to prevail were the order revoked. In the Sunset Policy Bulletin, the Department indicated that when a company chooses to increase dumping in order to maintain or

⁵ See footnote 1 and 3, *supra*. The rate from the antidumping duty order was 3.84 percent; the rate from the final results of the only administrative review, covering the period July 1996 through June 1997, was 7.18 percent for Wolff, which was the only company reviewed.

⁶ The import volumes of the subject merchandise are as follows (the order was issued in June of 1990): 1989—2,331; 1990—2,576; 1991—1,800; 1992—2,824; 1993—2,357; 1994—1,787; 1995—2,298; 1996—2,173; 1997—2,021; 1998—2,095. These numbers correspond exactly with the U.S. International Trade Commission Data. Although the imports volumes remained relatively steady throughout the period, they declined immediately after the issuance of the order: 2,331 in 1989 compared to 1,800 in 1991. Also, the average volume of imports during the period 1994 through 1998 (2,074.8) is slightly less than that of 1989 (2,331).

⁷ See footnote 6, *supra*.

⁸ See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Germany, 55 FR 21058 (May 22, 1990).

increase its market share, the Department may report a more recently calculated margin to the Commission if dumping margins increased after the issuance of the order. (See section II.B.2 of the Sunset Policy Bulletin.) In the instant case, however, the Department's latest finding of an increased weighted-average dumping margin did not coincide with increased import volumes of the subject merchandise. Nor was the increased dumping associated with steady market share. On the contrary, our review of imports shows that the higher margin was associated with decreased volumes of imports and slightly declined market share.⁹ Therefore, the Department determines that it is inappropriate for the Department to report a more recently calculated rate to the Commission. Instead, because the margins from the original investigation reflect the behavior of German producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Wolff Walsrode AG	3.84
All Others	3.84

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

⁹The only review in which the Department found a higher weighted-average dumping margin covered the period between July 1996 and June 1997. See footnote 3, *supra*. Both the import volumes and market shares of the subject merchandise between 1996 and 1998 are lower than those of 1995, and lower than the five-year averages of the import volumes and market shares between 1991—1995. See Hercules' July 1, 1999 Substantive Response Attachment 2.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28062 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration****[A-588-812]****Final Results of Expedited Sunset Review: Industrial Nitrocellulose From Japan**

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

ACTION: Notice of final results of expedited sunset review: industrial nitrocellulose from Japan.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from Japan (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset

Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from Japan. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Japan was published in the **Federal Register** on July 10, 1990 (55 FR 28268).¹ In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 66.0 percent.² Since that time, the Department has not conducted any administrative reviews. We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Japan (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline

¹ See Antidumping Duty Order: Industrial Nitrocellulose from Japan, 55 FR 28268 (July 10, 1990). A-13

² However, the underlying investigation dealt with only one Japanese company, Asahi Chemical Industry Co., Ltd. ("Asahi").

specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. domestic producer of nitrocellulose and was the petitioner in the original investigation. (See Hercules' July 1, 1999 Substantive Response at 1—2.)

We did not receive a substantive response from any respondent interested parties to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Japan is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.³

Determination:

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall

provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3—5). To support its contention, Hercules points to the drastic decline in import volumes of the subject

merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise virtually disappeared.⁴ *Id.* The virtual cessation of imports immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. *Id.*

Moreover, Hercules indicates that, for the past five years, imports of the subject merchandise have been at or near zero.⁵ *Id.* In conclusion, Hercules argues that Japanese manufacturers/exporters of the subject merchandise have not been able to sell during the antidumping duty order regime; in other words, Japanese manufacturers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considers the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, import volumes of the subject merchandise have declined substantially.⁶ Moreover, for the period 1994–1998, the United States International Trade Commission Data shows rather insignificant import volumes for the subject merchandise.⁷ Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. Because no administrative review has been

⁴ The order was imposed on July 10, 1990. (See footnote 1, *supra*.) In 1989 and 1990, imports of the subject merchandise were 487 and 163 metric tons, respectively; however, during 1991 through 1998, the import volumes were as follows: 1991—29; 1992—80; 1993—20; 1994—8; 1995—8; 1996—10; 1997—0; and 1998—16 metric tons. (See Hercules' July 1, 1999 substantive response, Attachment 2.)

⁵ See footnote 3, *supra*. During 1994–1998, the average import volume of the subject merchandise was only 8.4 metric tons, which was about 2.58 percent of the average imports of 1989 and 1990, or 1.72 percent of 1989 imports alone.

⁶ See footnote 3, *supra*. The numbers applied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

⁷ See footnote 4.

³ See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

conducted since the issuance of the order, the margins from the original investigation are the prevailing margins. Thus, the Department determines that weighted-average dumping margins for the subject merchandise have continued at above the de minimis level.

Given that dumping margins above de minimis continue in effect after the issuance of the order, that the import volumes of the subject merchandise decreased substantially after the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Asahi and all-others: 66.00 percent.⁸ We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the Commission the dumping margins from the original investigation as the margins likely to prevail. (See the July 1, 1999 Substantive Response of Hercules at 6.) Hercules argues that, since the Department has not conducted any administrative reviews pertaining to the instant order, the best and only possible recommendation the Department can make, regarding margins that are likely to prevail, is to rely upon the rates from the original investigation. *Id.*

The Department agrees with the Hercules' suggestion pertaining to the margin that is likely to prevail if the order were revoked. Because the

margins from the original investigation reflect the behavior of Japanese producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review:

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Asahi Chemical Industry Co., Ltd.	66.00
All Others	66.00

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28063 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

⁸ See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Japan, 55 FR 21053 (May 22, 1990).

Nitrocellulose from the Republic of Korea.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from the Republic of Korea (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") *Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from the Republic of Korea. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks.

DEPARTMENT OF COMMERCE

International Trade Administration
[A-580-805]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From the Republic of Korea

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

ACTION: Notice of final results of expedited sunset review: Industrial

The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from the Republic of Korea was published in the **Federal Register** on July 10, 1990 (55 FR 28266).¹ In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 66.30 percent.² Since that time, the Department has completed one administrative review.³ We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from the Republic of Korea ("Korea") (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of the petitioner Hercules Incorporated ("Hercules"), on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S.

producer of nitrocellulose, was the petitioner in the original investigation, and has participated in the administrative review proceeding. (See Hercules' July 1, 1999 Substantive Response at 1-2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Korea is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.⁴

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the

Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3-6). To support this argument, Hercules notes a drastic decline in import volumes of the subject merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise completely stopped.⁵ *Id.* The cessation of imports in the years immediately after the issuance of the order, Hercules further argues, is

¹ See *Antidumping Duty Order: Industrial Nitrocellulose from the Republic of Korea*, 55 FR 28266 (July 10, 1990).

² However, the underlying investigation dealt with only one Korean company, Miwon Company, Ltd. ("Miwon").

³ See *Industrial Nitrocellulose From the Republic of Korea; Notice of Final Results of Antidumping Duty Administrative Review*, 63 FR 60302 (November 9, 1998).

⁴ See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 55233 (October 12, 1999).

⁵ The order was imposed on July 10, 1990. (See footnote 1, *supra*.) In 1989 and 1990, imports of the subject merchandise were 147 and 58 metric tons, respectively; however, during the period 1991 through 1998, the import volumes were as follows: 1991—0; 1992—0; 1993—0; 1994—0; 1995—0; 1996—0; 1997—18; and 1998—0 metric tons. (See July 1, 1999 substantive response of the Hercules, Attachment 2.)

highly probative of the likelihood of future dumping. *Id.*

Hercules also indicates that, for the past five years, imports of the subject merchandise have been mostly at zero or near zero.⁶ *Id.* According to Hercules, the small amount of imports of the subject merchandise in 1997 was the result of Korean producers/exporters' attempt to attain a reduced cash deposit rate in a pending administrative review.⁷ *Id.* To further illustrate its contention, Hercules notes that after the weighted-average dumping margin for the subject merchandise was reduced, Korean producers/exporters still could not sustain the exports of the subject merchandise.⁸ *Id.* In conclusion, Hercules argues that Korean manufacturers/exporters of the subject merchandise could not sustain their level of exports to the United States after the issuance of the antidumping duty order; in other words, Korean manufacturers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considers the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined substantially.⁹ Moreover, for the period 1994–1998, the United States International Trade Commission Data shows rather insignificant import volumes for the subject merchandise.¹⁰ Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department also considers whether dumping continued at any level above *de minimis* after the issuance of the

order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative review,¹¹ the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order, that the import volumes of the subject merchandise decreased substantially after the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Miwon and all-others: 66.30 percent.¹² We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the Commission the dumping margins from the original investigation as the margins likely to prevail if the order were revoked. (See the July 1, 1999 Substantive Response of Hercules at 6.) Although the Department found a substantially reduced 2.10 percent dumping margin for a Korean producer

in its administrative review, Hercules contends that the reduced dumping margin coincided with greatly declined import volumes of the subject merchandise.¹³ *Id.* Moreover, Hercules notes that a year after the administrative review, in 1998, imports of the subject merchandise again returned to zero indicating that Korean producers/exporters were unable to increase their exports of the subject merchandise to the United States at the reduced antidumping margin. *Id.* Therefore, Hercules concludes, the 2.1 percent margin achieved by a Korean producer was clearly the result of a small test shipment and does not reflect commercial reality. *Id.* In other words, the best and only possible recommendation the Department can make, regarding the margins that are likely to prevail, is to rely upon the rates from the original investigation.

The Department agrees with Hercules' suggestion pertaining to the margin that is likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Korean producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Miwon Corporation	66.30
All Others (including Daesang)	66.30

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance

¹³ See footnote 3, *supra*. In its only administrative review, the Department found that Daesang Corporation, which was not subject of the original investigation, was dumping at the rate of 2.10 percent during the period July 1, 1996 through June 30, 1997. At the same time, the Department indicated that cash deposit rate for Miwon and all-others was the original, less-than-fair-value rate of 66.30 percent.

⁶ See footnote 5, *supra*. During 1994–1998, the average import volume of the subject merchandise was only 3.6 metric tons, which is about 3.51 percent of the average imports of 1989 and 1990, or 2.45 percent of 1989 imports alone.

⁷ See footnote 3, *supra*. In that review, the Department found a 2.1 percent weighted-average dumping margin for one reviewed company, Daesang Corporation ("Daesang") while leaving all other entries of nitrocellulose from Korea subject to the rate determined in the original investigation: 66.30 percent.

⁸ See footnote 5, *supra*. The import level of the subject merchandise in 1998 was zero.

⁹ See footnote 5, *supra*. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

¹⁰ See footnote 6, *supra*.

¹¹ See footnote 7, *supra*.

¹² See *Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from the Republic of Korea*, 55 FR 21054 (May 22, 1990).

with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28064 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this antidumping order is industrial nitrocellulose ("INC") from the United Kingdom. Industrial INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. INC is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from the United Kingdom was published in the **Federal Register** on July 10, 1990 (55 FR 28270).¹ In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise is 11.13 percent.² Since that time, the Department has completed several administrative reviews.³ We note that,

¹ See Antidumping Duty Order: INC from the United Kingdom, 55 FR 28270 (July 10, 1990).

² However, the underlying investigation and subsequent administrative reviews dealt with only one British company, Imperial Chemical Industries PLC ("Imperial").

³ See INC From the United Kingdom: Final Results of Antidumping Duty Administrative Review, 59 FR 66902 (December 28, 1994), as amended, INC From the United Kingdom: Amendment of Final Results of Antidumping Duty Administrative Review, 60 FR 41876 (August 14, 1995); INC From the United Kingdom: Final Results of Antidumping Duty Administrative Review, 61 FR 29342 (June 10, 1996); INC From the United

to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from the United Kingdom (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserted that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claimed interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicated that it is the sole remaining U.S. domestic producer of nitrocellulose, was the petitioner in the original investigation, and has participated in all review proceedings. (See Hercules' July 1, 1999 Substantive Response at 1-2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from the U.K. is extraordinarily complicated. Therefore, on October 12, 1999, the

Kingdom: Notice of Final Results of Antidumping Duty Administrative Review, 64 FR 6609 (February 10, 1999), as amended, INC From the United Kingdom: Amended Final Results of Antidumping Duty Administrative Review, 64 FR 11836 (March 10, 1999).

DEPARTMENT OF COMMERCE

International Trade Administration

[A-412-803]

Final Results of Expedited Sunset Review: Industrial Nitrocellulose From the United Kingdom

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

ACTION: Notice of final results of expedited sunset review: Industrial Nitrocellulose from the United Kingdom.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from the United Kingdom (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.⁴

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the

order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3-5). To support its assertion, Hercules points out that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order. *Id.* In addition, Hercules insists that a sharp increase of the weighted-average dumping margins in the most recent review clearly manifests the inability of the British manufacturers/exporters to successfully compete without dumping in the United States.⁵ *Id.* In conclusion, Hercules argues that British manufacturers/exporters of the subject merchandise have demonstrated over the past decade that they have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have shown an increasing trend.⁶ Moreover, for the period between 1994 and 1998, the United States International Trade Commission Data

⁵ See footnote 3, *supra*. Although weighted-average dumping margins of the subject merchandise decreased in each of the first two administrative reviews (from original investigation margin of 11.13 percent to 6.62 percent in the first review and then to 1.48 percent in the second review), in the third and the most recent administrative review, the dumping margin increased to 13.0 percent.

⁶ The import volumes of the subject merchandise are as follows (the order was issued in June of 1990; numbers are in metric tons): 1989-2,430; 1990-3,279; 1991-3,415; 1992-3,931; 1993-3,828; 1994-4,096; 1995-3,423; 1996-3,991; 1997-3,594; 1998-3,461. These numbers correspond exactly with the U.S. International Trade Commission Data.

show rather substantially increased import volumes of the subject merchandise compared to those of pre-order.⁷ Therefore, the Department determines that, as acknowledged by Hercules in its July 1, 1999 substantive response at 5, the import volumes of the subject merchandise increased or showed an increasing trend after the issuance of the order.

The Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63-64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative reviews,⁸ the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department determines that dumping is likely to continue if the order were revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

⁷ See footnote 6, *supra*. During 1994-1998, the average import volume of the subject merchandise was 3,713 metric tons, which denotes a 30.0 percent increase over the average of 1989 and 1990 pre-order import levels, or 53 percent over 1989 import volume alone.

⁸ See footnote 5, *supra*.

⁴ See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Imperial and all-others: 11.13 percent.⁹ We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the Department, nevertheless, should report to the Commission a more recently calculated margin because Imperial increased its dumping in order to increase its market share in the United States. (See the July 1, 1999 Substantive Response of Hercules at 6-7.) In addition to supplying data, which tend to indicate that Imperial's market share in the United States has increased after the imposition of the order,¹⁰ Hercules also claims that Imperial's market behavior of not raising its export prices,¹¹ after a higher dumping margin was imposed in the most recent administrative review,¹² suggests that Imperial intends to continue dumping at the recent, higher margins to hold onto or to increase its market share. *Id.* Therefore, Hercules urges, the Department should provide to the Commission the more recent, increased margin, because that margin is the better indicator of the Imperial's likely behavior in the event the order is revoked.

The Department disagrees with the Hercules' suggestion pertaining to the margin that is likely to prevail were the order to be revoked. In the Sunset Policy Bulletin, the Department indicated that when a company chooses to increase dumping in order to maintain or increase its market share, the Department may report a more recently calculated margin to the Commission. (See section II.B.2 of the Sunset Policy Bulletin.) In the instant case, however, the Department's latest finding of

increased weighted-average dumping margins of the subject merchandise did not coincide with increased import volumes or increased market share. In contrast, the largest import volume and highest market share of the subject merchandise were associated with the lowest dumping margin.¹³ Therefore, the Department determines that it is inappropriate for the Department to report a more recently calculated rate to the Commission. Instead, because the margins from the original investigation accurately reflect the behavior of British producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Imperial Chemical Industries PLC ("Imperial")	11.13
All Others	11.13

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28065 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

⁹ See *Final Determination of Sales at Less Than Fair Value: INC from the United Kingdom*, 55 FR 21055 (May 22, 1990).

¹⁰ See footnote 7, *supra*. Also, according to Hercules' business proprietary information, the magnitude of Imperial's increased market share is comparable to its volume increases during the relevant period.

¹¹ To support this, Hercules submits its business manager's sworn affidavit, in which the business manager indicated an absence of price increase by Imperial since Imperial's antidumping margin increased from 1.48 percent to 13.0 percent in March, 1999. (See the July 1, 1999 Substantive Response of Hercules, attachment 4.)

¹² See footnote 5, *supra*. In the most recent administrative review, the Department assessed Imperial with a higher 13.0 percent antidumping margin than in the previous review-1.48 percent.

¹³ The increases of the import volumes and market shares of the subject merchandise were simultaneous with a decrease (not increase) in dumping margins: in its first two administrative reviews, covering the period 1992 to 1993 and 1993 to 1994, the Department reduced the weighted-average dumping margins for the subject merchandise to 6.62 (the original rate was 11.13) and 1.48, respectively. The three-year moving average of each of the import volume and the average market share of the subject merchandise during 1992-1994, is the highest compared to any other three-year period (for the market share, the average of 1992-1994 is tied with that of 1994-1996). See footnote 4 and 5, *supra*. In other words, and more importantly, the imposition of a sharply increased antidumping margin by the Department, for the review period of 1996-1997, did not result in increased import volume and market share. See *Id.*

DEPARTMENT OF COMMERCE**International Trade Administration****[A-479-801]****Final Results of Expedited Sunset
Review: Industrial Nitrocellulose From
Yugoslavia****AGENCY:** Import Administration,
International Trade Administration,
Department of Commerce.**ACTION:** Notice of final results of
expedited sunset review: Industrial
Nitrocellulose From Yugoslavia.

SUMMARY: On June 1, 1999, the
Department of Commerce ("the
Department") initiated a sunset review
of the antidumping order on industrial
nitrocellulose from Yugoslavia (64 FR
29261) pursuant to section 751(c) of the
Tariff Act of 1930, as amended (the
"Act"). On the basis of a notice of intent
to participate and adequate substantive
response filed on behalf of a domestic
interested party and inadequate
response (in this case, no response) from
respondent interested parties, the
Department determined to conduct an
expedited review. As a result of this
review, the Department finds that
revocation of the antidumping duty
order would be likely to lead to
continuation or recurrence of dumping
at the levels indicated in the Final
Results of Review section of this notice.**FOR FURTHER INFORMATION CONTACT:** Eun
W. Cho or Melissa G. Skinner, Office of
Policy for Import Administration,
International Trade Administration,
U.S. Department of Commerce, 14th
Street and Constitution Avenue, NW.,
Washington, D.C. 20230; telephone:
(202) 482-1698 or (202) 482-1560,
respectively.**EFFECTIVE DATE:** October 27, 1999.**Statute and Regulations**

This review was conducted pursuant
to sections 751(c) and 752(c) of the Act.
The Department's procedures for the
conduct of sunset reviews are set forth
in Procedures for Conducting Five-Year
("Sunset") Reviews of Antidumping and
Countervailing Duty Orders, 63 FR
13516 (March 20, 1998) ("Sunset

Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from Yugoslavia. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Yugoslavia was published in the **Federal Register** on October 16, 1990 (55 FR 41870).¹ In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 10.81 percent.² Since that time, the Department has completed no administrative reviews. We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Yugoslavia (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline

specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. domestic producer of nitrocellulose and was the petitioner in the original investigation. (See Hercules' July 1, 1999 Substantive Response at 1—2.)

We did not receive a substantive response from any respondent interested parties to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Yugoslavia is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.³

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall

provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3—5). To buttress its contentions,⁴ Hercules points out a drastic decline in import volumes of the subject

¹ See *Antidumping Duty Order: Industrial Nitrocellulose from Yugoslavia*, 55 FR 41870 (October 16, 1990).

² However, the underlying investigation dealt with only one Yugoslavian company, Milan Blagojevic ("Milan"), located in Lucani, Yugoslavia.

³ See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 55233 (October 12, 1999).

merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise fell to zero.⁴ *Id.* The cessation of imports almost immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. *Id.*

Moreover, Hercules indicates that, for the past five years, the import volumes of the subject merchandise have been at zero.⁵ *Id.* In conclusion, Hercules contends that Yugoslavian manufacturers/exporters of the subject merchandise have not been able to sell in the United States during the antidumping duty order regime; in other words, Yugoslavian manufacturers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules, the United States Census Bureau IM146s, and the United States International Trade Commission indicate that, since the imposition of the order, the import volumes of the subject merchandise have declined substantially.⁶ Moreover, for the period 1994-1998, the United States International Trade Commission Data show a complete cessation of the import volumes for the subject merchandise.⁷ Therefore, the Department determines that the import volumes of the subject merchandise ceased after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63-64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. Because no

administrative review has been conducted since the issuance of the order, the margins from the original investigation are the prevailing and therefore effective margins. Thus, the Department determines that weighted-average dumping margins for the subject merchandise have continued above the *de minimis* level.

Given that the import volumes of the subject merchandise ceased completely after the issuance of the order, that dumping margins above the *de minimis* level have continued since the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Milan and all-others: 10.81 percent.⁸ We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the Commission the dumping margins from the original investigation as the margins likely to prevail. (See the July 1, 1999 Substantive Response of Hercules at 6.) Hercules argues that, since the Department has not conducted any administrative reviews pertaining to the instant order, the best and only possible recommendation the Department can make, regarding margins that are likely to prevail, is the ones from the original investigation. *Id.*

The Department agrees with Hercules' suggestion pertaining to the margin that is likely to prevail if the order were

revoked. Because the margins from the original investigation reflect the behavior of Yugoslavian producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Milan Blagojevic	10.81
All Others	10.81

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28066 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

⁴ The order was imposed on October 16, 1990. (See footnote 1, *supra*.) In 1989 and 1990, imports of the subject merchandise were 748 and 1,041 metric tons, respectively; however, during the period from 1991 through 1998, the import volumes were as follows: 1991-312; 1992-47; 1993-0; 1994-0; 1995-0; 1996-0; 1997-0; and 1998-0 metric tons. (See Hercules' July 1, 1999 substantive response, Attachment 2.)

⁵ See footnote 4, *supra*. During 1994-1998, the average import volume of the subject merchandise was 0 metric ton.

⁶ See footnote 3, *supra*. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

⁷ See footnote 4.

⁸ See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Yugoslavia, 55 FR 34946 (August 27, 1990).

DEPARTMENT OF COMMERCE**International Trade Administration****[A-351-804]****Final Results of Expedited Sunset
Review: Industrial Nitrocellulose From
Brazil****AGENCY:** Import Administration,
International Trade Administration,
Department of Commerce.**ACTION:** Notice of final results of
expedited sunset review: Industrial
Nitrocellulose from Brazil.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from Brazil (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Result of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

EFFECTIVE DATE: October 27, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from Brazil. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which

has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from Brazil was published in the **Federal Register** on July 10, 1990 (55 FR 28266).¹ In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 61.25 percent.² Since that time, the Department has completed one administrative review.³ We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from Brazil (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in the only

administrative review proceeding. (See Hercules' July 1, 1999 Substantive Response at 1-2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from Brazil is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.⁴

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"),

¹ See Antidumping Duty Order: Industrial Nitrocellulose from Brazil, 55 FR 28266 (July 10, 1990).

² However, the underlying investigation and the subsequent administrative review dealt with only one Brazilian company, Companhia Nitro Quimica Brasileira ("Quimica").

³ See Industrial Nitrocellulose From the Brazil; Notice of Final Results of Antidumping Duty Administrative Review, 58 FR 38750 (July 20, 1993).

⁴ See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999 substantive response of Hercules at 3-6). To support its contention, Hercules points to a drastic decline in import volumes of the subject merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise virtually stopped.⁵ Id. The virtual cessation of imports in the years immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. Id.

Hercules also indicates that Brazilian producers/exporters, in an attempt to

achieve a reduced cash deposit rate in the forthcoming administrative review, made some small scale imports in 1991 and 1992. Id. Hercules notes that, soon thereafter, however, imports of the subject merchandise began to increase. Id. According to Hercules, this increasing trend stopped and the import volumes of the subject merchandise were reduced to zero after Hercules requested a second administrative review in 1996.⁶ Id. In conclusion, Hercules argues that Brazilian producers/exporters of the subject merchandise could not sustain their level of exports after the issuance of the antidumping duty order; in other words, Brazilian producers/exporters have to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, immediately after the imposition of the order, the import volumes of the subject merchandise declined substantially.⁷ However, for the period 1994-1998, it is unclear whether the import volumes have declined substantially, or declined at all, when compared to pre-order volume.⁸ Therefore, the Department determines that although the import volumes of the subject merchandise decreased significantly immediately after the issuance of the order, the Department cannot determine that import volumes of the subject merchandise decreased for the five-year period preceding the year of publication

⁵ Hercules is suggesting that the Brazilian producers/exporters were dumping at an increased rate and only stopped exporting the subject merchandise entirely because of imminent imposition of a higher margin in a pending administrative review. Hercules states that it withdrew its request for the review after it recognized that Quimica, the only firm subjected to the investigation and review, had experienced an industrial accident and, as a consequence, would not be in position for some time to dump the subject merchandise in the United States. In other words, exports of the subject merchandise reduced to zero in 1998 because of an accident, which shut down Quimica's production facilities in Brazil. See Industrial Nitrocellulose From Brazil; Rescission of Antidumping Duty Administrative Review, 62 FR 63666 (December 15, 1997).

⁶ See footnote 4, supra. The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

⁷ The average volume of imports of the subject merchandise between 1994 and 1998 was 564.4; however, if we exclude 1998 zero level, which was due to Quimica's production incapacitation, the average volume between 1994 and 1997 was 705.5. The average of 1989 and 1990 pre-order volume was 470.5; in 1989 alone, the pre-order volume was 734.

of this notice of initiation vis a vis pre-order imports volumes.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63-64, the Department also considered whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative review,⁹ the Department determines that, since the issuance of the order, weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order, and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for Quimica and all-others: 61.25 percent.¹⁰ We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Hercules urges the Department to report to the

⁹ See footnote 3, supra. In this Administrative Review, covering the period July 1991 through June 1992, the Department determined that the weighted-average dumping margin for Quimica was 5.81 percent and for all-others was 61.25 percent.

¹⁰ See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from Brazil, 55 FR 23120 (June 6, 1990).

⁵ The order was imposed on July 10, 1990. (See footnote 1, supra.) In 1989 through 1990, imports of the subject merchandise were 734 and 207 metric tons, respectively; however, during 1991 and 1998, the imports volumes were as follows: 1991-7; 1992-13; 1993-0; 1994-228; 1995-635; 1996-1261; 1997-698; and 1998-0 metric tons. (See July 1, 1999 substantive response of the Hercules, Attachment 2.)

Commission the dumping margins from the original investigation as the margins likely to prevail. (See the July 1, 1999 Substantive Response of Hercules at 6-7.) Although the Department found a substantially reduced 5.81 percent dumping margin for a Brazilian producer in its administrative review, Hercules contends that the reduced dumping margin coincided with greatly declined import volumes of the subject merchandise.¹¹ Id. Therefore, the rates which would most accurately reflect the antidumping margins that are likely to prevail were the order revoked are the ones from the original investigation.

The Department agrees with Hercules' suggestion pertaining to the margins that are likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Brazilian producers/exporters without the discipline of an order in place, the Department will provide to the Commission the margins found in the original investigation.

Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/Exporter	Margin (percent)
Companhia Nitro Quimica Brasileira	61.25
All Others	61.25

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28067 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

¹¹ See footnote 5 and 8, supra.

DEPARTMENT OF COMMERCE**International Trade Administration****[A-570-802]****Final Results of Expedited Sunset Review: Industrial Nitrocellulose From People's Republic of China****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**ACTION:** Notice of Final Results of Expedited Sunset Review: Industrial Nitrocellulose from People's Republic of China.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on industrial nitrocellulose from People's Republic of China (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.**FOR FURTHER INFORMATION CONTACT:** Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.**EFFECTIVE DATE:** October 27, 1999.**Statute and Regulations**

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues

relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from the People's Republic of China ("China"). Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from China was published in the **Federal Register** on July 10, 1990 (55 FR 28267).¹ In that order, the Department indicated that the weighted-average dumping margins for all entries of the subject merchandise is 78.40 percent. Since that time, the Department has completed only one administrative review. In that review, covering July 1, 1995 through June 30, 1996, we found that China North Industries Guangzhou Corp. ("CNIGC") was the only exporter. In that review, the Department determined not to grant CNIGC a separate rate; instead, we established a rate of zero for all entries from the People's Republic of China ("PRC-wide rate") based on information submitted by CNIGC.² The order remains in effect for all manufacturers and exporters of the subject merchandise.

¹ See Antidumping Duty Order: Industrial Nitrocellulose from the People's Republic of China, 55 FR 28267 (July 10, 1990).

² See Industrial Nitrocellulose From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65667 (December 15, 1997). In the review, the Department found that the PRC-wide rate was zero for the period of review.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from China (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise; nor is it an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999 Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. domestic producer of nitrocellulose, was the petitioner in the original investigation, and has participated in all contested review proceedings. (See Hercules' July 1, 1999 Substantive Response at 1-2.)

We did not receive a substantive response from any respondent interested parties to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from China is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.³

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether

revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response

from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence is high if were the order revoked. (See July 1, 1999 substantive response of the Hercules at 3-6). To buttress its contention, Hercules points out a drastic decline in import volumes of the subject merchandise immediately after the issuance of the order. According to Hercules, after the imposition of the antidumping order, imports of the subject merchandise all but disappeared.⁴ Id. The virtual cessation of imports immediately after the issuance of the order, Hercules further argues, is highly probative of the likelihood of future dumping. Id.

Moreover, Hercules indicates that, for the past five years, imports of the subject merchandise have been at or near zero. Id. According to Hercules, the— small scale of imports of the subject merchandise in 1996 was just the Chinese producers/exporters' attempt to attain a reduced cash deposit rate in a pending administrative review.⁵ Id. Hercules further notes that even after weighted-average dumping margin for the subject merchandise was reduced to zero (from 78.40 percent), Chinese producers/exporters could not sustain the exports of the subject merchandise. Id. As a result, Hercules concludes, dumping of the subject merchandise will continue if the order were revoked.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63-64, the Department considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. Since publication of the final results of the 1995-1996 administrative review, the cash deposit rate has remained zero.

However, consistent with section 752(c) of the Act, the Department also considered the import volumes of the

⁴ In 1989 and 1990, imports of the subject merchandise were 508 and 237 metric tons, respectively; however, during the period 1991 through 1998, imports volumes were as follows: 1991-2; 1992-0; 1993-17; 1994-0; 1995-0; 1996-9; 1997-0; and 1998-27 metric tons. (See July 1, 1999 substantive response of Hercules, Attachment 2.)

⁵ See footnote 4, supra. In the 1995-1996 review, the Department found a 0% weighted-average dumping margin for entries of nitrocellulose from China.

³ See Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 55233 (October 12, 1999).

subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the United States International Trade Commission indicate that, since the imposition of the order, import volumes of the subject merchandise have declined substantially.⁶ Moreover, for the period 1994-1998, although Census Bureau IM 146 data do not reflect any annual imports of the subject merchandise, the United States International Trade Commission Data show rather insignificant imports of the subject merchandise during the period.⁷ Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the order.

Given that the import volumes of the subject merchandise decreased significantly after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin:

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for CNIGC and all-others: 78.40 percent.⁸ We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, citing the SAA at 890 and the Sunset Policy

Bulletin at 18873, Hercules states that the Department normally will provide the Commission with the dumping margins from the investigation unless the import volumes increase while at the same time dumping margins decrease after the issuance of the order. (See the July 1, 1999 Substantive Response of the Hercules at 6-7.) Hercules points out that, in the instant case, however, the reduced weighted-average dumping margin for Chinese producers/exporters coincides with a greatly declined import volume of the subject merchandise. *Id.* In other words, Hercules states that Chinese producers/exporters are incapable of reducing weighted-average dumping margins while at the same time increasing exports of the subject merchandise to the United States. *Id.* Therefore, Hercules urges, the Department should abide by its practice, as set forth in the Sunset Policy Bulletin, and report to the Commission the margin set forth in the original investigation.

The Department agrees with Hercules' suggestion pertaining to the margin that is likely to prevail if the order were revoked. Because the margins from the original investigation reflect the behavior of Chinese producers and exporters without the discipline of an order in place, the Department will provide to the Commission the margin found in the original investigation. Absent argument and evidence to the contrary, the Department sees no reason to change its usual practice of selecting the rate from the original investigation. We will report to the Commission the PRC-wide rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/Exporter	Margin (percent)
PRC-wide	78.40

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 21, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28068 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

⁶ See *id.* The numbers supplied by Hercules exactly correspond with those of the U.S. International Trade Commission Data.

⁷ See *id.* During 1994-1998, the average import volume of the subject merchandise was 7.2 metric tons, which is a mere 1.93 percent of 1989 and 1990 pre-order import levels.

⁸ See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose From the People's Republic of China, 55 FR 21051 (May 22, 1999).

DEPARTMENT OF COMMERCE**International Trade Administration****[A-427-009]****Final Results of Expedited Sunset
Review: Industrial Nitrocellulose From
France****AGENCY:** Import Administration,
International Trade Administration,
Department of Commerce.**ACTION:** Notice of Final Results of
Expedited Sunset Review: Industrial
Nitrocellulose from France.

SUMMARY: On June 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on industrial nitrocellulose from France (64 FR 29261) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.**FOR FURTHER INFORMATION CONTACT:**
Eun W. Cho or Melissa G. Skinner,
Office of Policy for Import
Administration, International Trade
Administration, U.S. Department of
Commerce, 14th Street and Constitution
Avenue, NW. Washington, DC 20230;
telephone: (202) 482-1698 or (202) 482-
1560, respectively.**EFFECTIVE DATE:** October 27, 1999.**Statute and Regulations**

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and

Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations"), and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The product covered by this order is industrial nitrocellulose ("nitrocellulose") from France. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent and is produced from the reaction of cellulose with nitric acid. Industrial nitrocellulose is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content greater than 12.2 percent. Industrial nitrocellulose is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3912.20.00. The HTS item number is provided for convenience and customs purposes only. The written description remains dispositive.

History of the Order

The antidumping duty order on nitrocellulose from France was published in the **Federal Register** on August 10, 1983 (48 FR 36303).¹ In that order, the Department determined that the weighted-average dumping margin for all entries of the subject merchandise was 1.38 percent.² Since that time, the Department has completed several administrative reviews.³ To date, the

¹ See *Industrial Nitrocellulose from France; Antidumping Duty Order*, 48 FR 36303 (August 10, 1983).

² However, the underlying investigation and subsequent administrative reviews dealt with only one French company, Societe Nationale des Poudres et Explosifs ("SNPE") except in the most recent administrative review in which Bergerac, N.C. ("Bergerac"), a successor company with respect to production of the subject merchandise and a subsidiary of SNPE, became the subject of the review.

³ See *Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review*, 51 FR 43227 (December 1, 1986); *Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review*, 53 FR 15262 (April 28, 1988); *Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review*, 53 FR 27185 (July 19, 1988); *Industrial Nitrocellulose From France: Final Results of Antidumping Duty Administrative Review*, 63 FR 49085 (September 14, 1998).

Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On June 1, 1999, the Department initiated a sunset review of the antidumping duty order on nitrocellulose from France (64 FR 29261), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Hercules Incorporated ("Hercules") on June 9, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Hercules asserts that it is not related to a foreign producer, foreign exporter, or domestic importer of the subject merchandise and that it is not an importer of the subject merchandise except on an occasional spot basis. (See Hercules' June 9, 1999, Intent to Participate at 2.)

We received a complete substantive response from Hercules on July 1, 1999, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). Hercules claims interested party status under section 771(9)(C) of the Act as a U.S. manufacturer, producer, and wholesaler of the subject merchandise. In its substantive response, Hercules indicates that it is the sole remaining U.S. producer of nitrocellulose, was the petitioner in the original investigation, and has participated in all review proceedings. (See Hercules' July 1, 1999, Substantive Response at 1–2.)

We did not receive a substantive response from any respondent interested party to this proceeding. Consequently, pursuant to section 351.218(e)(1)(ii)(C) of the Sunset Regulations, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order—an order which was in effect on January 1, 1995. See section 751(c)(6)(C) of the Act. The Department determined that the sunset review of the antidumping duty order on industrial nitrocellulose from France is extraordinarily complicated. Therefore, on October 12, 1999, the Department extended the time limit for completion of the preliminary results of this review until not later than December 28, 1999, in accordance with section 751(c)(5)(B) of the Act.⁴

⁴ See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 55233 (October 12, 1999).

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margins are discussed below. In addition, Hercules' comments with respect to continuation or recurrence of dumping and the magnitude of the margins are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead

to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Sunset Regulations, this constitutes a waiver of participation.

In its substantive response, Hercules asserts that the likelihood of continuation or recurrence of dumping is high if the order is revoked. (See July 1, 1999, substantive response of Hercules at 3-6.) To support its assertion, Hercules points out that, during the 1990s, Bergerac continued to increase its extent of dumping of the subject merchandise. Hercules notes that, after finding Bergerac was dumping at the rate of 4.39 percent for the period of 1986-1987, in the next and the most recent administrative review covering 1996-1997, the Department determined that the dumping margin for Bergerac was 13.35 percent. *Id.* Hercules argues that Bergerac has demonstrated over the past decade that it has to dump in order to export the subject merchandise to the United States.

Consistent with section 752(c) of the Act, the Department considered the import volumes of the subject merchandise before and after the issuance of the order. The data supplied by Hercules and those of the United States Census Bureau IM146s and the Commission indicate that, during 1990s, the import volumes of the subject merchandise have shown an increasing trend.⁵ Specifically, between 1994 and 1998, the Commission's data show a rather substantial increase in the import volumes of the subject merchandise *vis a vis* pre-order volumes.⁶ Therefore, the Department determines that the import volumes of the subject merchandise increased or showed an increasing trend after the issuance of the order.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63-64, the Department also considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer

⁵ The import volumes of the subject merchandise during the 1990s are as follows (the order was issued in August 1983; numbers are in metric tons): 1990-188; 1991-306; 1992-788; 1993-1,633; 1994-2,564; 1995-2,338; 1996-2,760; 1997-4,377; 1998-3,883. These numbers correspond exactly with the Commission data.

⁶ See footnote 5, *supra*. During 1994-1998, the average import volume of the subject merchandise was 3,184.4 metric tons, which denotes a 36.58 percent increase over the average of 1982 and 1983 pre-order import levels (2,331.5 metric tons).

that dumping would continue were the discipline removed. After examining the published findings with respect to weighted-average dumping margins in the original investigation and from the previous administrative reviews,⁷ the Department determines that, since the issuance of the order, except for the period between May 1983 and July 1986, the weighted-average dumping margins for the subject merchandise have continued at above the *de minimis* level.

Given that dumping of the subject merchandise continued above the *de minimis* level after the issuance of the order and that respondent interested parties have waived their right to participate in this review, the Department agrees with Hercules' contention that dumping is likely to continue if the order is revoked.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its final determination of sales at less-than-fair-value, published a weighted-average dumping margin for SNPE and all-others of 1.38 percent.⁸ To date, the Department has not issued any duty absorption findings in this case.

In its substantive response, while acknowledging that the Department normally will provide the Commission with the dumping margins from the original investigation, Hercules argues that, in the instant review, the

⁷ See footnote 3, *supra*. Although the weighted-average dumping margins of the subject merchandise decreased to zero or *de minimis* levels in each of the first three administrative reviews (from the original investigation margin of 1.38 percent to 0.17 percent in the first review, 0 percent in the second review, and 0.07 percent in the third review), in the fourth review, the margin increased to 4.39 percent, and in the most recent, fifth, review, the dumping margin increased to 13.35 percent.

⁸ See Final Determination of Sales at Less Than Fair Value: Industrial Nitrocellulose from France, 48 FR 21615 (May 13, 1983).

Department should report to the Commission a more recently calculated margin because Bergerac increased its dumping in order to increase its market share in the United States. (See the July 1, 1999, Substantive Response of Hercules at 6-7.) In addition to supplying data which indicate clearly that Bergerac's market share in the United States increased during the 1990s,⁹ Hercules also claims that Bergerac's market behavior of not raising its export prices,¹⁰ after a higher dumping margin was imposed in the most recent administrative review,¹¹ suggests that Bergerac intends to continue dumping at the recent, higher margins to hold onto or to increase its market share. *Id.* Therefore, Hercules urges the Department to provide to the Commission the more recent, higher margin because that margin is a better indicator of Bergerac's likely behavior in the event the order is revoked.

The Department agrees with the Hercules' argument pertaining to the margin that is likely to prevail were the order revoked. In the Sunset Policy Bulletin, the Department indicated that, when a company chooses to increase dumping in order to maintain or increase its market share, the Department may report a more recently calculated margin to the Commission if dumping margins increased after the issuance of the order. (See section II.B.2 of the Sunset Policy Bulletin.) Absent argument and evidence to the contrary, the Department sees no reason to change its practice as articulated in the Sunset Policy Bulletin of selecting a more recently calculated rate when increased weighted-average dumping margins for a company coincide with its increased market share of the subject merchandise. We will report to the

⁹ In particular, during and after the period covered by the latest administrative review, in which the Department found substantially increased dumping of the subject merchandise, Bergerac's market share increased rather significantly as well (inasmuch as the U.S. demand for the domestic like product has remained stable during the relevant period, Bergerac's increase in the volume of exports of the subject merchandise is directly translated to the increase in Bergerac's market share). Also, in general, during the 1990's, Bergerac's market share showed an increasing trend; this trend started after the Department's fourth administrative review in which the Department found that Bergerac was dumping at 4.39 percent rather than at the zero or *de minimis* levels, which the Department found during the first three administrative reviews.

¹⁰ To support this, Hercules submitted its business manager's sworn affidavit, in which the business manager indicated that Bergerac had not offered any price increase in its offers to customers since Bergerac's antidumping margin increased from 4.39 percent to 13.35 percent in September 1998. (See the July 1, 1999 Substantive Response of Hercules, attachment 4.)

¹¹ See footnote 6, *supra*.

Commission the company-specific and all-others rate contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
Bergerac, N.C.	13.35
All Others	1.38

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated October 21, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28069 Filed 10-26-99; 8:45 am]

BILLING CODE 3510-DS-P

**INTERNATIONAL TRADE
COMMISSION**

[Investigations Nos. 731-TA-96 and 439-445 (Review)]

Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject reviews.

EFFECTIVE DATE: February 1, 2000.

FOR FURTHER INFORMATION CONTACT: John Fry (202-708-4157), 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: Effective October 15, 1999, the Commission established a schedule for the conduct of the subject reviews (64 FR 57483, October 25, 1999). On January 19, 2000, counsel for Wolff Walsrode AG, a German producer, and Bayer Corporation, a German importer, requested a two-month extension of the schedule on the assumption that a decision may be made within that time frame by Hercules, the sole U.S. producer, as to whether it will close or sell its production facility. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675 (c)(5)(B), and is hereby revising its schedule.

The Commission's new schedule for the reviews is as follows: the prehearing staff report will be placed in the nonpublic record on May 18, 2000; the deadline for filing prehearing briefs is May 30, 2000; requests to appear at the hearing must be filed with the Secretary to the Commission not later than May 31, 2000; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 5, 2000; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 8, 2000; the deadline for filing posthearing briefs is June 19, 2000; the Commission will make its final release of information on July 13, 2000; and final party comments are due on July 17, 2000.

For further information concerning these reviews, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: February 1, 2000.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-2697 Filed 2-4-00; 8:45 am]

BILLING CODE 7020-02-U

**INTERNATIONAL TRADE
COMMISSION**

[Investigations Nos. 731-TA-96 and 439-445 (Review)]

Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject reviews.

EFFECTIVE DATE: June 16, 2000.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202-708-4727), 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: Effective October 15, 1999, the Commission established a schedule for the conduct of the subject reviews (64 FR 57483, October 25, 1999). Effective February 1, 2000, the Commission revised its schedule for the reviews (65 FR 5889, February 7, 2000), pursuant to a request for a two-month extension by counsel for Wolff Walsrode AG, a German producer, and Bayer Corporation, a German importer. In order to carefully evaluate recent important developments in the industrial nitrocellulose industry, the Commission has further determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B), and is hereby revising its schedule.

The Commission's new schedule for the reviews is as follows: the Commission will make its final release of information on August 2, 2000; and final party comments are due on August 8, 2000.

For further information concerning these reviews, see the Commission's notices cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published

pursuant to section 207.62 of the Commission's rules.

Issued: June 19, 2000.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-16095 Filed 6-23-00; 8:45 am]

BILLING CODE 7020-02-M

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Industrial Nitrocellulose From Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia, Invs. Nos. 731-TA-96, 439-445 (Review)

On September 3, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(C)(5) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(5).

Regarding domestic interested parties, the Commission received a response from the sole domestic producer of industrial nitrocellulose, Hercules, Inc. Regarding respondent interested parties, the Commission received responses from Berbera, N.C. (a French producer and exporter of industrial nitrocellulose); SNIPE North America LLC and TECO, Inc. (U.S. affiliates of Berbera); Wolff Walsrode AG, Chemical Division, (a German producer and exporter of industrial nitrocellulose); Bayer Corporation (a U.S. importer of industrial nitrocellulose); Nobel Enterprises (a United Kingdom producer and exporter of industrial nitrocellulose); and ICI Americas Inc. (a U.S. importer of industrial nitrocellulose). These companies account for a significant share of production, exports, and/or imports, as the case may be, from France, Germany and the United Kingdom. In the reviews concerning subject merchandise from Brazil, China, Japan, Korea, and Yugoslavia, the Commission did not receive a response from any respondent interested parties.

The Commission determined that the domestic interested party group responses and respondent interested party group responses for the reviews concerning subject merchandise from France, Germany, and the United Kingdom were adequate and that it should proceed to full reviews for *Industrial Nitrocellulose from France, Germany, and the United Kingdom*. Because no respondent interested party responded to the notice of institution concerning the reviews for subject merchandise from Brazil, China, Japan, Korea, and Yugoslavia, the Commission determined that the respondent interested party group responses for those reviews were inadequate. However, the Commission determined to conduct full reviews for the orders covering these five countries to promote administrative efficiency in light of the Commission's decision to conduct full reviews with respect to *Industrial Nitrocellulose from France, Germany, and the United Kingdom*. Commissioner Crawford dissented from the Commission's decision to conduct full reviews with respect to subject merchandise from Brazil, China, Japan, Korea, and Yugoslavia and determined that the Commission should conduct expedited reviews of the orders covering those countries.

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Industrial Nitrocellulose from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia

Invs. Nos.: 731-TA-96 and 439-445 (Review)

Date and Time: June 8, 2000 - 9:30 a.m.

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

OPENING REMARKS

In Support of Continuation (**Edward M. Lebow**, Miller Thomson Wickens & Lebow LLP)

In Support of Revocation (**Michael A. Hertzberg**, Howrey, Simon, Arnold & White)

In Support of the Continuation of the Orders:

Miller Thomson Wickens & Lebow LLP
Washington, D.C.
on behalf of

Petitioner Companies

Monika Riese-Martin, Vice President and General Manager,
Aqualon Division, Hercules Incorporated

Bruce Edge, Chairman and Chief Executive Officer,
Greentree Chemical Technologies, Inc.

Edward McCrossin, Nitrocellulose Business Manager, Hercules Incorporated
and President and Chief Operating Officer, Greentree Chemical Technologies, Inc.

George Bruner, Vice President and General Manager, Egyptian Coatings

**In Support of the Continuation of
the Orders-Cont'd**

John Rawe, Executive Vice President, Tennessee Technical Coatings

Daniel W. Klett, Principal, Capital Trade, Incorporated

Edward M. Lebow)
)---OF COUNSEL
Beverly Ross)

**In Support of the Revocation of
the Orders:**

Ablondi, Foster, Sobin & Davidow, P.C.
Howrey, Simon, Arnold & White
and
Kirkland & Ellis
Washington, D.C.
on behalf of

Respondent Companies

Robert K. Parkman, Materials Management Director,
Lilly Industries, Incorporated

Daniel M. Slick, Chief Executive Officer, SNPE North America LLC

Corey Soeldner, Group Purchasing Manager, Sun Chemical Inks, North America

Martin Swain, Marketing Manager, Nitrocellulose, Wolff Walsrode AG

David Wilkinson, Sales Support, ICI

Susan Manning, Vice President, Capital Economics

James Taylor, Jr.)--Ablondi, Foster, Sobin & Davidow, P.C.
Michael A. Hertzberg--Howrey, Simon, Arnold & White
)--OF COUNSEL
Kenneth G. Weigel)--Kirkland & Ellis
Laura Fraedrich)--Kirkland & Ellis

CLOSING REMARKS

In Support of Continuation (**Edward M. Lebow**, Miller Thomson Wickens & Lebow LLP)

In Support of Revocation (**Kenneth G. Weigel**, Kirkland & Ellis and
James Taylor, Jr., Ablondi, Foster, Sobin & Davidow, P.C.)

APPENDIX C
SUMMARY DATA

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

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
Brazil	***	***	***	***	***	***
China	***	***	***	***	***	***
France	***	***	***	***	***	***
Germany	***	***	***	***	***	***
Japan	***	***	***	***	***	***
Korea	***	***	***	***	***	***
United Kingdom	***	***	***	***	***	***
Yugoslavia	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
Brazil	***	***	***	***	***	***
China	***	***	***	***	***	***
France	***	***	***	***	***	***
Germany	***	***	***	***	***	***
Japan	***	***	***	***	***	***
Korea	***	***	***	***	***	***
United Kingdom	***	***	***	***	***	***
Yugoslavia	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from--						
Brazil:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
China:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
France:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Germany:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***

Table continued on next page.

C-3

Table C-1--Continued

INC: Summary data concerning the U.S. market, 1997-99

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
U.S. shipments of imports from--						
Japan:						
Quantity	0.2	35.4	0	-100.0	14,914.0	-100.0
Value	3	80	0	-100.0	2,421.4	-100.0
Unit value	\$13.38	\$2.25	(2)	(2)	-83.2	(2)
Ending inventory quantity	***	***	***	***	***	***
Korea:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
United Kingdom:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Yugoslavia:						
Quantity	0	0	0	0.0	0.0	0.0
Value	0	0	0	0.0	0.0	0.0
Unit value	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	0	0	0	0.0	0.0	0.0
Subtotal:						
Quantity	19,359	17,805	19,105	-1.3	-8.0	7.3
Value	23,139	21,029	21,558	-6.8	-9.1	2.5
Unit value	\$1.20	\$1.18	\$1.13	-5.6	-1.2	-4.5
Ending inventory quantity	***	***	***	***	***	***
Other sources:						
Quantity	6,668	9,755	10,554	58.3	46.3	8.2
Value	7,793	10,556	10,769	38.2	35.5	2.0
Unit value	\$1.17	\$1.08	\$1.02	-12.7	-7.4	-5.7
Ending inventory quantity	0	0	0	0.0	0.0	0.0
All sources:						
Quantity	26,027	27,560	29,659	14.0	5.9	7.6
Value	30,932	31,584	32,327	4.5	2.1	2.4
Unit value	\$1.19	\$1.15	\$1.09	-8.3	-3.6	-4.9
Ending inventory quantity	***	***	***	***	***	***
U.S. producers':						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1) ..	***	***	***	***	***	***

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

(2) Not applicable.

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

C-4

Table C-2

INC: Summary data concerning the U.S. market, 1997-98, January-September 1998, and January-September 1999

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

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

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

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

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

APPENDIX D

**COMMENTS BY U.S. PRODUCERS, IMPORTERS, PURCHASERS, AND
FOREIGN PRODUCERS REGARDING THE EFFECTS OF THE ORDERS
AND THE LIKELY EFFECTS OF REVOCATION**

**U.S. PRODUCER'S COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE
LIKELY EFFECTS OF REVOCATION**

Anticipated Operational/Organizational Changes If Orders Were To Be Revoked (Question II-4)

The Commission requested the U.S. producer to describe any anticipated changes in the character of its operations or organization relating to the production of INC in the future if the antidumping duty orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia were to be revoked. The response is as follows:

Hercules, Inc.

Significance of Existing Orders In Terms of Trade and Related Data (Question II-14)

The Commission requested the U.S. producer to describe the significance of the existing antidumping orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia in terms of their effect on production capacity, production, U.S. shipments, inventories, purchases, and employment. The response is as follows:

Hercules, Inc.

Anticipated Changes in Trade and Related Data If Orders Were To Be Revoked (Question II-15)

The Commission requested the U.S. producer to describe any anticipated changes in its production capacity, production, U.S. shipments, inventories, purchases, or employment relating to the production of INC in the future if the antidumping orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia were to be revoked. The response is as follows:

Hercules, Inc.

Significance of Existing Orders In Terms of Financial Data (Question III-10)

The Commission requested the U.S. producer to describe the significance of the existing antidumping orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia in terms of their effect on revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. The response is as follows:

Hercules, Inc.

Anticipated Changes in Financial Data If Orders Were To Be Revoked (Question III-11)

The Commission requested the U.S. producer to describe any anticipated changes in its revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of INC in the future if the antidumping orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia were to be revoked. The response is as follows:

Hercules, Inc.

U.S. IMPORTERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Anticipated Operational/Organization Changes If Orders Were To Be Revoked (Question II-4)

The Commission requested importers to describe any anticipated changes in the character of their operations or organization relating to the importation of INC in the future if the antidumping orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia were to be revoked. Their responses are as follows:

"No."

"No."

**** may be permitted to distribute nitrocellulose in the southeast region of the USA."

"No."

"Yes. Not a change in organization but an increased business volume."

"No. ***."

“No.”

“No.”

“No.”

“No.”

Significance of Existing Orders In Terms of Trade and Related Data (Question II-8)

The Commission requested importers to describe the significance of the existing antidumping orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia in terms of their effect on their imports, U.S. shipments of imports, and inventories. Their responses are as follows:

“N/A”

“The antidumping orders have not affected *** imports. Nitrocellulose is universally used by major international companies with the U.S. market being merely a part of the dealings with these companies. *** imports of nitrocellulose have been relatively constant despite the antidumping order.”

“N/A”

“N/A”

“***. Partly because of the antidumping duty, *** has been unable to import and sell nitrocellulose after 1997.”

“***.”

“Imports have remained constant. The antidumping order has had no effect on the volume of INC we import from ***. *** is a global supplier with customers operating worldwide. We must be able to supply customers wherever they operate or lose business, including the U.S.”

“Unknown.”

“NC is a commodity and priced accordingly. The U.S. market is approx. 25,000 tons with only one U.S. producer. We have taken the strategy to maintain a position in the U.S. market as it is the largest market with consumers who are more active now as global consumers and look for global pricing based on volume.”

“None.”

Anticipated Changes in Trade and Related Data If Orders Were To Be Revoked (Question II-9)

The Commission requested importers to describe any anticipated changes in their imports, U.S. shipments of imports, or inventories of INC in the future if the antidumping orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia were to be revoked. Their responses are as follows:

“Yes. Quite simply it will make competitors more competitive so would expect them to attempt market share increase.”

“No.”

“Yes. Increase business for U.S. shipments as well as export shipments.”

“***.”

“Yes. We expect a gradual increase in business volume.”

“Yes. ***.”

“No.”

“No.”

“No. We would continue with our sales strategy to maintain our position in the U.S. market and play the global supplier card.”

“None.”

U.S. PURCHASERS’ COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Effects on Future Activities of Their Firm and the U.S. Market as a Whole (Question III-11)

The Commission asked the purchasers to comment on the effect of the revocation of the antidumping orders on (1) the future activities of their firm and (2) the U.S. market as a whole. The responses are as follows:

- (1) “Nitrocellulose prices will come down.”
- (2) No response was given.

- (1) “We see no change in that our supplier from the United Kingdom is currently running at full capacity and is virtually sold out of product.”
- (2) “We are not aware of conditions outside our market.”

- (1) "We will continue to source the highest quality at the best price. If the duty is dropped the range of imports will increase."
- (2) "More competition"

- (1) "Will not affect us very much."
- (2) "Will probably have the effect of firming prices."

- (1) "None - if revoked we will still buy from best source."
- (2) "Unknown"

- (1) "None"
- (2) "None"

- (1) "Current = lifting the antidumping order would likely decrease price with the imports."
- (2) "Current = lifting the antidumping order would likely decrease price with the imports."

- (1) "None anticipated."
- (2) "Unknown"

- (1) "No effects from antidumping order from countries due to our customer - supplier - long term relationship relative to price, supply, etc."
- (2) "No effects on U.S. markets."

- (1) "No effect."
- (2) "Do not know."

- (1) "This is not relevant today. All nitrocellulose will be imported."
- (2) "This is not relevant today. All nitrocellulose will be imported."

- (1) "Flat pricing."
- (2) "Not know."

- (1) "None"
- (2) "None"

- (1) "None"
- (2) No response was given.

- (1) "No change."
- (2) "Would be more of a world market."

FOREIGN PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Significance of Existing Orders In Terms of Trade and Related Data (Question II-15)

The Commission requested foreign producers to describe the significance of the existing antidumping duty orders on INC from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia in terms of their effect on their firm's production capacity, production, home market shipments, exports to the United States and other markets, and inventories. Their responses are as follows:

"Because of the order, we lost the volume of sales in the U.S. And we were forced to reduce the operation ratio of our plant."

"The antidumping duty order has no effect on the production capacity, the production, the quantities shipped to the home market or exported to the United States or other markets, or on inventories."

"The antidumping order has had no significance on all the items mentioned. It is important to remember that customers are global and choosing not to sell in the USA to a customer would have consequences on sales to that customer in other regions. ***."

“The companies we supply in the USA *** are predominantly U.S. arms of international groups *** with whom we do business in many other countries. We are termed a “key supplier” to these groups. Bearing in mind our high level of capacity utilization, we would not expect any significant change in the level of business, unless our customers move production sites from one area to another.”

APPENDIX E
MODEL RESULTS

Table E-1
Model results

* * * * *

