

UNITED STATES TARIFF COMMISSION

PENTAERYTHRITOL FROM JAPAN

Determination of No Injury or Likelihood Thereof in
Investigation No. AA1921-96
Under the Antidumping Act, 1921, as Amended



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UNITED STATES TARIFF COMMISSION

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[AA1921-96]

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On June 2, 1972, the Tariff Commission received advice from the Treasury Department that pentaerythritol, including nitration grade pentaerythritol, monopentaerythritol, technical pentaerythritol, dipentaerythritol, tripentaerythritol, and mixtures thereof from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). In accordance with the requirement of Section 201(a) of that Act, the Tariff Commission instituted investigation No. AA1921-96 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on July 18, 1972. 1/

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

1/ Notice of the Commission's investigation and hearing was published in the Federal Register of June 29, 1972 (37 F.R. 12876).

On the basis of its investigation, the Commission 1/ has determined unani-
mously that an industry in the United States is not being and is not likely
to be injured, or prevented from being established, by reason of the impor-
tation of pentaerythritol, including nitration grade pentaerythritol, mono-
pentaerythritol, technical pentaerythritol, dipentaerythritol, tripentaeryth-
ritol, and mixtures thereof from Japan that is being, or is likely to be,
sold at less than fair value (LTFV) within the meaning of the Antidumping
Act of 1921, as amended.

Statement of Reasons 2/

The Antidumping Act, 1921, imposes two conditions which must be
satisfied before an affirmative determination can be made. First, there
must be injury or likelihood of injury to an industry in the United States,
or an industry in the United States must be prevented from being established.
Second, such injury (or likelihood of injury or prevention of establishment)
must be "by reason of" the importation into the United States of the class
or kind of foreign merchandise the Secretary of the Treasury has determined
is being, or is likely to be, sold at less than fair value.

In this case, the domestic industry consists of those facilities in
the United States devoted to the production of pentaerythritol products.
Currently, such products are manufactured by four companies. Representatives
of only one domestic producer, Pan American Chemical Corp., of Toledo, Ohio
(the originator of the antidumping complaint), testified at the Tariff
Commission's public hearing; no other representative of the United States
industry submitted formal statements or briefs, either in public or in
confidence, asserting injury by reason of the LTFV imports.

1/ Commissioners Young and Ablondi did not participate in the decision.

2/ Commissioner Leonard concurs in the result.

Injury, and the reasons therefor

The complainant contends that the LTFV imports resulted in:

- (1) Retardation in the growth of the U.S. industry.
- (2) Prevention of Pan American from achieving its optimum level of operations.
- (3) Price depression and market penetration.

Retardation of growth.--During 1971, based on published information, domestic pentaerythritol capacity reached approximately 140 million pounds. At this level, domestic capacity was about 40 percent larger than total U.S. apparent consumption in any of the last five years. While the published data on plant capacity may be somewhat overstated, it is nonetheless clear that in 1971 U.S. productive capacity was considerably in excess of domestic demand. More striking, this excess capacity prevailed despite the closure of one U.S. plant in August 1970. Capacity was affected by another plant closure at the end of 1971, yet U.S. capacity in 1972 remains about one-fifth larger than it was in the last quarter of 1970. Both the closed plants were small, high cost, obsolescent facilities. The currently operating plants are all considerably larger; two are quite new. The plant closures, then, have resulted in a consolidation of domestic pentaerythritol production in the largest, newest, and most efficient facilities having a combined capacity more than adequate to supply U.S. needs. There is nothing to indicate that this consolidation would not have occurred if the LTFV sales of Japanese pentaerythritol had not been made. Hence, the plant closures cannot be said to have occurred "by reason of" the sales at less than fair value.

Pan American's inability to insure lower per unit costs.--Pan American is the newest U.S. producer of pentaerythritol. Its plant was designed in the late 1960's, constructed in 1970, and began commercial production early

in January 1971. It was a producing concern for only six weeks before filing its antidumping complaint with the Treasury Department. According to information presented at the Commission's hearing, Pan American's Toledo plant was shut down entirely during the last six months of 1971 so that problems with the manufacturing process could be corrected. This six-month shutdown necessarily raised Pan American's per unit costs in its critical first year of operations. The technical problems which adversely affected Pan American were clearly unrelated to imports sold at less than fair value.

Price depression and market penetration.--Throughout 1968, 1969, and most of 1970, the selling prices of domestic pentaerythritol were stable. The netdelivered price for domestic technical grade pentaerythritol, calculated on a weighted average basis, was about 23.5 cents per pound in 1968, increased to 24 cents in 1969, and then declined slightly to about 23.2 cents in 1970. In effect, U.S. producers did not lower their price in 1968-69, or for most of 1970. When the price of domestic technical grade pentaerythritol finally broke, dropping generally from about 23 cents per pound in the fall of 1970 to 19 cents per pound in mid-1971, it broke concurrently with a net gain of 25 million pounds, or more than one-fifth, in U.S. productive capacity. Imports of technical grade pentaerythritol from Japan in 1971, moreover, were considerably smaller than they were in 1970, although for the first half of the year the monthly rate of importation was slightly ahead of the previous year. A comparison of the increase in U.S. capacity with imports from Japan reveals that the capacity increase in 1971 was nearly twice as large as the imports of pentaerythritol from Japan in 1970, and substantially more than twice as large as pentaerythritol imports from Japan in 1971.

Throughout 1969, 1970, and 1971 Japanese technical grade pentaerythritol undersold the domestic product by large margins--on the average, by 4.6 cents

per pound in 1969, 3.7 cents in 1970, and 2.8 cents in 1971. The margins of LTFV sales, however, were so small compared to the margins of underselling as to be hardly a factor.

Other considerations.--Other considerations support our conclusion that whatever injury the U.S. pentaerythritol industry may be suffering is not caused "by reason of" LTFV imports of pentaerythritol from Japan. At least two domestic producers were already showing financial losses when the selling price was still 24 cents per pound. On the other hand, another domestic firm increased production each year beginning in 1967 and thereby greatly increased its share of the U.S. market; this firm's profitability likewise was substantial. Finally, even with the apparent termination of pentaerythritol imports from Japan in early 1972, the domestic price has not shown a tendency to return to the published list price.

Likelihood of injury

There is no evidence indicating any likelihood of injury. The Japanese yen has been revalued upward substantially since August 1971. Imports of Japanese pentaerythritol have not been recorded since February 1972, and the yen revaluation would seem to make underselling of the domestic product in the U.S. market unlikely.

Conclusion

Inasmuch as the alleged injury is almost entirely traceable to causes other than LTFV imports, and considering that Japanese pentaerythritol would

have materially undersold the domestic product even in the absence of sales at LTFV, we conclude that if an industry in the United States is injured, the degree of causation between the injury and the LTFV imports of pentaerythritol from Japan is not sufficient to meet the "by reason of" test. At most, the injury resulting from LTFV sales is de minimis. Moreover, we conclude that there is no likelihood of injury to a domestic industry as contemplated in the Antidumping Act.

