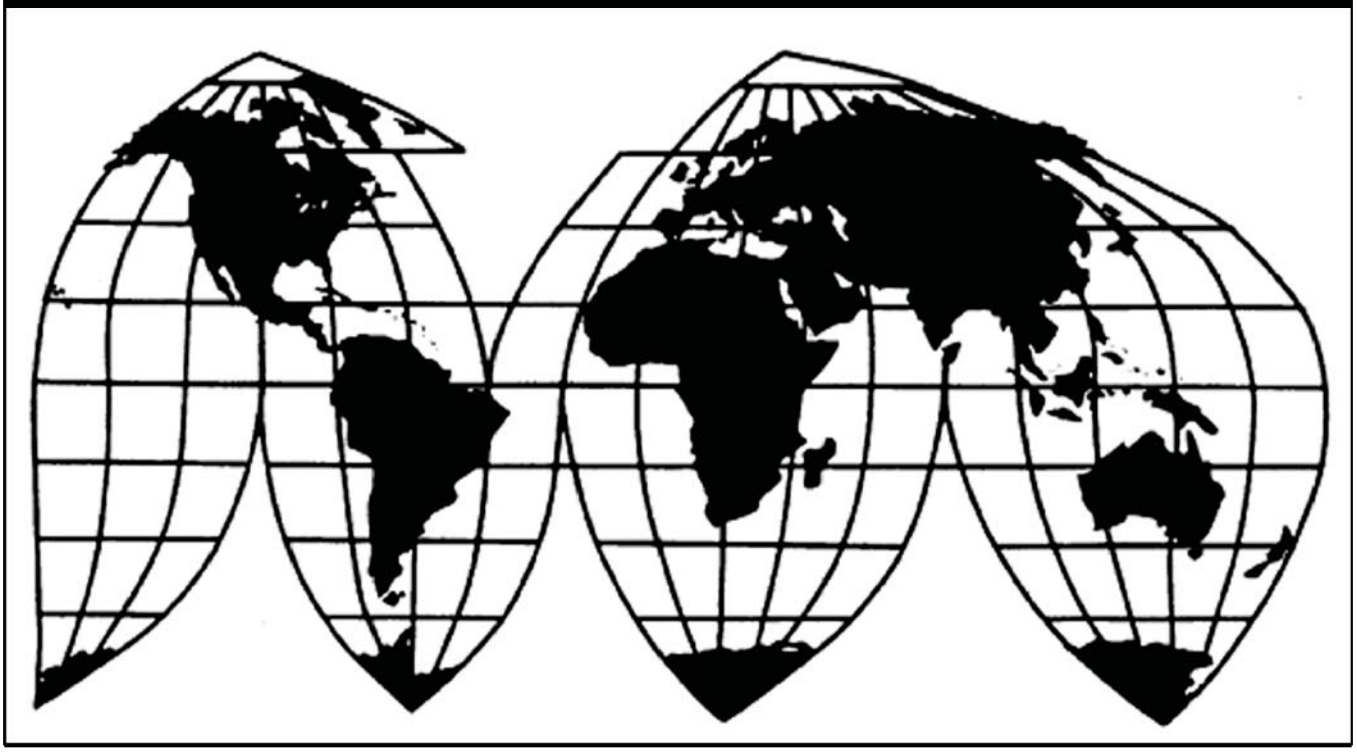
Certain Potassium Phosphate Salts from China

Investigation Nos. 701-TA-473 and 731-TA-1173 (Final)

Publication 4171 **July 2010**

U.S. International Trade Commission



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U.S. International Trade Commission

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-473 and 731-TA-1173 (Final)

CERTAIN POTASSIUM PHOSPHATE SALTS FROM CHINA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 735(b) and 705(b) of the Tariff Act of 1930 (19 U.S.C. §§ 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of certain potassium phosphate salts, specifically anhydrous dipotassium phosphate ("DKP") and tetrapotassium pyrophosphate ("TKPP"), provided for in subheadings 2835.24.00 (DKP) and 2835.39.10 (TKPP) of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

The Commission also determines that an industry producing anhydrous monopotassium phosphate ("MKP"), provided for in subheading 2835.24.00 of the Harmonized Tariff Schedule of the United States, is not materially injured or threatened with material injury, nor that the establishment of an industry is materially retarded, by reason of imports from China, that have been found by Commerce to be sold in the United States at LTFV and subsidized by the Government of China.

BACKGROUND

On September 24, 2009, a petition was filed with the Commission and Commerce by ICL Performance Products LP, St. Louis, MO, and Prayon, Inc., Augusta, GA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of DKP, MKP, sodium tripolyphosphate ("STPP"), and TKPP from China.[2] The final phase of the investigations was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of DKP, MKP, and TKPP from China were being sold at LTFV and subsidized within the meaning of sections 733(b) and 703(b) of the Act (19 U.S.C. § 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigations 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* of April 1, 2010 (*Certain Potassium Phosphate Salts from China*, 75 FR 16509). The hearing was held in Washington, DC, on June 2, 2010, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] The Commission unanimously determined that there was no reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of subject imports of STPP from China alleged to be sold at less than fair value and subsidized by the Government of China. *Certain Sodium and Potassium Phosphate Salts from China: Determinations*, 74 FR 61173, November 23, 2009.

VIEWS OF THE COMMISSION

Based on the record in the final phase of these investigations, we find that an industry in the United States is not materially injured or threatened with material injury[1] by reason of subject imports of anhydrous monopotassium phosphate ("MKP") from China that the U.S. Department of Commerce ("Commerce") has found to be subsidized by the Government of China and sold in the United States at less than fair value. We also find that industries in the United States are materially injured by reason of imports of anhydrous dipotassium phosphate ("DKP") and tetrapotassium pyrophosphate ("TKPP") from China that Commerce has found to be subsidized by the Government of China and sold in the United States at less than fair value.[2]

I. BACKGROUND

The petitions in these investigations were filed by domestic producers ICL Performance Products LP ("ICL"), St. Louis, MO, and Prayon, Inc. ("Prayon"), Augusta, GA, (collectively referred to as "the Petitioners") on September 24, 2009. Representatives from these firms appeared at the Commission's hearing accompanied by counsel and submitted prehearing and posthearing briefs. Representatives and counsel for an importer of MKP, Valudor Products, Inc. ("Valudor"), appeared at the hearing and submitted prehearing and posthearing briefs. No other interested party participated in these final phase investigations. The Commission received questionnaire responses from firms that accounted for all known domestic production and sales of MKP, DKP, and TKPP during the period examined.[3] The Commission also received importer questionnaire data from 37 firms, which accounted for 84 percent of MKP and DKP imports entering under the pertinent HTS subheading during 2007-2009.[4] The volume of subject imports reported by importers of TKPP in response to Commission questionnaires exceeded the volumes reported in the official import statistics under the pertinent HTS subheading during 2007-2009.[5] Consequently, the Commission received relatively complete importer questionnaire data with respect to the subject imports. Coverage of export data reported by foreign producers compared to data concerning imports was more limited at 99.5 percent for DKP; 43.3 percent for MKP; and 8.2 percent for TKPP.[6] [7]

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[1] Whether the establishment of an industry is being materially retarded is not an issue in these investigations.

[2] The petitions also included sodium tripolyphosphate ("STPP") in the definition of subject merchandise. In its preliminary determination, the Commission found that there was no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of subject imports of STPP from China. Certain Sodium and Potassium Phosphate Salts from China, Inv. Nos. 701-TA-473 and 731-TA-1173 (Preliminary), USITC Pub. 4110 (Nov. 2009).

[3] Confidential Staff Report, INV-HH-065 (June 18, 2010) (as revised by memorandum INV-HH-066, June 21, 21010) ("CR") at III-1, Public Staff Report ("PR") at III-1; CR/PR at Table III-1.

[4] CR at IV-1; PR at IV-1.

[5] CR at IV-1; PR at IV-1.

[6] CR at VII-4; PR at VII-3.

[7] Chairman Okun notes that the statute authorizes the Commission to take adverse inferences in injury investigations, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties' suggested interpretations of the record evidence. Regardless

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[8] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff Act"), defines the relevant domestic industry as the "producers as a {w}hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[9] In turn, the Tariff 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 . . . ."[10]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[11] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[12] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[13] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise that is subsidized or sold at less than fair value,[14] the Commission determines what domestic

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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." SAA at 869.

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(4)(A).

[10] 19 U.S.C. § 1677(10).

[11] See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

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

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

[14] See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

product is like the imported articles Commerce has identified.[15] The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent domestic like product issues.[16]

B. Product Description

Commerce defined the scope of the imported merchandise under investigation as follows:

> The phosphate salts covered by this investigation include anhydrous Monopotassium Phosphate (MKP), anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts").
>
> TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320-34-5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, HTSUS.
>
> MKP, also known as Potassium dihydrogen phosphate, KDP, or Monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778-77-0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.
>
> DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758-11-4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.
>
> The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The product covered by this investigation includes anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution.

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[15] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); Torrington, 747 F. Supp. at 748-52 (affirming the Commission's determination defining six like products in investigations where Commerce found five classes or kinds).

[16] See, e.g., Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int'l Trade 2000); Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int'l Trade 1988); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

> For purposes of the investigation, the narrative description is dispositive, and not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.[17]

Although DKP, MKP, and TKPP are different chemical compounds with different chemical formulas, they are all phosphate salts, they all have similar chemical structures, and they are all derived primarily from phosphoric acid.[18] Phosphate salts are used in a variety of applications, including detergents and other cleaning applications (TKPP); fertilizers (MKP and TKPP); food and feed additives (DKP and MKP); and water treatment (TKPP).[19] Phosphate salts are generally sold as technical or food grades and vary in terms of whether they are sold in solid (anhydrous) form or in solution.[20]

C. Like Product Analysis

In its preliminary determinations the Commission found that each phosphate salt has different properties and physical characteristics, performs different functions, and serves different end uses.[21] The record also indicated that DKP, MKP, TKPP, and STPP[22] are not interchangeable and are perceived as separate products.[23] We thus concluded that the four phosphate salts DKP, MKP, TKPP, and STPP were separate domestic like products.[24]

In the final phase of these investigations, no party has advocated a different definition of the domestic like product.[25] In addition, much of the evidence on the record in the final phase supports a finding of three separate like products. DKP, MKP, and TKPP are different chemical compounds with different chemical formulas. Each product has different properties and physical characteristics, performs

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[17] 75 Fed. Reg. 30375 (June 1, 2010) (final countervailing duty determination) and 75 Fed. Reg. 30377 (June 1, 2010) (final antidumping duty determination).

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

[19] CR at I-3 to I-4; PR at I-3; CR/PR at Table E-1.

[20] CR at I-11 and II-1; PR at I-8 and II-1.

[21] Certain Sodium and Potassium Phosphate Salts from China, Inv. Nos. 701-TA-473 and 731-TA-1173 (Preliminary), USITC Pub. 4110 (Nov. 2009) at 11.

[22] In its preliminary determination, the Commission found that there was no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of subject imports of STPP from China. Certain Sodium and Potassium Phosphate Salts from China, Inv. Nos. 701-TA-473 and 731-TA-1173 (Preliminary), USITC Pub. 4110 (Nov. 2009).

[23] Certain Sodium and Potassium Phosphate Salts from China, Inv. Nos. 701-TA-473 and 731-TA-1173 (Preliminary), USITC Pub. 4110 (Nov. 2009) at 11.

[24] Certain Sodium and Potassium Phosphate Salts from China, Inv. Nos. 701-TA-473 and 731-TA-1173 (Preliminary), USITC Pub. 4110 (Nov. 2009) at 11.

[25] See, e.g., Petitioners' Posthearing Brief, Part II, Responses to Questions by Commissioner Lane, at 17. Respondents indicated at the hearing that, had they been participating earlier in the investigation, they likely would have argued that MKP should be broken into two separate like products (food grade and technical grade). CR at I-16; PR at I-12.

different functions, and serves different end uses. The record also indicates that DKP, MKP, and TKPP are not interchangeable and are perceived as separate products.[26]

As we noted in our preliminary determinations, the three phosphate salts share common manufacturing facilities, certain processes, and employees. There appears to be some overlap in the channels of distribution for DKP, MKP, and TKPP, and the three products are arguably priced at comparable levels.[27] Thus, some factors (physical characteristics and uses, interchangeability, and customer perceptions) support finding three like products, while other factors (price, manufacturing processes, and channels of distribution) support finding a single like product. Although a close issue, for the reasons noted in the preliminary determinations and in the absence of argument to the contrary, we again find DKP, MKP, and TKPP to be separate domestic like products.

D. Domestic Industry

The domestic industry is defined 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."[28] 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. There are no known related party issues in the final phase of these investigations as no domestic producer is affiliated with subject foreign producers or imported or purchased any subject merchandise from China during the period examined.[29]

In accordance with our finding of three separate domestic like products, we find three separate domestic industries as follows: (1) all domestic producers of MKP, (2) all domestic producers of DKP, and (3) all domestic producers of TKPP.[30]

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[26] CR at I-13 to I-14; PR at I-9 to I-10.

[27] Hearing Tr. at 78 (Cannon); Petitioners' Posthearing Brief, Part II, Responses to Questions from Commissioner Lane, at 12-17. See CR/PR at Figs. V-2 to V-7.

[28] 19 U.S.C. § 1677(4)(A).

[29] See CR at III-12 to III-15; PR at III-7.

[30] ICL Performance Products, LP ("ICL") is the only producer of DKP. ICL and PCS Purified Phosphates ("PCS") produce MKP. ICL, PCS and Prayon, Inc. produce TKPP. CR/PR at Table III-1. PCS produced TKPP ***. CR at VI-14; PR at VI-6. Approximately *** percent of PCS' production of TKPP is produced under this agreement. CR at III-1 n.2; PR at III-1 n.2. In accordance with our standard practice, we do not consider the tollee, ***, to be part of the domestic industry because it does not engage in production of the like product. See e.g, Ferrovanadium from China and South Africa, Inv. Nos. 731-TA-986 and -987 (Final), USITC Pub. 3570 (Jan. 2003) at 12-13; Certain Welded Large Diameter Line Pipe from Japan, Inv. No. 731-TA-919 (Final), USITC Pub. 3464 (Nov. 2001) at 10 n. 53. While Innophos is not a member of the domestic industry, it has provided the Commission with certain data that are exclusively in its possession (e.g., shipments, sales, pricing, and inventory of the domestic like product). CR at III-1 n.2; PR at III-1 n.2.

I. MATERIAL INJURY OR THREAT OF MATERIAL INJURY BY REASON OF IMPORTS OF SUBJECT MERCHANDISE FROM CHINA[31]

A. Legal Standards

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[32] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[33] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[34] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[35] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[36]

Although the statute requires the Commission to determine whether the domestic industry is "materially injured by reason of" unfairly traded imports,[37] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[38] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[39]

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[31] Negligibility is not an issue in these investigations. Subject imports from China far exceeded in volume the three percent statutory negligibility threshold during the most recent 12-month period preceding the filing of the petition for which data are available, July 2008 to June 2009, for each of the like products we have found. By quantity, they accounted for *** percent of total DKP imports, *** percent of total MKP imports, and *** percent of total TKPP imports. CR at IV-7; PR at IV-5. Accordingly, we find that subject imports are not negligible under 19 U.S.C. § 1677(24).

[32] 19 U.S.C. §§ 1671d(b), 1673d(b).

[33] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[34] 19 U.S.C. § 1677(7)(A).

[35] 19 U.S.C. § 1677(7)(C)(iii).

[36] 19 U.S.C. § 1677(7)(C)(iii).

[37] 19 U.S.C. §§ 1671d(a), 1673d(a).

[38] Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), aff'd, 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

[39] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include non-subject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[40] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[41] Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as non-subject imports, which may be contributing to overall injury to an industry.[42] It is clear that the existence of injury caused by other factors does not compel a negative determination.[43]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports" and the Commission

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Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass'n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

[40] Statement of Administrative Action ("SAA") on Uruguay Round Agreements Act ("URAA"), H.R. Rep. 103-316, Vol. I at 851-52 (1994) ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); accord Mittal Steel, 542 F.3d at 877.

[41] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); Taiwan Semiconductor Industry Ass'n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Invs. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[42] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[43] See Nippon Steel Corp., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

"ensure{s} that it is not attributing injury from other sources to the subject imports."[44] [45] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[46]

The Federal Circuit's decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant "other factor" was the presence in the market of significant volumes of price-competitive non-subject imports. The Commission interpreted the Federal Circuit's guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive non-subject imports.[47] The additional "replacement/benefit" test looked at whether non-subject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission's interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have "evidence in the record" to "show that the harm occurred 'by reason of' the LTFV imports," and requires that the Commission not attribute injury from non-subject imports or other factors to subject imports.[48] Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive non-subject imports are a significant factor in the U.S.

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[44] Mittal Steel, 542 F.3d at 877-78; see also id. at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.") citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

[45] Commissioner Pinkert does not join this paragraph or the following four paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, in certain circumstances relating to present material injury, to undertake a particular kind of analysis of non-subject imports, albeit without reliance upon presumptions or rigid formulas. Mittal explains as follows:

> What Bratsk held is that "where commodity products are at issue and fairly traded, price-competitive, non-subject imports are in the market," the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

[46] Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 ("Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[47] Mittal Steel, 542 F.3d at 875-79.

[48] Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission's alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.[49] [50]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.[51] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[52]

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[53] In evaluating the price effects of subject imports, section 771(C)(ii) of the Act provides that,

> the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[54]

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[55] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all

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[49] Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Invs. Nos. 731-TA-1131 to 1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

[50] To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in non-subject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large non-subject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of non-subject imports.

[51] We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[52] Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[53] 19 U.S.C. § 1677(7)(C)(i).

[54] 19 U.S.C. § 1677(7)(C)(ii).

[55] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 885 ("In material injury determinations, 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 also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.") SAA at 885.

relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[56]

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[57] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination of whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[58] In making our determinations, we consider all statutory threat factors that are relevant to these investigations.[59]

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[56] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[57] 19 U.S.C. § 1677(7)(F)(ii).

[58] 19 U.S.C. § 1677(7)(F)(ii).

[59] These factors are as follows:

> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,
>
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
>
> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,
>
> (V) inventories of the subject merchandise,
>
> (VI) 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,
>
> * * *
>
> (VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product.
>
> (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

19 U.S.C. § 1677(7)(F)(i). Statutory threat factor VII is inapplicable as no imports of agricultural products are included in these investigations.

B. Conditions of Competition

The following conditions of competition inform our analysis in the final phase of these investigations.

1. Demand Conditions

Demand for each phosphate salt tends to fluctuate depending on the general level of demand in the end-use market for each phosphate salt.[60] For all three phosphate salts, only a minority of purchasers reported that there was a business cycle for the salts.[61] However, there does appear to be seasonality in demand for MKP used in fertilizer and TKPP used in industrial water treatment.[62]

U.S. purchasers identified different demand trends for MKP, DKP, and TKPP. With respect to demand for MKP, purchasers' views were divided and reflected the different end uses for MKP.[63] Purchasers of DKP reported fluctuating demand, but generally without any net change. Purchasers that could identify a trend for TKPP indicated that demand decreased over the period examined.[64]

Apparent U.S. consumption of MKP fell overall during the period examined, increasing from *** pounds in 2007 to *** pounds in 2008, but then falling to *** pounds in 2009.[65] Apparent U.S. consumption of DKP increased overall during the period examined, rising from *** pounds in 2007 to *** pounds in 2008, before falling to *** pounds in 2009.[66] Apparent U.S. consumption of TKPP also declined during the period examined, from 43.3 million pounds in 2007 to 37.4 million pounds in 2008 and 28.8 million pounds in 2009.[67]

2. Supply Conditions

There are three sources of supply for the U.S. market: U.S. producers' domestic production, imports of subject merchandise from China, and nonsubject imports.

For MKP, nonsubject imports were the largest source of supply of the U.S. market, accounting for well over half of U.S. consumption by quantity during the period examined.[68] The market share of nonsubject imports of MKP decreased from *** percent in 2007 to *** percent in 2008 and to *** percent in 2009.[69] Two firms, ICL and PCS, produced MKP in the United States during the period, although ***.[70] Their market share was relatively flat, increasing from *** percent in 2007 to ***

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[60] CR at II-20; PR at II-13.

[61] CR at II-20; PR at II-13.

[62] CR at II-20; PR at II-13.

[63] CR/PR at Table II-2.

[64] CR/PR at Table II-2.

[65] CR/PR at Table IV-9.

[66] CR/PR at Table IV-8.

[67] CR/PR at Table IV-10.

[68] See CR/PR at Table IV-9.

[69] CR/PR at Table IV-9. As noted above, ***. CR/PR at Table III-14.

[70] CR at I-5; PR at I-3; CR/PR Table III-1.

percent in 2008, and falling to *** percent in 2009.[71] Subject imports were the second largest source of supply. Their market share increased from *** percent in 2007 to *** percent in 2008, and again to *** percent in 2009.[72]

ICL, the sole U.S. producer of DKP, and nonsubject imports were the largest sources of supply for the domestic DKP market during the period. The U.S. industry's market share fell during the period examined, from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[73] The market share of DKP nonsubject imports increased during the period examined, from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[74] Subject imports' market share increased from *** percent in 2007 to *** percent in 2008, before falling to *** percent in 2009.[75]

For TKPP, the domestic producers were the largest source of supply.[76] ICL, PCS, and Prayon produce TKPP in the United States.[77] Their market share dropped from 90.5 percent in 2007 to 87.7 percent in 2008 and 81.7 percent in 2009.[78] The market share of TKPP subject imports increased from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[79] The market share of nonsubject imports of TKPP remained small during the period examined, although it increased from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[80]

A key step in the production of phosphate salts is the reaction of phosphoric acid with potassium hydroxide ("KOH").[81] U.S. producers of each of the phosphate salts reported that they had refused, declined, or been unable to supply customers during the period examined due to shortages of phosphoric acid and/or potassium hydroxide.[82] This was largely due to a potassium miners strike in Canada, during which a major supplier of KOH, ***[83] ***.[84] Nineteen of the 47 responding purchasers reported that their domestic supplier refused, declined, or was unable to supply DKP, MKP, or TKPP during the period examined, and nine of these purchasers were placed on allocation in 2008.[85] Prayon reported supplying some purchasers that could not obtain sufficient quantities of phosphate salts from ICL.[86]

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[71] See CR/PR at Table IV-9.

[72] See CR/PR at Table IV-9.

[73] CR/PR at Table IV-8.

[74] CR/PR at Table IV-8.

[75] CR/PR at Table IV-8.

[76] CR/PR at Table IV-10.

[77] CR at I-5; PR at I-3; CR/PR at Table III-1.

[78] CR/PR at Table IV-10.

[79] CR/PR at Table IV-10.

[80] CR/PR at Table IV-10.

[81] CR at I-14; PR at I-11.

[82] CR at II-12; PR at II-8.

[83] CR at III-3; PR at III-2; ***.

[84] CR at II-12 and III-3; PR at II-8 and III-2.

[85] CR at II-13; PR at II-8.

[86] CR at II-12; PR at II-8.

U.S. producers also imported substantial quantities of phosphate salts from nonsubject countries during the period examined, often from affiliated companies. In fact, ICL's imports of MKP from its parent, Israel Chemicals Limited, ***.[87] ICL explained that it imports MKP ***.[88] ***, and ***.[89]

DKP, MKP, and TKPP are sold directly to large end-use customers, or through regional or national distributors.[90] Distributors typically buy larger orders – at least full truckloads – so that they can sell smaller amounts to their customers. Sales made to some distributors ***.[91]

In general, the domestic producers' capacity was stable over the period examined.[92] However, because the ***.[93] ICL has reported that it plans to close one of its plants in 2012 to address its overcapacity problem.[94]

3. Other Considerations

The phosphate salts at issue have different end uses depending on their distinctive properties. These properties include sequestration capability, buffering, emulsification, dispersion, fermentation, and solubility.[95]

MKP is used mainly in fertilizer, but because it is an excellent buffering agent, it is also used in food and beverages, as well as pharmaceuticals.[96] Although MKP subject imports were used during the period of investigation primarily in fertilizer, and to a lesser extent cement, domestically produced MKP was used in a number of different applications, including as a buffering agent in compounding formulas, in food and beverages, and in refractories.[97]

DKP is used as a buffering agent and emulsifier in compounding formulas, baked goods, and dairy applications (e.g., coffee creamers).[98] TKPP is used in water treatment, household and industrial-type products, detergents, metal finishing, and in paint in which it acts to keep the paint as a stable suspension.[99]

The phosphate salts at issue in this proceeding are sold primarily as technical or food grade products.[100] Food grade phosphate salts are subject to more careful analysis and require a more narrow range of specifications including pH and maximum allowable amounts of arsenic, fluoride, lead,

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[87] CR/PR at Table III-14.

[88] Petitioners' Prehearing Brief at 45.

[89] CR at III-12; PR at II-8; CR/PR at Tables III-13 to III-15.

[90] CR at II-2; PR at II-1.

[91] CR at II-2; PR at II-1

[92] See CR/PR at Tables III-2, III-4, and C-4.

[93] CR at III-3 to III-4, Table III-4; PR at III-2, Table III-4.

[94] Tr. at 101-102 (Schewe). ICL plans to close a production facility in 2012. Id.

[95] CR at II-1; PR at II-1.

[96] CR at I-14; PR at I-10.

[97] CR/PR at Tables III-9 and IV-15 and Appendix E.

[98] CR/PR at Table II-3.

[99] CR at I-14; PR at I-10.

[100] CR at I-15 and II-1; PR at I-11 and II-1.

and insoluble materials as specified in the Food Chemicals Codex (FCC).[101] Domestic producers and importers also provide their customers with a certification of analysis ("C of A") after the finished product is tested in a laboratory assessing the degree of impurities, the particle size, and the product's density.[102] Although a higher grade, *i.e.* food grade, can be substituted for technical grade when it is economically feasible, the reverse is usually not true.[103]

U.S. producers sold *** percent of their MKP and *** percent of their DKP as food grade in 2009.[104] On the other hand, U.S. producers sold *** percent of TKPP as technical grade in 2009.[105]

U.S. importers sold *** percent of their MKP from China as technical grade in 2009.[106] Although *** U.S. imports of DKP from China were food grade in 2009, U.S. importers sold *** percent of their TKPP from China as technical grade in 2009.[107]

Despite the fact that the record generally indicates a high degree of potential substitutability among each domestically produced product and the corresponding subject and nonsubject imports, ICL acknowledged that ***.[108] Although food grade MKP was imported from China during the period examined, the importer of MKP that accounted for *** percent of imports of food grade MKP reported that its customer that purchased the food grade MKP was using it in ***.[109] Thus, the record indicates that although some Chinese MKP may be certified by its manufacturers as food grade, in practice it is rarely, if ever, used in food and beverage applications in the United States.[110] On the other hand, ICL's domestically produced MKP is not used in fertilizer.[111]

U.S. producers also experienced rising raw material costs during the period examined. As noted, the primary raw materials used in the production of phosphate salts are phosphoric acid and potassium hydroxide, and together they account for a substantial portion of the cost of goods sold (COGS).[112] The price of phosphoric acid rose rapidly in 2008, increasing by 400 percent in May 2008, partly due to increased demand for phosphates used in corn and soybean fertilizer applications as federal biofuel

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[101] CR at I-11, PR at I-8. The Food Chemicals Codex, a compilation of food purity specifications and testing methods recognized by the U.S. Food and Drug Administration, is considered the authoritative standard for food grade standards and testing in the industry. CR at I-11 n.21; PR at I-8 to I-9 n.21 (citing Response to staff questions by ***, June 8, 2010).

[102] CR at I-15; II-1; PR at I-11 and II-1.

[103] CR at I-11 and II-25; PR at I-8 and II-17.

[104] CR/PR at Table III-8.

[105] CR/PR at Table III-8.

[106] CR/PR at Table IV-14.

[107] CR/PR at Table IV-14.

[108] CR at II-25; PR at II-18.

[109] CR at II-2; PR at II-1.

[110] See CR at Table IV-14; CR at II-2; PR at Table IV-14; PR at II-1 (***).

[111] CR/PR at Table III-9. A witness for ICL confirmed that, "much of the product (MKP) that's actually consumed in the U.S. market is used for fertilizers, and we are not a large participant in that market space." Staff Conference Transcript at 60 (Schewe).

[112] CR at V-1; PR at V-1. In 2009, raw materials accounted for *** percent of COGS for DKP, *** percent for MKP, and *** percent for TKPP. Id.

mandates became effective; it fell sharply after early 2009, however.[113] Prices for potassium hydroxide began rising in the first half of 2008 and increased by 300 percent between the third quarter of 2008 and the second quarter of 2009.[114]

C. Anhydrous Monopotassium Phosphate ("MKP")

1. No Material Injury or Threat of Material Injury By Reason of Subject Imports

a. Volume and Likely Volume of the Subject Imports

Subject import volume increased overall during the period under examination in absolute terms and as a share of both apparent U.S. consumption and domestic production. Subject imports increased from *** pounds in 2007 to *** pounds in 2008, before falling to *** pounds in 2009.[115] Importers' shipments of subject imports increased by *** percent between 2007 and 2009, from *** pounds in 2007 to *** pounds in 2009.[116]

Subject import shipments as a share of apparent U.S. consumption by quantity increased from *** percent in 2007 to *** percent in 2008, and then to *** percent in 2009.[117] The ratio of subject imports to domestic production also increased from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[118]

Although the volume of subject imports and the increases in those volumes are significant relative to consumption and production in the United States, as noted, competition between subject imports and domestic MKP was limited because the subject imports were directed to end uses other than those served by the domestic industry.

The domestic industry, ***, has adopted a strategy of focusing on the more profitable food and beverage segment of the market, in which MKP is manufactured to stricter standards and commands a higher price.[119] ICL also served customers using MKP for buffering and in refractories.[120] On the other hand, *** percent of the subject imports of MKP was used in fertilizer, and *** percent was used in cement.[121] Hence, the overlap in end uses was limited to the *** percent of the subject imports used in

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[113] CR at V-1; PR at V-1.

[114] CR at V-1; PR at V-1.

[115] CR/PR at Table IV-3. U.S. importers' shipments of subject imports followed a similar trend. See CR/PR at Table IV-6.

[116] CR/PR at Table IV-6.

[117] CR/PR at Table IV-9.

[118] CR/PR at Table IV-12.

[119] Petitioners' Prehearing Brief at 45. Although there were two producers during the period examined, ***. CR/PR at Table III-3 n.4.

[120] CR/PR at Tables III-9 and IV-15 and Appendix E (domestic shipments of MKP go to buffering, refractories and food and beverage). While *** percent of domestic shipments were labeled as "Other," *** as direct shipments to end users. CR/PR at Table III-9, note 1.

[121] CR/PR at Appendix E.

food and beverage or buffering applications.[122] Although approximately *** of the subject imports of MKP were labeled food grade, suggesting these subject imports might also be serving the food and beverage market, in practice subject imports were largely used in fertilizer.[123] Generally, distributors of the subject imports prefer to stock food grade MKP because they do not want to keep separate inventory of food grade and technical grade MKP, and the fact that subject imports are sold as food grade does not indicate that they are competing with domestic food grade MKP for food and beverage applications.[124]

The record therefore indicates that competition between the subject imports and the domestic like product has been substantially attenuated since they have generally not competed for the same customers. Moreover, the subject imports did not significantly displace the domestic industry's shipments of domestically produced MKP.[125] Instead, the subject imports largely captured market share from nonsubject imports, whose volumes declined considerably during the period examined.[126]

Shipments of subject imports increased by *** percent from 2007 to 2008, but the domestic industry's shipments of domestically-produced MKP increased *** percent, a rate exceeding the increase in apparent U.S. consumption that occurred.[127] The domestic industry's market share fell from *** percent in 2008 to *** percent in 2009, but we do not find that this indicates any significant loss of sales volume to the subject imports. In 2009, as apparent U.S. consumption declined, shipments of subject imports also declined.[128] Further, subject imports and domestic MKP were not serving the same end

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[122] By Petitioners' own calculation, of *** pounds of shipments of Chinese MKP during 2009, *** pounds of Chinese MKP were sold for buffering and *** pounds were sold for food and beverage applications. Petitioners' Final Comments at 7 (citing CR at IV-9, Table IV-15).

[123] CR at II-2; PR at II-1. The importer that accounted for *** percent of imports of food grade MKP indicated that its customer that had requested food grade MKP was using it in ***. The customer reportedly wanted food grade for its ***. Id.

[124] Tr. at 150-153 (Melamed).

[125] CR/PR at Table IV-15. Although they did not identify these alleged lost accounts as lost sales in their petitions, Petitioners allege in their Posthearing Brief that they lost two cement producer accounts to the subject imports of MKP. Petitioners' Posthearing Brief, Answers to Commissioners' Questions at 37. There may have been some competition between the subject imports and domestic MKP for use in cement, but the rise in prices for MKP appears to have led to decreased demand for MKP for use in cement applications. CR at II-17 n.33; PR at II-11 n.33. Nonsubject imports were a larger presence during the period examined, and the information cited by Petitioners does not show that these cement accounts were lost to subject imports rather than nonsubject imports. Petitioners' Posthearing Brief, Answers to Commissioners' Questions at 37. ***.

[126] See CR/PR at Table C-2. Petitioners also argue that they lost sales to large importers/distributors of MKP, *** during the period examined. Petitioners Posthearing Brief, Answers to Commissioners' Questions at 31-35. We note that the larger importer *** imported all technical grade MKP, and the subject imports were therefore not used in the food and beverage market. CR at IV-17 n.10; PR at IV-10 n.10. The other importer, *** reported that its imported MKP was used for food and beverage applications and buffering applications, but its imports of MKP from China were ***. See CR at IV-17 n.9; PR at IV-10 n.9; Petitioners' Posthearing Brief, Answers to Commissioners' Questions at 33, Table 11; *** Importers' Questionnaire. Another importer reporting imports of MKP for use in food and beverage applications, ***. CR at IV-17 n.9; PR at IV-10 n.9.

[127] See CR/PR at Table C-2. The record does not indicate that U.S. producers were losing sales to subject imports. There were only two lost sales allegations and both were disputed. See CR/PR at Table V-10. We note that of 24 responding purchasers, three reported switching to Chinese MKP due to lower pricing and 21 purchasers indicated that they had not switched. CR at V-30; PR at V-10.

[128] See CR/PR at Table C-2.

users, and as addressed in the following price and impact discussions, the significant volume of subject imports has not had a significant impact on the prices or performance of the domestic industry.

We have also considered whether the subject imports are likely to threaten the domestic industry with significant volumes of imports in the imminent future. The subject producers reported unused capacity of *** pounds in 2009, which is equivalent to *** percent of apparent U.S. consumption.[129] The Chinese MKP industry is also export-oriented, exporting almost *** of its shipments and benefits from export subsidies from the Chinese government.[130] Importers of the subject merchandise and the foreign industry also hold large inventories of MKP.[131] Some Chinese producers also produce other phosphate salts on the same equipment as MKP and thus may be able to shift their production to MKP should economic conditions so warrant.[132]

Nonetheless, the record also indicates that it is unlikely that the Chinese industry would export significant quantities of MKP in the imminent future that would compete with the domestic industry's MKP in the market for food and beverage, buffering, and refractory end uses. Few Chinese producers appear to currently meet the U.S. requirements for food grade MKP production (and few if any have achieved customer acceptance for food applications) and the record does not indicate that this is likely to change.[133] The qualification process to supply food and beverage applications for MKP is not an easy one and the record indicates that it may take a year or longer to complete.[134] Furthermore, as ICL explained "***," suggesting Chinese product may have difficulty penetrating the food and beverage segment regardless of its actual ability to meet specific requirements and become qualified.[135] Hence, there is no indication on the record that this situation will change in the imminent future and that subject imports will compete for sales to end users in the food and beverage markets or other more demanding end uses for MKP. Accordingly, we find that it is not likely that subject imports of MKP will threaten the domestic industry with significant volumes of imports in the imminent future.

b. Price Effects and Likely Price Effects of the Subject Imports

The record indicates that although there is a generally high degree of substitutability between imported phosphate salts and domestic phosphate salts, this is not the case with respect to MKP.[136]

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[129] See CR/PR at Table VII-4; C-2. There do not appear to be any significant additions to production capacity planned. Id.

[130] CR/PR at Table VII-4.

[131] CR/PR at Table VII-4. The subject producers' inventories of MKP at the end of 2009 were *** pounds and importers' inventories were *** pounds. The U.S. industry's total production was *** pounds of MKP in 2009. CR at Table C-2.

[132] CR at VII-4; PR at VII-3. One *** foreign producer, Shifang Chuangxin Chemical Co., Ltd., provided the Commission with a questionnaire response on June 23, 2010, the date on which the record in these investigations closed. Staff issued a request for clarification and/or revisions concerning several issues, but Staff did not receive a response to its request for clarification. The Commission therefore, has not considered the questionnaire data.

[133] Foreign Producer Questionnaire Responses, Section II-8. Valudor's purchasing manager visited *** Chinese producers accounting for an estimated *** percent of Chinese production of MKP. ***. Valudor's Posthearing Brief at Exhibit 4, ***. See also Tr. at 62 (Stachiw) (noting much higher standards for food grade).

[134] CR at II-25 to II-26; PR at II-17. One Chinese producer attempted, but failed, to meet the qualification standards for a major U.S. purchaser, ***. CR at VII-5 n.7; PR at VII-3 n.7.

[135] CR at II-25; PR at II-17.

[136] CR at II-25; PR at II-17.

Although purchasers indicated that the subject imports and domestically produced MKP are interchangeable, this is not true for MKP used in the more demanding food and beverage and buffering applications.[137] Domestic purchasers generally do not substitute the subject imports for domestically produced MKP in the applications for which domestic MKP is used.[138]

The Commission collected quarterly pricing data on two MKP products, product 3 (food grade) and product 4 (technical grade), which accounted for 100 percent of domestic producers' U.S. shipments of MKP and 86.8 percent of subject imports of MKP from January 2007 to December 2009.[139] Pricing data were reported by one domestic producer and 14 importers.[140] These data indicate that subject imports undersold the domestic like product throughout the period under examination. Overall, subject imports undersold the domestic like product in 21 of 24 quarterly comparisons at margins ranging from *** percent and averaging *** percent for technical grade and *** percent for food grade.[141] We do not, however, find that the underselling was significant as Chinese MKP was not being sold to the same type of customers as domestically produced MKP. The attenuation of competition may explain some of the observed underselling, as subject imports were primarily used in lower value products. Consequently, subject imports did not adversely affect domestic producers' prices to a significant extent.[142]

The trends in domestic prices confirm this lack of competition. Prices for technical grade, in which the Chinese MKP was concentrated, increased by *** percent over the period, from the first quarter of 2007 to the fourth quarter of 2009. Prices for food grade MKP decreased *** percent over the period.[143] The lower prices for food grade MKP, however, primarily resulted from *** in response to competition from nonsubject imports rather than with subject imports.[144] We therefore find that the subject imports have not significantly depressed domestic prices during the period.[145]

As noted, raw material prices increased sharply in 2008 and 2009, and the domestic industry's unit COGS increased from $*** in 2007 to $*** in 2008, and to $*** in 2009, an overall increase of *** percent.[146] Nonetheless, the industry was largely able to raise its prices, and the industry's unit net sales value increased *** percent.[147] As a result, the domestic industry's COGS to net sales ratio increased

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[137] See CR/PR at Table II-11. The apparent inconsistency is explained by the fact that the purchaser questionnaire responses for MKP overwhelmingly came from those firms involved in the non-food market. Seventeen of the 21 responding MKP purchasers reported that they or their customers use MKP in technical applications. Only three purchasers that identified themselves as using MKP in food grade applications (or both technical and food) responded to the question regarding interchangeability: *** only reported for domestic versus nonsubject imports.

[138] CR at II-25; PR at II-17.

[139] CR at V-7; PR at V-4 to V-5.

[140] CR at V-6; PR at V-4.

[141] CR at V-22 to V-23; PR at V-8.

[142] The record does not indicate that prices for technical grade MKP influence those for food grade as customers do not quote prices for technical grade as leverage in price negotiations for food grade. Tr. at 130-131 (Sexton).

[143] CR at V-20 to V-21; PR at V-7.

[144] See CR at V-20, V-20 n.14; PR at V-7, V-7 n.14. ***. Id. ***. Petitioners' Posthearing Brief at 9.

[145] CR/PR at Table V-2.

[146] CR/PR at Table C-2.

[147] CR/PR at Table C-2.

minimally from *** percent to *** percent between 2007 and 2009.[148] Given that domestic MKP was largely competing with nonsubject imports rather than subject imports and the domestic industry was able to raise its prices to cover most of the cost increases it experienced during a period in which demand was relatively weak, we find that the subject imports have not suppressed prices to a significant degree.[149]

In assessing the likelihood that subject imports will have price depressing or suppressing effects in the imminent future, we have considered the virtual lack of adverse price effects of the subject imports during the period despite the increases in the volume of subject imports. Given this and the fact that the record does not indicate that subject imports are likely to begin competing with the domestic industry for sales in the same market segments in which the domestic industry competes, we do not find it likely that the domestic industry will experience significant adverse price effects in the imminent future.

c. Impact and Likely Impact of the Subject Imports on the Domestic Industry[150]

The indicators of the condition of the domestic industry have generally been positive, and when changes have occurred, most have changed only modestly over the period of investigation despite the increase in subject imports and the decline in apparent U.S. consumption. Significantly, the industry has increased its profitability over the period.

The domestic industry's capacity to produce MKP increased throughout the period examined, rising from *** pounds in 2007 to *** pounds in 2008 and *** pounds in 2009, resulting in an overall

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[148] Although the domestic industry's COGS to net sales ratio increased to *** percent in 2008, this increase can be attributed to the *** sales discussed above. CR at V-20, Table C-2; PR at V-7, Table C-2.

[149] Unit COGS increased sharply from $*** in 2008 to $*** in 2009, yet the industry's COGS to net sales ratio fell during that period even though apparent U.S. consumption fell *** percent. See CR at Table C-2. Further, the domestic industry's two lost sales allegations and one lost revenue allegation were specifically denied by purchasers who indicated they continued to purchase higher-priced domestic MKP. See CR at V-27; PR at V-9.

[150] Commerce calculated one set of countervailing duty and antidumping duty margins corresponding to the scope, rather than the three domestic like products found by the Commission in its affirmative determinations. In its final determinations of sales at LTFV, Commerce found the following weighted-average dumping margins: 69.58 percent for seven specific producer and exporter combinations, and 95.40 percent for all others. CR at I-7; PR at I-6; 75 Fed. Reg. 30379 (June 1, 2010).

Commerce found a total subsidy rate of 109.11 percent *ad valorem* for 16 subsidy programs. CR at I-7; PR at I-5; 75 Fed. Reg. 30375 (June 1, 2010). Commerce calculated a rate based entirely on facts available for the three mandatory respondents and used the adverse facts available rate assigned to the mandatory respondents as the all-others rate. CR at I-7; PR at I-5.

In its final affirmative countervailing duty determination, Commerce found the following 16 subsidy programs to be countervailable: Two Free, Three Half Tax Exemption for Foreign Invested Enterprises (FIEs); Income Tax Subsidies for FIEs based on Geographic Location; Income Tax Exemption Programs for Export Oriented FIEs; Local Income Tax Exemptions or Reduction Programs for ''Productive'' FIEs; Reduced Income Tax Rate for High- and New–Technology Enterprises; Preferential Tax Policies for Research and Development by FIEs; Income Tax Credit on Purchases of Domestically Produced Equipment; Subsidies to Loss–Making State–Owned Enterprises (SOEs) by the GOC at the National Level; Grants Pursuant to the State Key Technology Renovation Project Fund; Grants Pursuant to the ''Famous Brands'' Program; Subsidies to Loss–Making SOEs by the GOC at the Provincial Level; Reduction in or Exemption from the Fixed Assets Investment Orientation Tax; Value Added Tax (VAT) Refund for FIEs Purchasing Domestically Produced Equipment; VAT and Tariff Exemptions on Imported Equipment; Discounted Loans for Export Oriented Industries (Honorable Industries); Export Restraints on Yellow Phosphorus. CR at I-6 to I-7; PR at I-5; 75 Fed. Reg. 30375 (June 1, 2010); 75 Fed. Reg. 10469 (March 8, 2010).

increase of *** percent.[151] Production increased from *** pounds in 2007 to *** pounds in 2008, but then decreased to *** pounds in 2009, resulting in an overall decrease of *** percent.[152] The domestic industry's capacity utilization remained low, falling from *** percent in 2007 to *** percent in 2009.[153] Although some overcapacity is due to the industry's increased allocation of capacity to MKP, the industry acknowledged that it has an overcapacity problem unrelated to subject imports and that it intends to address the issue by closing one of its plants in 2012.[154]

Although total net sales fell overall, from *** pounds in 2007 to *** pounds in 2009, a decline of *** percent, net sales by value increased, rising from $*** in 2007 to $*** in 2008, before declining to $*** in 2009, resulting in an overall increase of *** percent.[155]

Overall employment was relatively constant during the period for which data were collected. The number of production and related workers (PRWs) producing MKP increased from *** workers in 2007 to *** workers in 2008, before dropping to *** workers in 2009.[156] PRW hours worked increased from *** in 2007 to *** in 2008 and to *** in 2009.[157] Productivity, however, fell by *** percent between 2007 and 2009.[158] Wages paid to PRWs increased during the period for which data were collected. PRWs producing MKP earned $*** in 2007, $*** in 2008, and $*** in 2009, resulting in a net increase of *** percent.[159]

As noted above, the domestic industry generated operating profits during each of the three years of the period examined. Aggregate operating income fell from $*** in 2007 to $*** in 2008, and then increased to a period high of $*** in 2009, resulting in a net increase of *** percent.[160] Operating income margins fell from *** percent in 2007 to *** percent in 2008, but then increased to *** percent in 2009.[161] Thus, even facing sharply rising raw material prices and declining consumption, the domestic industry was able to improve its financial position over the period.[162]

For the reasons stated above, in light of the prevailing conditions of competition in the U.S. market, we find the volume of subject imports was large but concentrated in applications other than those served principally by the domestic industry. Accordingly, competition between the subject imports and the domestic like product has been limited over the period. Further, we do not find that the subject

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[151] CR/PR at Table III-3.

[152] CR/PR at Table III-3.

[153] CR/PR at Table III-3. The industry's low utilization rate reflects ***. CR/PR at Table III-3 n.3.

[154] Tr. at 101-102 (Schewe).

[155] CR at VI-2; PR at VI-1. Inventories of MKP peaked during 2008, rising from *** pounds in 2007 (*** percent of total shipments) to *** pounds in 2008 (*** percent of total shipments), before falling to *** pounds in 2009 (*** percent of total shipments). CR/PR at Table III-11.

[156] CR/PR at Table III-17.

[157] CR/PR at Table III-17.

[158] CR/PR at Table III-17.

[159] CR/PR at Table III-17. Hourly wages increased *** percent over the period as well. Id.

[160] CR/PR at Table VI-2.

[161] C/PR R at Table VI-2.

[162] CR/PR at Table VI-2. Cash flow fluctuated over the period examined, falling from $*** in 2007 to $*** in 2008 then increasing to $*** in 2009. CR/PR at Table VI-2. Capital expenditures, however, fell from $*** in 2007 to $*** in 2009. CR/PR at Table C-2.

imports had a significant adverse effect on domestic prices during the period examined. Finally, while the domestic industry experienced some reductions in its production and sales volume numbers, its financial results were favorable. Thus, not only is the industry not suffering material injury, but the prevailing conditions of competition we have described above indicate that any adverse effects of the subject imports were not significant.

We also find that the record indicates no causal nexus between the subject imports and the condition of the domestic industry. Subject imports gained market share in 2009, yet the domestic industry's profitability improved in 2009 despite a drop in apparent U.S. consumption.[163] Although subject imports' market share in the first half of 2009 stood at *** percent of apparent U.S. consumption, up from *** percent in 2008, the domestic industry reported its ***.[164] Similarly, the domestic industry reported its highest level of operating income $*** in the first half of 2009.[165] Subject imports subsequently declined to *** percent of apparent U.S. consumption in the second half of 2009, and the U.S. industry reported an ***.[166]

For these reasons, we find that subject imports are not having a significant adverse impact on the domestic industry. Accordingly, we determine that an industry in the United States is not materially injured by reason of subject imports of MKP from China.

In assessing whether the domestic industry is likely to experience material injury by reason of the subject imports in the imminent future, we consider the current condition of the domestic industry. The industry has been profitable during the period examined, notwithstanding its acknowledged overcapacity and despite the decrease in apparent U.S. consumption during 2009, and rising prices for raw materials. Although the industry's market share was modest, most of the domestic market was supplied by nonsubject imports, a majority of which were imported by ***, thus limiting import competition from nonsubject imports.[167] Moreover, the domestic industry increased its profitability during the period. We therefore find that the industry is not vulnerable to the effects of the subject imports.

In assessing whether subject imports are likely to have a significant adverse impact on the domestic industry within the imminent time frame, we have evaluated the statutory factors and acknowledge that subject imports have increased in volume and U.S. market share during the period of investigation. As explained above, however, we find that these increases have come in segments of the market that are not the focus of the domestic industry, and, as a result, the industry has not experienced significant declining sales and shipments or significant price effects as a result of the subject imports. The domestic industry has remained profitable, and production, shipments, sales, and employment have not been significantly negatively impacted.

As explained, due to the qualification process and other factors, the record indicates that it is unlikely that the Chinese industry would export significant quantities of MKP in the imminent future that would compete with the domestic industry's MKP for sales to the same end users. Similarly, the evidence does not indicate that subject imports are likely to depress or suppress domestic producers' prices in the imminent future as there is no indication that subject imports, even at somewhat increased

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[163] See CR/PR at Table IV-9 and VI-2. Id.

[164] See CR/PR at Table IV-9 and VI-2. Id.

[165] CR/PR at Table VI-2.

[166] See CR/PR at Table IV-9 and VI-2. Petitioners noted that the timing of the petition, which was filed in September 2009, and the fact that the investigations proceeded without any extensions at Commerce, meant that there was not a period for which the Commission collected data showing that subject imports declined post-petition, as is often the case in Commission investigations. Tr. at 141-42 (Cannon).

[167] As noted, ***, accounting for almost *** of nonsubject imports in 2009. CR/PR at Tables III-14, IV-3, and IV-6.

volumes, would imminently begin to compete for sales in market segments that are presently being served principally by the domestic industry. Therefore, we do not find it likely that subject imports will have adverse effects on domestic producers' prices in the imminent future.

Accordingly, because there is no likelihood in the imminent future of a significant increase in import volumes, or significant price effects from the subject imports, we find that the subject imports are not likely to have a significant impact. We thus conclude that the domestic industry is not threatened with material injury by reason of subject imports.

D. Anhydrous Dipotassium Phosphate ("DKP")

1. Material Injury By Reason of Subject Imports

a. Volume of the Subject Imports

In absolute terms, the volume of subject imports of DKP significantly increased during the period examined from *** pounds in 2007 to *** pounds in 2008 and *** pounds in 2009.[168]

In terms of market penetration, subject imports gained market share from 2007 to 2009 at the expense of domestically produced DKP. Apparent U.S. consumption increased irregularly during the period examined from *** pounds in 2007 to *** pounds in 2008, before it decreased somewhat to *** pounds in 2009 for an overall increase of *** percent from 2007 to 2009.[169] At the same time, U.S. shipments of subject imports of DKP were *** percent of apparent U.S. consumption by quantity in 2007, *** percent in 2008, and *** percent in 2009.[170] Thus, the market share of subject imports of DKP increased by *** percentage points from 2007 to 2009.[171] From 2007 to 2009, while demand for DKP measured by apparent U.S. consumption increased irregularly and subject imports increased in absolute terms and relative to consumption, the market share of U.S. producers' shipments of domestically produced DKP decreased from *** percent in 2007 to *** percent in 2008, before declining further to *** percent in 2009, a decline of *** percentage points from 2007 to 2009.[172] The ratio of the quantity of subject imports to U.S. production also increased from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[173]

During the period examined, nonsubject imports were also an increasing presence in the U.S. market. Nonsubject imports of DKP increased from *** pounds in 2007 to *** pounds in 2008, before decreasing somewhat to *** pounds in 2009.[174] U.S. shipments of nonsubject imports constituted *** percent of apparent U.S. consumption in 2007, *** percent in 2008, and *** percent in 2009.[175]

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[168] CR/PR at Table IV-2.

[169] CR/PR at Table IV-5 and Table C-1.

[170] CR/PR at Table IV-8 and Table C-1. In the first half of 2009 (January-June), U.S. shipments of subject imports were *** percent of apparent U.S. consumption, but decreased to *** percent in the second half of 2009 (July-December), resulting in the modest decrease from 2008 to 2009. CR/PR at Table IV-8.

[171] CR/PR at Table IV-8 and Table C-1.

[172] CR/PR at Table IV-8 and Table C-1.

[173] CR/PR at Table IV-11.

[174] CR/PR at Table IV-2.

[175] CR/PR at Table IV-8 and Table C-1.

Although nonsubject imports of DKP increased their market share over the period examined at a rate that was slightly higher than subject imports (*** percentage points versus *** percentage points from 2007 to 2009),[176] subject imports surged dramatically during the period examined, increasing from a relatively low market share of *** percent of apparent U.S. consumption in 2007 to *** percent in 2009 and taking away a substantial amount of domestic producers' market share.

Based on the foregoing, we find that the volume of subject imports is significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume and market share is also significant.

b. Price Effects of the Subject Imports

Subject imports of DKP and domestically produced DKP are both primarily food grade and generally are interchangeable.[177]

The Commission collected pricing data on two DKP products (food grade and technical grade).[178] Usable pricing data for DKP were provided by one U.S. producer and seven importers, and accounted for 99.9 percent of U.S. producers' U.S. shipments of DKP and 98.4 percent of U.S. imports of subject DKP from January 2007 to December 2009.[179] The pricing data show that subject DKP generally undersold the domestic like product. Specifically, subject imports of DKP undersold the U.S. product in 8 of 12 quarterly comparisons for food grade DKP with margins ranging from *** percent and in all four possible quarterly comparisons for technical grade DKP with margins ranging from *** percent.[180]

During the period examined, prices of DKP generally increased as input costs increased. Prices for domestically produced food grade DKP (product 1) increased overall from 2007 to 2008.[181] The prices of subject imports of food grade DKP generally followed a trend similar to domestic prices during the same period.[182] In the first quarter of 2009, prices for domestically produced food grade DKP peaked at $*** per pound before decreasing to $*** per pound in the fourth quarter, but were still generally higher than prices in 2007 and 2008.[183] Prices for subject food grade DKP peaked in the second quarter of 2009 at $*** per pound, before falling in the third and fourth quarters, but were still significantly higher in all quarters of 2009 than in 2007.[184]

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[176] CR/PR at Table C-1.

[177] See CR/PR at Table II-11. CR at II-1-2; IV-17 and CR/PR at Table III-8 and Table IV-14; PR at II-1-2 and IV-10. Producers, importers, and purchasers also reported that domestically produced DKP is generally interchangeable with nonsubject imports. See CR/PR at Table II-11.

[178] CR at V-6; PR at V-5.

[179] CR at V-6-7; PR at V-5.

[180] CR at V-22; CR/PR at Table V-9; and PR at V-8.

[181] CR/PR at Table V-2.

[182] CR/PR at Table V-2.

[183] CR/PR at Table V-2. The price of domestically produced food grade DKP was slightly lower in the fourth quarter of 2009 than the highest price in 2007 and 2008 (i.e., $*** per pound), which occurred in the fourth quarter of 2008.

[184] CR/PR at Table V-2.

Prices for domestically produced technical grade DKP fluctuated between $*** per pound and $*** per pound in 2007 and 2008.[185] Following a trend similar to that of food grade DKP, prices for domestically produced technical grade DKP reached a high for the period examined of $*** in the first quarter of 2009 before falling consistently in each quarter to $*** per pound in the fourth quarter.[186] In 2009, the only year for which pricing data for Chinese technical grade DKP are available, prices declined in 2009 from $*** per pound to $***.[187]

We find that subject imports generally undersold the domestic like product during the period examined and gained market share as a result.[188] Nevertheless, we do not find that subject imports significantly depressed the prices of domestically produced DKP. As noted, domestic producers' prices increased from 2007 to 2009.[189]

We have also considered the degree to which lower-priced subject imports prevented price increases, which otherwise would have occurred, to a significant degree. The domestic industry's COGS as a share of net sales increased throughout the period examined, increasing from *** percent in 2007 to *** percent in 2008, and to *** percent in 2009, a *** percentage point increase from 2007 to 2009.[190] Thus, the data indicate a cost/price squeeze that accelerated in late 2008 and 2009. Significantly, this cost/price squeeze occurred while apparent U.S. consumption was increasing, albeit irregularly. Furthermore, the rise in the domestic industry's COGS to net sales ratio to its highest point in 2009 coincided with the highest volume of subject imports during the period examined,[191] and occurred when U.S. shipments of subject DKP and market penetration by subject imports had increased precipitously from 2007.[192] The rise in the COGS to net sales ratio combined with the surge in subject imports indicates that by 2009 the domestic producers were unable to raise their prices sufficiently to cover increased costs due to the significant volumes of lower-priced subject imports entering the U.S. market. Accordingly, we find that subject imports of DKP had significant price suppressing effects.

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[185] CR/PR at Table V-3.

[186] CR/PR at Table V-3.

[187] CR/PR at Table V-3.

[188] Petitioners made *** lost sales allegation with respect to DKP involving ***, valued at ***. CR at V-27; PR at V-9. The *** disagreed with Petitioners' lost sales allegation. CR at V-27; PR at V-9. Petitioners also made *** lost revenue allegation involving ***, with a ***. CR at V-27; PR at V-9. The purchaser, *** disagreed with Petitioners' allegation, but nevertheless reported shifting from the domestic like product to Chinese product because of price. CR at V-30; PR at V-9-10.

[189] CR at V-20; PR at V-7.

[190] CR/PR at Table C-1.

[191] CR/PR at Table IV-2.

[192] CR/PR at Table IV-5 and Table C-1.

c. Impact of the Subject Imports[193]

We have examined data pertaining to performance indicators for the domestic industry producing DKP. These data exhibited mixed trends in 2008 (despite a surge in apparent U.S. consumption and marked export growth), with the industry experiencing only modest gains in certain indicators, followed by steep declines in 2009.

As noted above, although demand as measured by apparent U.S. consumption increased overall from 2007 to 2009, the domestic DKP industry's market share declined by *** percentage points during the same period.[194] Apparent U.S. consumption increased significantly from 2007 to 2008 (*** percent), before declining *** percent from 2008 to 2009, yet the domestic producers' market share declined *** percentage points from 2007 to 2008, and then declined even further in 2009.[195] At the same time, U.S. producers' U.S. shipments declined by *** percent between 2007 and 2009, from *** pounds in 2007 to *** pounds in 2008 and *** pounds in 2009, although U.S. production of DKP was virtually unchanged in 2009 relative to 2007, increasing by a mere *** pounds or *** percent.[196]

The domestic DKP industry's capacity utilization rate also declined over the period examined. Specifically, capacity utilization rates declined by *** percentage points between 2007 and 2009, from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[197] Although it appears that U.S. producers' average capacity by quantity increased from 2007 to 2009, ICL, the only domestic producer of DKP,[198] explained that it ***.[199] [200]

Although the domestic industry's production trend was relatively stable, according to data on employment-related indicators, it appears that the number of production workers increased from 2007 to 2009.[201] The same allocation issue that applies to ICL's U.S. production capacity, however, also applies

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[193] We have considered the magnitude of the countervailing duty and antidumping margins found by Commerce. As noted above, Commerce calculated one set of countervailing duty and antidumping margins corresponding to the scope, not to the three domestic like products found by the Commission in making its determinations. In its countervailing duty investigation, Commerce found a total subsidy rate of 109.11 percent *ad valorem* for all 16 programs. See CR at I-7; PR at I-5; 75 Fed. Reg. 30375 (June 1, 2010). In its antidumping investigation concerning subject imports from China, Commerce calculated antidumping duty margins of 69.58 percent for seven supplier/exporter combinations and 95.40 percent for all other suppliers and exporters of certain potassium phosphate salts from China. See CR at I-7; PR at I-6; 75 Fed Reg. 30377 (June 1, 2010).

[194] CR/PR at Table IV-8 and Table C-1.

[195] CR/PR at Table IV-8 and Table C-1.

[196] CR/PR at Table C-1.

[197] CR/PR at Table C-1.

[198] CR at I-4; PR at I-3.

[199] See CR/PR at Table III-2, n.1 and Table C-4; CR at III-3-4; PR at III-2. ICL's explanation is supported by the data in Table C-4, which shows that total aggregated capacity for DKP, MKP, and TKPP remained relatively stable from 2007 to 2009.

[200] In weighing the significance of the changes in average capacity quantity and capacity utilization between 2007 and 2009 for DKP and TKPP, the Commission took into consideration allocations made to these two measures by ***. CR/PR at Table C-1. ***. CR/PR at Table C-1, Table C-3, and Table III-4, n.1. The allocation between subject and non-subject products may account for some of the reduction in aggregated average capacity quantity for DKP and TKPP.

[201] CR/PR at Table C-1.

here and results in an increase in the number of employees allocated to DKP production.[202] [203] The domestic DKP industry (i.e., ICL, the only domestic producer of DKP) was able to maintain its workforce because it cut contracted services instead of its own employees.[204] Although hourly wages increased by *** percent and hours worked increased by *** percent from 2007 to 2009,[205] because production remained relatively stable despite the surge in apparent U.S. consumption, productivity declined from 2007 to 2009, with a sharp decline in 2009.[206] The domestic industry's average unit labor costs also rose by *** percent from 2007 to 2009.[207]

The domestic industry's net sales increased from *** pounds in 2007 to *** pounds in 2008, before declining to *** pounds in 2009.[208] The average unit value of domestic industry shipments increased as domestic producers passed on at least a portion of their higher costs to purchasers.[209] The domestic industry's net sales value increased by *** percent between 2007 and 2009, from $*** in 2007 to $*** in 2008 and $*** in 2009.[210]

Apparent U.S. consumption increased *** percent from 2007 to 2008, while the domestic DKP industry's operating income increased *** percent (from $*** in 2007 to $*** in 2008).[211] In 2009, apparent U.S. consumption was still greater than in 2007 (although it had declined from 2008), yet the domestic industry experienced steep declines in many performance indicators, including operating losses, rising unit COGS, an increasing ratio of COGS to sales, rising unit labor costs, declining capital expenditures, and declining productivity. The domestic industry experienced an operating loss of $*** in 2009.[212] The domestic DKP industry's ratio of operating income to net sales declined from *** percent in 2007 to *** percent in 2008, and then fell sharply to *** percent in 2009.[213]

Although the domestic DKP industry was able to raise prices overall from 2007 to 2009, as discussed previously, the unit COGS and the COGS to net sales ratio increased during the period, with a dramatic increase in 2009. The increase in the COGS to net sales ratio occurred because, from late 2008 to 2009, there was an accelerating cost/price squeeze where the domestic industry was unable to raise

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[202] See ICL Prehearing Brief at 28.

[203] In weighing the significance of the changes in the number of production workers, the Commission notes that while the number of aggregated production workers for DKP and TKPP decreased between 2007 and 2009, *** may account for some of the reduction in that number. See ICL Prehearing Brief at 28; CR/PR at Table C-1 and Table C-3. See also footnote 200, supra.

[204] See ICL Prehearing Brief at 29. ICL's employees are performing maintenance tasks formerly performed by contractors resulting in the declining productivity over the period examined. ICL Prehearing Brief at 29.

[205] CR/PR at Table III-16 and Table C-1. Hourly wages increased from $*** in 2007 to $*** in 2008, and were $*** in 2009.

[206] CR/PR at Table III-16 and Table C-1. Specifically, productivity declined *** percent from 2007 to 2009, with a *** percent decline in 2009. CR/PR at Table III-16 and Table C-1.

[207] CR/PR at Table III-16 and Table C-1. Unit labor costs rose from $*** in 2007 to $*** in 2008, and to $*** in 2009.

[208] CR/PR at Table C-1.

[209] CR/PR at Table C-1.

[210] CR/PR at Table C-2.

[211] CR/PR at Table C-1.

[212] CR/PR at Table C-1.

[213] CR/PR at Table C-1.

prices sufficiently to cover costs. Unit COGS increased from $*** in 2007 to $*** in 2008, before increasing sharply to $*** in 2009 (an increase of *** percent from 2008 to 2009).[214] The unit value of net sales increased by a much lower amount than the rise in the unit COGS, *** percent for unit net sales value versus *** percent for unit COGS between 2008 and 2009.[215] [216]

In sum, despite overall growth in apparent U.S. consumption of DKP between 2007 and 2009 of *** pounds and a surge in export volume of *** pounds over the same period, domestic production of DKP by ICL was virtually unchanged from 2007 to 2009. Although ICL allocated more of its shared capacity and workforce to DKP, it nevertheless suffered the adverse impact of rapidly increasing volumes of low-priced DKP imports from China. ICL's net sales showed little growth, as a steep decline in U.S. shipments (despite an overall increase in apparent U.S. consumption) throughout the period examined offset the benefits of increased export opportunities. With its U.S. shipments falling, ICL's share of the U.S. market fell from *** percent to *** percent in just two years, with nearly *** of that loss directly attributable to imports of DKP from China, which barely had a market presence in 2007. Moreover, the tremendous growth in the volume of low-priced imports from China, which undersold ICL and nonsubject imports alike in the majority of instances, resulted in such price pressure that ICL was unable to cover its rapidly rising costs, culminating in operating losses of $*** in 2009 (i.e., operating losses equivalent to *** percent of the companies net sales of DKP).

For the foregoing reasons, we find that the domestic industry producing DKP is materially injured by reason of subject imports of DKP from China found by Commerce to be sold in the United States at less than fair value and subsidized by the Government of China. We find that there is a sufficient causal nexus between the subject imports and the domestic industry's poor performance during the period examined to attribute significant adverse effects on the domestic industry to subject imports.

We have considered whether there are other factors that have had an impact on the domestic industry. We acknowledge that the volume and pricing of nonsubject imports also may have adversely impacted the U.S. industry. We do not attribute, however, the adverse effects of nonsubject imports to subject imports. Not only did nonsubject imports undersell the domestic like product less frequently than subject imports, subject imports undersold the nonsubject imports nearly 60 percent of the time.[217] Moreover, although nonsubject imports also increased their market share during the period examined, subject imports had a very limited presence in 2007 (*** percent of apparent U.S. consumption) and increased their market share dramatically by 2009 (*** percent of apparent U.S. consumption) to become a significant presence in the market. Although nonsubject imports also took sales and market share from domestic producers during the period examined, the presence of nonsubject imports does not negate the causal link between our finding of significant adverse effects and subject imports of DKP.[218]

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[214] CR/PR at Table C-1.

[215] CR/PR at Table C-1.

[216] In addition, the domestic industry's capital expenditures decreased by *** percent between 2007 and 2009. CR/PR at Table C-1.

[217] Domestically produced DKP was priced *** than nonsubject DKP in *** possible comparisons. Subject DKP was priced *** than nonsubject DKP in *** possible comparisons. See CR/PR at Appendix D.

[218] With respect to the considerations required by Bratsk and Mittal, Commissioner Pinkert finds that the DKP at issue is a commodity product in that there is likely to be a high degree of substitutability within each grade among shipments from domestic and other sources. CR at II-25; PR at II-17. He further finds that price competitive, nonsubject imports were a significant factor in the U.S. market during the period under examination. Collectively, nonsubject imports increased their market share from *** percent to *** percent over the period. CR/PR at Table C-1.

E. Tetrapotassium Pyrophosphate ("TKPP")

1. Material Injury By Reason of Subject Imports

a. Volume of the Subject Imports

As explained above, subject imports and domestically produced TKPP are both primarily technical grade and generally are interchangeable.[219]

In absolute terms, the volume of subject imports of TKPP increased from *** pounds in 2007 to *** pounds in 2008, and then increased further to *** pounds in 2009.[220]

In terms of market penetration, subject imports of TKPP gained market share from 2007 to 2009, while apparent U.S. consumption declined from *** pounds in 2007 to *** pounds in 2008, before decreasing further to *** pounds in 2009.[221] Specifically, the market share of subject imports of TKPP increased *** percentage points from 2007 to 2009.[222] U.S. shipments of subject imports of TKPP were *** percent of apparent U.S. consumption by quantity in 2007, *** percent in 2008, and *** percent in 2009.[223] From 2007 to 2009, while demand for TKPP as measured by apparent U.S. consumption decreased and the market share of subject imports increased,[224] the market share of U.S. producers' shipments of domestically produced TKPP decreased from 90.5 percent in 2007 to 87.7 percent in 2008, before declining further to 81.7 percent in 2009 -- a decrease of 8.8 percentage points from 2007 to 2009.[225] The ratio of the quantity of subject imports to U.S. production increased from *** percent in 2007 to *** percent in 2008 and *** percent in 2009.[226]

During the period examined, nonsubject imports also had an increasing presence in the U.S. market, but did not account for a large share of apparent U.S. consumption. U.S. shipments of nonsubject TKPP accounted for *** percent of apparent U.S. consumption in 2007, *** percent in 2008, and *** percent in 2009.[227] In absolute terms, nonsubject imports of TKPP increased from *** pounds in 2007 to *** pounds in 2008, and then increased to *** pounds in 2009.[228]

Commissioner Pinkert finds, however, that, had the subject imports exited the market during the period, nonsubject imports would not have replaced them without benefit to the domestic industry. Although nonsubject imports might in fact have replaced the subject imports, the record indicates that antidumping relief would nevertheless have benefitted the domestic industry by means of higher prices. Nonsubject imports undersold the domestic like product less than subject imports and, in turn, were undersold by the subject imports nearly 60 percent of the time. CR/PR at Appendix D.

[219] See CR at II-1-2; IV-17 and CR/PR at Table III-8 and Table IV-14; PR at II-1-2 and IV-10.

[220] CR/PR at Table IV-4.

[221] CR/PR at Table IV-10 and Table C-3.

[222] CR/PR at Table IV-10 and Table C-3.

[223] CR/PR at Table IV-10 and Table C-3.

[224] CR/PR at Table C-3.

[225] CR/PR at Table IV-10 and Table C-3.

[226] CR/PR at Table IV-13.

[227] CR/PR at Table C-3.

[228] CR/PR at Table IV-4.

Although nonsubject imports of TKPP increased their market share over the period, subject imports increased at a much higher rate (*** percentage points versus *** percentage points for nonsubject imports).[229] Moreover, nonsubject imports constituted a significantly smaller volume of imports relative to subject imports.[230]

Based on the foregoing, we find that the volume of subject imports is significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume and market share is also significant.

b. Price Effects of the Subject Imports

The Commission collected pricing data on two TKPP products (food grade and technical grade).[231] Usable pricing data were provided by three U.S. producers and 17 importers, and accounted for 47.4 percent of U.S. producers' U.S. shipments of TKPP and 85.7 percent of U.S. imports of subject TKPP from January 2007 to December 2009.[232]

For food grade TKPP (product 5), subject imports undersold domestically produced food grade TKPP in all five possible quarterly comparisons with margins ranging from *** to *** percent.[233] Subject imports of technical grade TKPP undersold the domestic product in 7 of 12 possible quarterly comparisons with margins ranging from *** to *** percent.[234] In 2007 and 2008, there was a mixed pattern of overselling and underselling by subject imports of technical grade TKPP (product 6).[235] In 2009, however, higher volumes of subject imports of technical grade TKPP entered the United States accompanied by declining prices and more consistent underselling of the domestically produced product.[236]

During the period examined, prices of TKPP generally increased, consistent with higher input costs. Prices for domestically produced food grade TKPP (product 5) increased continuously in 2007 and 2008, rising from $*** per pound in the first quarter of 2007 to a peak of $*** per pound in the fourth quarter of 2008.[237] After peaking in the fourth quarter of 2008, prices for domestically produced food grade TKPP declined from $*** per pound in the first quarter of 2009, eventually falling to $*** per pound in the fourth quarter of 2009, but were still generally higher than prices in 2007 and 2008.[238] In the five quarters for which pricing data for subject food grade TKPP is available, subject import prices

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[229] CR/PR at Table C-3.

[230] CR/PR at Table IV-4.

[231] CR at V-6; PR at V-5.

[232] CR at V-6-7; PR at V-5.

[233] See CR/PR at Table V-6 and Table V-9.

[234] CR at V-22; PR at V-8; and CR/PR at Table V-9.

[235] See CR/PR at Table V-7 and Table V-9.

[236] See CR/PR at Table V-7.

[237] CR/PR at Table V-6. The fourth quarter of 2008 corresponds to a strike by workers at PCS, a major U.S. supplier of potassium hydroxide (KOH), which forced ICL to put customers on allocation from September through November 2008. See CR at V-20; PR at V-7; and ICL Prehearing Brief at 8.

[238] CR/PR at Table V-6. The price of domestically produced food grade TKPP in all quarters of 2009 was slightly higher than all prices in 2007 and 2008 except for prices in the third and fourth quarters of 2008.

followed a trend similar to the domestic prices, with prices peaking in 2008, but generally rising from 2007 to 2009.[239]

Similar to food grade TKPP, prices for domestically produced technical grade TKPP increased continuously in 2007 and 2008.[240] Prices for domestically produced technical grade TKPP reached a high for the period examined of $*** in the first quarter of 2009, before falling consistently to $*** per pound in the fourth quarter.[241] Subject import prices for technical grade TKPP generally experienced trends that were consistent with prices of the domestically produced product. They were relatively stable in 2007 and the first quarter of 2008, but increased in the last three quarters of 2008.[242] In 2009, the quantity of subject imports of technical grade TKPP increased significantly at the same time as prices of subject imports of technical grade TKPP fell more sharply than prices for the domestic product, resulting in large margins of underselling ranging from *** percent to *** percent.[243]

Purchasers agreed with several lost revenue allegations made by Petitioners, although some disputed the amounts at issue. The value of the confirmed lost revenue allegations was $*** involving *** pounds of TKPP.[244]

Based on the foregoing, we find that subject imports generally undersold the domestic like product during the period examined and gained market share as a result. Nevertheless, we do not find that subject imports significantly depressed the prices of domestically produced TKPP. Domestic producers' prices generally increased from 2007 to 2009 as input costs increased, indicating that the underselling by subject imports did not depress prices for the domestic like product.[245]

We have also considered the degree to which lower-priced subject imports prevented price increases, which otherwise would have occurred, to a significant degree. The domestic industry's COGS to net sales ratio increased irregularly from 2007 to 2009; decreasing from *** percent in 2007 to *** percent in 2008, before increasing by *** percentage points to *** percent in 2009; a *** percentage point increase from 2007 to 2009.[246] Furthermore, the rise in the domestic industry's COGS to net sales ratio to its highest point in 2009 coincided with the highest levels of market penetration by subject imports during the period examined, which provides some evidence that by the end of the period the domestic producers were unable to raise their prices sufficiently to cover increased costs due to the significant volumes of lower-priced subject imports entering the U.S. market. Indeed, while apparent U.S. consumption was actually improving significantly in terms of quantity in the last six months of 2009 relative to the first six months, the COGS to sales ratio jumped *** percentage points as subject import market penetration remained at the peak level achieved in the first six months of 2009.

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[239] CR/PR at Table V-6.

[240] CR/PR at Table V-7.

[241] CR/PR at Table V-7.

[242] CR/PR at Table V-7

[243] CR/PR at Table V-7. Prices of subject imports of technical grade TKPP fell from a peak in the fourth quarter of 2008 of $*** per pound to $*** per pound in the fourth quarter of 2009.

[244] See CR at V-24, V-28-29; PR at V-9; CR/PR at Table V-11. Although Petitioners also made lost sales allegations of $*** involving *** pounds of TKPP, purchasers disagreed with Petitioners' allegations.

[245] CR at V-20; PR at V-7.

[246] CR/PR at Table C-3.

Accordingly, we find evidence of significant price suppression by subject imports of TKPP.[247]

c. Impact of the Subject Imports[248]

We have carefully examined the performance of the domestic industry producing TKPP. As discussed more fully below, the existence of a *** between *** and *** results in certain data anomalies, but does not detract from the record evidence pointing to the negative impact of subject imports of TKPP from China.

Despite the industry's positive performance in terms of operating income in 2008, it experienced negative performances in many other trade indicia from 2007 to 2009. Demand, as measured by apparent U.S. consumption, declined throughout the period examined. U.S. imports of TKPP from China, however, did not decline or even remain stable, but rather increased markedly not only in 2008 (when certain U.S. producers experienced a disruption in the supply of potassium hydroxide), but also in 2009. Moreover, notwithstanding a *** of the volume of TKPP from China held in inventory by U.S. importers, U.S. shipments of Chinese TKPP increased not only in 2008, but even more substantially in 2009. As a result, U.S. producers experienced an accelerating decline in their U.S. shipments and correspondingly their share of the U.S. market – losses that were most pronounced in 2009.[249] Specifically, the domestic TKPP industry's market share declined by 8.8 percentage points between 2007 and 2009, while subject imports' market share increased by *** percentage points.[250] U.S. producers' U.S. shipments declined steadily 40.0 percent between 2007 and 2009, from 39.2 million pounds in 2007 to 32.8 million pounds in 2008 and to 23.5 million pounds in 2009.[251]

The production quantity of domestic producers decreased 42.7 percent from 2007 to 2009.[252] The domestic TKPP industry's average capacity and capacity utilization rates also declined over the period examined. Specifically, capacity declined overall by 16.2 percentage points between 2007 and 2009; the domestic industry's capacity utilization rates were relatively stable in 2007 and 2008, increasing modestly from 56.9 percent in 2007 to 58.3 percent in 2008, but declined sharply to 39.0 percent in 2009.[253]

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[247] Commissioner Aranoff finds that the domestic industry is materially injured because subject imports took significant market share from the domestic industry through underselling, with adverse effects noted in the following section. Therefore, she does not join the majority's discussion of price suppression.

[248] We have considered the magnitude of the countervailing duty and antidumping margins found by Commerce. As noted above, Commerce calculated one set of countervailing duty and antidumping margins corresponding to the scope, not to the three domestic like products found by the Commission in making its determinations. In its countervailing duty investigation, Commerce found a total subsidy rate of 109.11 percent *ad valorem* for all 16 programs. See CR at I-7; PR at I-5; 75 Fed. Reg. 30375 (June 1, 2010). In its antidumping investigation concerning subject imports from China, Commerce calculated antidumping duty margins of 69.58 percent for seven supplier/exporter combinations and 95.40 percent for all other suppliers and exporters of certain potassium phosphate salts from China. See CR at I-7; PR at I-6; 75 Fed Reg. 30377 (June 1, 2010).

[249] See CR/PR at Table C-3.

[250] CR/PR at Table C-3.

[251] CR/PR at Table C-3.

[252] CR/PR at Table C-3. Production quantity decreased from 41.1 million pounds in 2007 to 36.2 million pounds in 2008, before decreasing further to 23.6 million pounds in 2009.

[253] CR/PR at Table C-3. See also footnote 200, supra.

Many employment-related indicators also declined for the domestic TKPP industry during the period examined.[254] The number of production workers for TKPP declined 23.3 percent from 2007 to 2009, while hours worked declined 19.8 percent and wages paid declined 13.5 percent.[255] Likewise, productivity decreased 28.5 percent from 2007 to 2009.[256] At the same time, the domestic industry's average unit labor costs rose by 50.8 percent from 2007 to 2009.[257]

Between 2007 and 2008, the quantity of net sales of domestically produced TKPP declined.[258] TKPP-related operating income, however, increased from $138,000 in 2007 to $3.9 million in 2008.[259] Similarly, the TKPP-related ratio of operating income to net sales increased by 11.3 percentage points from 0.5 percent in 2007 to 11.9 percent in 2008.[260] The increased profitability reported by the domestic TKPP industry is attributable to the increase in the prices of domestically produced TKPP; the unit value of their U.S. shipments rose 61.5 percent from $0.60 in 2007 to $0.97 in 2008.[261] Although the domestic industry collectively experienced an increase in unit COGS of 41.6 percent from 2007 to 2008, unit net sales increased by 59.9 percent.[262] These increases reflect several factors, including the relatively moderate level of price competition of Chinese TKPP until the fourth quarter of 2008[263] and the nature of the costs faced by ***. *** reported a modest decline in unit COGS in 2008 and positive operating income in 2008 because a large component of its costs are its ***. Because of the nature of ***,[264] *** did not adjust to market developments as rapidly as other domestic producers in 2008.[265]

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[254] CR/PR at Table C-3.

[255] CR/PR at Table III-18 and Table C-3.

[256] CR/PR at Table III-18 and Table C-3. Productivity increased slightly from 351.2 pounds per hour in 2007 to 371.2 pounds per hour in 2008, before declining to 251.2 pounds per hour in 2009.

[257] CR/PR at Table C-3. Unit labor costs were $0.10 in 2007 and 2008, and then increased to $0.15 in 2009.

[258] CR/PR at Table VI-4.

[259] CR/PR at Table VI-4 and Table C-3. The operating income of U.S. producers (i.e., excluding *** and including ***) was $*** in 2007 and $*** in 2008. CR/PR at Table VI-10.

[260] CR/PR at Table C-3. The ratio of operating income to net sales for U.S. producers (i.e., excluding *** and including ***) was *** percent in 2007 and *** percent in 2008. CR/PR at Table VI-10.

[261] CR/PR at Table C-3.

[262] CR/PR at Table VI-4 and Table C-3. Unit COGS rose from $*** in 2007 to $*** in 2008. CR/PR at Table C-3.

[263] During 2007 and 2008, prices of subject imports of technical grade TKPP, which constitute the largest volume of TKPP, generally moved in a manner consistent with prices of domestically produced technical grade TKPP. See CR/PR at Table V-7. Petitioners testified at the hearing that, after raising their prices in anticipation of the increases in raw material costs, they did not experience intense price competition from subject imports of TKPP and were able to maintain relatively good price levels in 2008. See Hearing Transcript at 45-46 (testimony of Allen Sexton, Vice President - Finance and Procurement for Prayon, Inc.). See also CR/PR at Table IV-4 and Table C-3 (subject imports of TKPP increased modestly from 2007 to 2008, before increasing significantly from 2008 to 2009). Moreover, all of the lost revenue allegations for TKPP occurred after 2008. See CR/PR at Table V-11.

[264] See CR at VI-14; PR at VI-6-7.

[265] See CR/PR at Table VI-4.

In 2009, however, pressure from subject imports intensified as subject imports of TKPP increased significantly by quantity and price-based competition increased.[266] As noted above, in 2009, subject imports of TKPP entered the U.S. market in increasing volumes at sharply decreasing prices and with large margins of underselling.[267] As unit COGS continued to rise through 2009, U.S. producers were unable to raise prices to cover the increases in costs.[268] Furthermore, *** increased its *** significantly in 2009[269] and, as a result, *** experienced a significant additional increase in *** that it was unable to cover with its increase in unit value.[270] As a result of these factors, the TKPP operations of domestic producers experienced an operating loss of $1,973,000 in 2009.[271] The ratio of operating income to net sales of domestically produced TKPP decreased to negative 6.8 percent, a decline of 18.6 percentage points from 2008.[272] [273]

Although the domestic TKPP industry was able to raise prices from 2007 to 2009, as discussed previously, U.S. producers were not able to continue to raise prices sufficiently to cover the increasing costs beginning in late 2008 and accelerating in 2009, resulting in a cost/price squeeze. The unit COGS and COGS to net sales ratio increased during the period, with a dramatic increase in 2009. Unit COGS increased from $0.54 in 2007 to $0.76 in 2008, before increasing sharply to $1.13 in 2009, an increase of 109.5 percent from 2007 to 2009.[274] The COGS to net sales ratio was 88.9 percent in 2007 and decreased to 78.7 percent in 2008, before increasing significantly to 96.5 percent in 2009, demonstrating an increase of 7.6 percentage points from 2007 to 2009, with an increase of 17.8 percentage points from 2008 to 2009.[275] As noted above, the unit value of net sales between 2008 and 2009 increased by a much lower

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[266] See CR/PR at Table IV-4 and Table C-3; Hearing Transcript at 46 (Sexton, testifying that subject imports of TKPP began to flood the U.S. market in the fourth quarter of 2008 and in 2009).

[267] See CR/PR at Table V-7. Concurrently, domestically produced technical grade TKPP was experiencing lower volumes and falling prices in each quarter of 2009.

[268] See CR/PR at Table C-3. Unit COGS rose from $0.76 in 2008 to $1.13 in 2009, an increase of 47.9 percent. In comparison, the unit value of U.S. producers' U.S. shipments increased 20.1 percent from $0.97 in 2008 to $1.17 in 2009. CR/PR at Table C-3.

[269] See CR/PR at Table VI-9.

[270] See CR/PR at Table VI-4.

[271] CR/PR at Table VI-4 and Table C-3 and Table VI-8; CR at VI-10; PR at VI-5.

[272] CR/PR at Table C-3.

[273] As we observed earlier, the domestic industry consists of the U.S. producers of TKPP. As we also observed, when considering ***, certain data are in the possession of the *** rather than the ***. This is the case with *** and, to a certain extent, the ***. We have, however, also carefully analyzed the *** of ***. *** generated *** and *** levels of operating income throughout the period examined through its sales of ***, with such income reaching $*** in 2009, equivalent to *** percent of the firm's revenue ***. CR/PR at Table VI-9. Even with these *** operating results, U.S. producers of TKPP as a whole experienced ***, as the poor performance of U.S. producers *** in their sales of TKPP ***. CR/PR at table VI-4 (company-specific financial data), table VI-9 (***), and Table VI-10 (financial data ***).

[274] CR/PR at Table C-3.

[275] CR/PR at Table C-3.

level than the rise in the unit COGS, 20.7 percent for unit net sales value versus 47.9 percent for unit COGS.[276] [277]

In sum, although the domestic TKPP industry experienced large operating income in 2008, these data were impacted by the *** and do not outweigh the negative trends experienced in virtually all other performance indicators during the period examined.

For the foregoing reasons, we find that the domestic industry producing TKPP is materially injured by reason of subject imports of TKPP from China found by Commerce to be sold in the United States at less than fair value and subsidized by the Government of China. We find that there is a sufficient causal nexus between the subject imports and the domestic industry's poor performance during the period examined to attribute significant adverse effects on the domestic industry to subject imports.

We have considered whether there are other factors that have had an impact on the domestic industry. In addition to subject imports, nonsubject imports took an increasing share of the U.S. market for TKPP during the period examined, but were imported at much smaller levels than subject imports and generally were sold at *** average unit values than subject imports.[278] In addition, U.S. producers imported nonsubject TKPP to address shortages in supply caused by shortages of KOH and to provide certain products required by customers that they were unable to produce in the United States. For example, ***.[279] ***.[280] Furthermore, subject imports increased at a far greater rate than nonsubject imports during the period examined.[281] Thus, the presence of nonsubject imports does not negate the causal link between our finding of significant adverse effects and subject imports of TKPP. [282]

CONCLUSION

Based on the record in the final phase of these investigations, we find that an industry in the United States is not materially injured or threatened with material injury by reason of subject imports of MKP from China that Commerce has found to be sold at less than fair value and subsidized by the Government of China. We also find that industries in the United States are materially injured by reason of imports of DKP and TKPP from China that Commerce has found to be subsidized by the Government of China and sold in the United States at less than fair value.

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[276] CR/PR at Table C-3.

[277] The domestic TKPP industry's capital expenditures also fell dramatically by *** percent between 2007 and 2009. CR/PR at Table C-3.

[278] Subject imports of TKPP were priced lower than nonsubject TKPP in 26 of 27 possible pricing comparisons. CR/PR at Appendix D, D-3.

[279] See CR/PR at Table III-15, n.1.

[280] See CR at III-12; PR at III-7; CR/PR at Table III-15. *** supplied *** pounds of TKPP to the United States in 2009. CR/PR at Table III-15.

[281] See CR/PR at Table C-3. Subject imports of TKPP increased by *** of market share from 2007 to 2009; nonsubject imports of TKPP increased by *** over the same period. CR/PR at Table C-3.

[282] With respect to the considerations required by Bratsk and Mittal, Commissioner Pinkert finds that the TKPP at issue is a commodity product in that there is likely to be a high degree of substitutability within each grade among shipments from domestic and other sources. In addition, food grade TKPP may be substituted for technical-grade TKPP. CR at II-25; PR at II-17. Commissioner Pinkert further finds, however, that, although nonsubject imports were present in the U.S. market throughout the period under examination in increasing volumes, market share for nonsubject imports did not reach levels above *** percent. CR/PR at Table C-3. He therefore concludes that nonsubject imports were not a significant factor in the U.S. market during the period.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by ICL Performance Products LP ("ICL"), St. Louis, MO, and Prayon, Inc. ("Prayon"), Augusta, GA, on September 24, 2009, alleging that an industry[1] in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of certain phosphate salts from China. The specific products that remain at issue in this proceeding are anhydrous dipotassium phosphate ("DKP"), anhydrous monopotassium phosphate ("MKP"), and tetrapotassium pyrophosphate ("TKPP").[2] [3] Information relating to the background of the investigations is provided in the following tabulation.[4]

Effective date	Action
September 24, 2009	Petition filed with Commerce and the Commission; institution of Commission's investigations (74 FR 50817, October 1, 2009)
October 21, 2009	Commerce's notice of antidumping duty initiation (74 FR 54024)
October 23, 2009	Commerce's notice of countervailing duty initiation (74 FR 54778)
November 17, 2009	Commission's preliminary determination (74 FR 61173, November 23, 2009)
March 8, 2010	Commerce's preliminary countervailing duty determination (75 FR 10466)
March 16, 2010	Commerce's preliminary antidumping duty determination (75 FR 12508); scheduling of final phase of Commission investigations (75 FR 16509, April 1, 2010)
May 5, 2010	Commerce's preliminary affirmative determinations of critical circumstances in the antidumping and countervailing duty investigations (75 FR 24572 and 75 FR 24575)
June 1, 2010	Commerce's final affirmative countervailing duty and antidumping duty determinations and termination of critical circumstances inquiry (75 FR 30375 and 75 FR 30377)
June 2, 2010	Commission's hearing[1]
June 30, 2010	Commission's vote
July 15, 2010	Commission's determinations transmitted to Commerce
[1] App. B presents a list of witnesses appearing at the hearing.	

[1] Although the petition uses the term "industry" in the singular, its subsequent discussion of individual domestic like products suggests that multiple industries are at issue.

[2] See the section entitled "The Subject Merchandise" in *Part I* of this report for a complete description of the merchandise subject to these investigations.

[3] During the preliminary phase of these investigations, sodium tripolyphosphate ("STPP") was subject to investigation. The Commission unanimously determined that there was no reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of subject imports of STPP from China alleged to be sold at less than fair value and subsidized by the Government of China. *Certain Sodium and Potassium Phosphate Salts from China, Investigation Nos. 701-TA-473 and 731-TA-1173 (Preliminary),* USITC Publication 4110, November 2009, p. 1.

[4] *Federal Register* notices from the final phase of these investigations cited in the tabulation are presented in app. A.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission–

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*
> . . .
> *In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*
> . . .
> *In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*
> . . .
> *(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

Organization of the Report

Part I of this report presents information on the subject merchandise, subsidy and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume and pricing of imports of the subject merchandise, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

U.S. MARKET SUMMARY

"Certain" potassium phosphate salts consist of DKP, MKP, and TKPP, three of six major industrial potassium phosphates produced in the United States.[5] These chemicals are used in a variety of applications, including detergents and other cleaning applications; fertilizers;[6] food and feed additives; and water treatment. The leading firms manufacturing and selling domestically produced potassium phosphate salts at issue are ICL, Prayon, Innophos, Inc. ("Innophos"), and PCS Purified Phosphates ("PCS"), while leading producers of certain potassium phosphate salts outside the United States include Mianyang Aostar Phosphorous Chemical Industry Co., Ltd. and Sichuan Blue Sword Chemical (Group) Co., Ltd. The leading U.S. importers of potassium phosphate salts from China are ***. Leading importers of certain potassium phosphate salts from nonsubject countries (primarily Germany, Mexico, and Israel) include ***. The major U.S. purchasers of DKP are end users, while the major U.S. purchasers of MKP and TKPP are distributors. Leading purchasers include national distributor Brenntag North American, Inc., ***.

DKP

Apparent U.S. consumption of DKP totaled approximately *** pounds ($***) in 2009. Currently, one firm, ICL, is known to produce DKP in the United States. The U.S. producer's U.S. shipments of DKP totaled *** pounds ($***) and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value in 2009. U.S. shipments of imports of DKP from China totaled *** pounds ($***) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from nonsubject sources totaled *** pounds ($***) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

MKP

Apparent U.S. consumption of MKP totaled approximately *** pounds ($***) in 2009. Two firms, ICL and PCS are known to produce MKP in the United States. The U.S. producers' U.S. shipments of MKP totaled *** pounds ($***) and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value in 2009. U.S. shipments of imports of MKP from China totaled *** pounds ($***) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports of MKP from nonsubject sources totaled

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[5] ***.

[6] The primary end use of imported MKP is for fertilizers; U.S. producers, however, reported that *** of their MKP production was sold for use in fertilizers in 2009.

*** pounds ($***) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

TKPP

Apparent U.S. consumption of TKPP totaled approximately 28.8 million pounds ($33.1 million) in 2009. Currently, four firms (ICL, Innophos, PCS, and Prayon) are known to manufacture and/or sell domestically produced TKPP in the United States. U.S. producers' U.S. shipments of TKPP totaled 23.5 million pounds ($27.4 million) and accounted for 81.7 percent of apparent U.S. consumption by quantity and 82.6 percent by value in 2009. U.S. shipments of imports of TKPP from China totaled *** pounds (***) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports of TKPP from nonsubject sources totaled *** pounds (***) in 2009 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

SUMMARY DATA AND DATA SOURCES

Appendix C contains a summary of data collected in these investigations. Tables C-1 through C-3 present summary data for DKP, MKP, and TKPP, respectively. Table C-4 presents combined data for the three potassium phosphate salts at issue in this proceeding. Except as noted, U.S. industry data are based on questionnaire responses of four firms that accounted for all known U.S. shipments of domestic production of each of the three chemicals during 2009. Data regarding U.S. imports of DKP, MKP, and TKPP are based on questionnaire responses from 37 companies. Chinese industry data are based on questionnaire responses from 13 companies, while available information on other foreign industries is based on published sources and from a survey of major producers.

PREVIOUS AND RELATED INVESTIGATIONS

There have been no previous import injury investigations concerning DKP, MKP, or TKPP. However, as discussed above, the Commission conducted a preliminary phase investigation of the sodium phosphate STPP from China that concluded with a negative determination. In addition, the Commission instituted an antidumping duty investigation on imports of the sodium phosphate SHMP (sodium hexametaphosphate) effective February 8, 2007, following receipt of a petition by ICL and Innophos. Effective March 12, 2008, the Commission determined that an industry in the United States was materially injured by reason of imports from China of SHMP that had been found by Commerce to be sold in the United States at less than fair value.[7] The Commission is scheduled to begin reviewing the antidumping duty order on SHMP from China in February 2013.

[7] SHMP is a water-soluble polyphosphate glass that consists of a distribution of polyphosphate chain lengths. It is a collection of sodium polyphosphate polymers built on repeating $NaPO_3$ units. The Commission concluded that SHMP, in all grades, chain lengths, and particle sizes, constituted a distinct domestic product "like" the merchandise subject to investigation. *Sodium Hexametaphosphate from China*, Investigation No. 731–TA–1110 (Final), USITC Publication 3984, March 2008, pp. 1-5.

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidies

On June 1, 2010, Commerce published a notice in the *Federal Register* of the final affirmative countervailing duty determination on certain potassium phosphate salts from China. Commerce identified the following government programs in China:

I. Income Tax Programs

1. Two Free, Three Half Tax Exemption for Foreign Invested Enterprises ("FIEs").
2. Income Tax Subsidies for FIEs based on Geographic Location.
3. Income Tax Exemption Programs for Export Oriented FIEs.
4. Local Income Tax Exemption or Reduction Program for "Productive" FIEs.
5. Reduced Income Tax Rate for High- and New-Technology Enterprises.

II. Government of China ("GOC") Tax Credit Programs

6. Preferential Tax Policies for Research and Development by FIEs.
7. Income Tax Credit on Purchases of Domestically Produced Equipment.

III. GOC Grant Programs

8. Subsidies to Loss-Making State-Owned Enterprises ("SOEs") by the GOC at the National Level.
9. Grants Pursuant to the State Key Technology Renovation Project Fund.
10. Grants Pursuant to the "Famous Brands" Program.

IV. Provincial Grant Program

11. Subsidies to Loss-Making SOEs by the GOC at the Provincial Level.

V. Indirect Tax Exemption/Reduction Programs

12. Reduction in or Exemption from the Fixed Assets Investment Orientation Tax.
13. Value Added Tax ("VAT") Refunds for FIEs Purchasing Domestically Produced Equipment.

VI. VAT and Tariff Exemption on Imported Equipment

14. VAT and Tariff Exemptions on Imported Equipment.

VII. Preferential Export Lending

15. Discounted Loans for Export Oriented Industries (Honorable Enterprises).

VIII. Export Restraints

16. Export Restraints on Yellow Phosphorus.

The sum of all the subsidy programs identified above by Commerce equals a total CVD subsidy rate of 109.11 percent *ad valorem* for all exporters and producers of DKP, MKP, and TKPP from China.[8]

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[8] *Certain Potassium Phosphate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry*, 75 FR 30375, June 1, 2010.

Sales at LTFV

On June 1, 2010, Commerce published a notice in the *Federal Register* of the final affirmative antidumping duty determination on certain potassium phosphate salts from China. Commerce calculated antidumping duty margins of 69.58 percent for seven supplier/exporter combinations and 95.40 percent for all other suppliers and exporters of certain potassium phosphate salts from China.[9]

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has issued final determinations in its investigations with the following scope:

> *The phosphate salts covered by this investigation include anhydrous Monopotassium Phosphate (MKP), anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts").*
>
> *TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320-34-5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, HTSUS.*
>
> *MKP, also known as Potassium dihydrogen phosphate, KDP, or Monobasic potassiumphosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778-77-0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.*
>
> *DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758-11-4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.*
>
> *The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The product covered by this investigation includes anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution. For purposes of the investigation, the narrative description is dispositive, not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.*[10]

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[9] *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377, June 1, 2010.

[10] *Certain Potassium Phosphate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry*, 75 FR 30375, June 1, 2010 and *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377, June 1, 2010.

Tariff Treatment

The three potassium phosphate salts subject to investigation are MKP, DKP, and TKPP. MKP and DKP are classifiable in the HTS under subheading 2835.24.00, which also includes other potassium phosphates. According to industry sources, however, MKP and DKP are the leading imports entering under that HTS subheading. Moreover, based on industry observations, all or nearly all imports under HTS subheading 2835.24.00 from China appear to be either MKP or DKP.[11] TKPP is classifiable in the HTS under subheading 2835.39.10, which also includes other potassium polyphosphates. According to industry sources, however, TKPP is the more commercially important product entering under that subheading and is the only known product imported under subheading 2835.39.10 from China. Table I-1 presents the current duty rates for DKP, MKP, and TKPP.

Table I-1
DKP, MKP, and TKPP: Tariff rates, 2010

HTS provision	Article description	General[1]	Special[2]	Column 2[3]
		Rates (*percent* ad valorem)		
2835	Phosphinates (hypophosphites), phosphonates (phosphites) and phosphates; polyphosphates, whether or not chemically defined:			
2835.24.00	Phosphates:			
	Of potassium.....	3.1	([4])	25
	Polyphosphates:			
2835.39	Other:			
2835.39.10	Of potassium.....	3.1	([4])	25

[1] Normal trade relations, formerly known as the most-favored-nation duty rate.
[2] Special rates not applicable when General rate is free.
[3] Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.
[4] General note 3(c)(i) defines the special duty program symbols enumerated for this provision; none of these programs apply to imports from China.

Source: Harmonized Tariff Schedule of the United States (2010).

THE PRODUCT

Overview

The products that are the subject of this proceeding are potassium salts of phosphoric acid, H_3PO_4; as such, these chemical products are labeled potassium phosphates. These include monopotassium phosphate with the chemical formula KH_2PO_4; dipotassium phosphate with the chemical formula K_2HPO_4; and tetrapotassium pyrophosphate with the chemical formula $K_4P_2O_7$. MKP exists as colorless crystals, DKP as hygroscopic white crystals or powder, and TKPP as colorless crystals or as a white powder.

All of these products are manufactured by the reaction of phosphoric acid with an alkali base, as will be discussed in the production process section. According to industry sources, DKP, MKP, and TKPP are not interchanged one for another even though their uses may partially overlap. Additionally,

[11] Petition, pp. 17-18.

different grades of the same phosphate salt are not generally interchanged with each other particularly if a higher grade is to be replaced by a lower grade.[12]

The key raw material, purified phosphoric acid, consists of two types of high-purity grades:

- Thermal grade is a high purity product made from elemental phosphorus which is burnt to form phosphorus pentoxide and is then cooled and absorbed in water. According to an ICL witness, thermal grade phosphoric acid is used primarily for food applications but some is used for high-purity electronic applications.[13]

- Solvent purified wet phosphoric acid is a purified form of agricultural phosphoric acid which is, in turn, made from phosphate rock to which sulfuric acid or hydrochloric acid is added. After the agricultural-grade phosphoric acid is produced, it is further purified by solvent extraction.[14] The purity of this purified phosphoric acid is generally more than sufficient to allow it to be used for both technical and food applications.

According to an ICL witness, as of 2009, thermal acid accounted for not more than 10 percent of domestic consumption of the starting material for the production of industrial phosphates; the remainder being primarily purified wet phosphoric acid.[15] According to the witness, thermal acid is used primarily for food applications in the United States, although some is also used for high-purity electronic applications.[16] In China, according to industry sources, thermal grade phosphoric acid remains the primary form of phosphoric acid used to make the potassium phosphate salts covered in this proceeding.[17] According to a representative from ICL, purified phosphoric acid is less expensive to produce but has a higher level of impurities than thermal acid.[18] Additionally, although higher grades, e.g. food grade, can be substituted for lower grades, e.g. technical grade, when it is economically feasible, the reverse is usually not considered to be an appropriate practice.

Description and Applications

The phosphate salts at issue in this proceeding are sold primarily as either a technical or a food grade.[19] Food-grade phosphate salts are subject to more careful analysis and require a more narrow range of specifications including pH and maximum allowable amounts of arsenic,[20] fluoride, lead and insoluble

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[12] Hearing transcript, p. 65 (Sexton).

[13] Conference transcript, pp. 118-121 (Schewe).

[14] ***. ***.

[15] Conference transcript, p. 119 (Schewe).

[16] Conference transcript, pp. 118-121 (Schewe).

[17] Conference transcript, p. 98 (Sexton).

[18] Hearing transcript, p. 26 (Schewe).

[19] Additionally, small amounts of these phosphate salts are sold as ultrapure USP and electronic grades.

[20] To remove arsenic, sulfide is added to the phosphoric acid raw material to precipitate the arsenic which is then filtered out. Conference transcript, p. 63 (Fyock).

materials as specified in the Food Chemicals Codex (FCC).[21] According to Valudor Products, producers of the food-grade phosphate salts are subject to numerous additional requirements such as the requirement that the phosphoric acid raw material be also food grade; cannot be contaminated with the technical grade; and use only stainless steel vessels, tubing and other manufacturing equipment. In addition, according to Valudor, producers must meet additional food-grade sanitary, testing, handling and maintenance requirements.[22] [23] The petitioners agree with the assessment that there are stricter standards with regard to food grade but note that in instances some standards may be preferred but not necessary.[24]

In the United States, producers generally manufacture technical- and food-grade phosphate salts in the same facility, although they subject food-grade phosphate salts to more rigorous testing, handling, and maintenance requirements.[25] [26] Although customers generally specify food grade or technical grade, the lines between the two grades can blur; for example, according to a witness, technical-grade MKP has been purchased for use in fermentation to make insulin.[27]

The grades are further classified by particle size (typically categorized as fines, powder, or granules in order of increasing particle size). These are determined by the average size of the individual particles when they are sifted though a sieve of a given mesh size.

The phosphate salts purchased by customers can be procured either as dry material (usually the anhydrous salt) or they may be purchased as a solution. Whether the customer requiring the phosphate salt in solution decides to purchase the solution from the manufacturer or decides to dissolve the salt in the customer's own facilities largely depends on the type of phosphate salt being considered. Because MKP and DKP can be produced directly by customers by the reaction of potassium hydroxide and phosphoric acid, they typically are not purchased in solution form (and the solution form for these

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[21] The Food Chemicals Codex, consisting of a compilation of food purity specifications and testing methods, is considered to be the authoritative standard for food grade standards and testing and is recognized by the FDA. Monographs listing quality specifications for MKP, DKP and TKPP are listed in the Seventh edition of the Food Chemical Codes published by the United States Pharmacopeial Convention. There is a formal protocol for revisions. Response to staff questions by ***, June 8, 2010.

[22] For example, Valudor states that there are de facto requirements that all production equipment and tubing must be stainless steel; that sanitary requirements dictate the materials that can be used in factory floors, windows and other surfaces; that food grade ingredients must be made on dedicated production equipment and cannot be made on the same equipment used in technical grade ingredients and that all food ingredients must be stored in food grade warehouses and transported by food grade trucks. Valudor's posthearing brief, response to questions from Chairman Aranoff, pp. 3-4.

[23] According to ***, the Chinese Ministry of Health implements China's comprehensive Food Safety Law (2009). Food additives are required to be listed in a catalog of approved substances. The additive names and approved quantities are to be listed in the outer packaging labels of the food products. Additionally, food additives must meet national food safety standards and must pass inspection. China may employ the specifications and allowances published in the Codex Alimentarius which is a code of food standards for all nations as China is actively involved in that organization. Food additives from the United States which meet FCC specifications are typically accepted in China as are generally Chinese food ingredients entering the United States which meet FCC specifications and are prepared in accordance with Good Manufacturing Practices ("GMP"). Response to staff questions by ***, June 8, 2010.

***. Valudor's posthearing brief, exh. 4.

[24] Hearing transcript, pp. 62-63 (Stachiw).

[25] Conference transcript, pp. 64-66 (Fyock, Allen); p. 107 (Sexton, Fyock); and p. 108 (Sexton).

[26] Manufacturing specifications are listed in Current Good Manufacturing Practice in CFR 21, Part 110. Food ingredients, including the subject chemicals, need to be manufactured under GMP, packaged in food grade packaging, and stored and transported as food grade. Conditions in the production and warehouse facilities and shipping vehicles must be clean and protected from pests. Response to staff questions by ***, June 8, 2010.

[27] Conference transcript, pp. 66-67 (Stachiw); staff telephone interview with ***, October 28, 2009.

products is therefore not included within the scope of these investigations). On the other hand, to make TKPP in solution form, additional processing is required (such as calcining) that cannot be readily performed by customers in their facilities and, consequently, solutions of these products are typically purchased from the phosphate salt producers. Consequently, in contrast to MKP and DKP, the petitioners have opted to include solutions of TKPP within the scope of these investigations.[28]

In some cases, the solution is more expensive to make than the dry anhydrous salt and in other cases, the dry anhydrous salt is more expensive to make than the solution, depending on whether the solution to be sold is made from the anhydrous material or vice-versa. Because anhydrous MKP and DKP are made from the solution after the phosphate salt has been dried, milled and packaged, the anhydrous product is typically more expensive than the solution. On the other hand, because TKPP solution is made from the dry material which is then put in solution and filtered, the solution form is typically more expensive to make than the anhydrous salt.[29]

In terms of applications, DKP is used in dairy applications, in baked goods, and in meat processing. The product is used in non-dairy creamers as an emulsifier to prevent coagulation as well as an emulsifier in many dairy applications. [30] DKP is sold in solution form in liquid creamers and is used in coffee creamers to counteract acidity.[31] Some DKP is also used in anhydrous form in dry creamers, but in the United States there is more demand for creamers in liquid form.[32] MKP is used as a fertilizer where it serves as a source of phosphorus and potassium and is also used as a stabilizer and fungicide.[33] Because MKP is an excellent buffering agent and a nutrient, it has broad applications in the food and beverage market as well as in pharmaceuticals.[34] TKPP is used in liquid cleaning products and in potable and industrial water treatment where it acts to prevent corrosion. The product is also used in metal cleaners and metal surface treatment and in the manufacture of latex paints where the TKPP acts to allow the paint formulation to remain as a stable suspension.[35]

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[28] Petition, pp. 10-11.

[29] Conference transcript, p. 95 (Sexton).

[30] Hearing transcript, pp. 17-18 (Stachiw); petition exhibit GEN-4.

[31] Hearing transcript, p. 20 (Stachiw); petition exhibit GEN-4.

[32] Petition, pp. 14-16. Conference transcript, pp. 16-22 (Stachiw) and 60-61 (Sexton); hearing transcript, pp. 17-18 (Stachiw).

[33] According to Valudor, domestic MKP is food grade whereas Chinese MKP, at least in the U.S. market, is not. According to Valudor, "(N)o Chinese producers are in fact capable of producing food grade MKP to these strict {U.S.} standards." Hearing transcript, pp. 10-13 (Ritcey-Donohue).

[34] Hearing transcript, pp. 22-23 (Stachiw); petition exhibit GEN-4.

[35] Petition, volume 2, exhibit GEN-4.

Production Processes

The initial steps in the production of the potassium phosphate salts is the reaction of phosphoric acid with a base, which is usually potassium hydroxide. To produce MKP and DKP, potassium hydroxide is reacted with phosphoric acid at relatively low temperatures, in a mole ratio of 1:1 and 2:1, respectively. To produce TKPP, DKP solution is synthesized and then calcined at a temperature between 400 and 500 degrees Celsius.[36] [37] TKPP forms when molecules of DKP react and chemically condense. The water is then removed using either using drum dryers or in some cases, the product is crystallized. After cooling, the TKPP particles are passed through a series of sieves so that only particles within the specified size range are packaged to be shipped to customers. TKPP particles that are outside the acceptable range, particularly, if they are too large, may be resized, using a granulator, and the resulting material may be fed back into the product stream. The TKPP product then is sized and packaged for shipping (if sold as a solid) or, if the product if shipped as a liquid, the TKPP is redissolved. Similar steps are taken during the production of merchant grade MKP and DKP in solid form.

According to an industry source, the customers of the domestic phosphate salts, as well as the Chinese phosphate salts,[38] receive a certification of analysis (C of A) after the finished product is tested in a laboratory assessing the degree of impurities, the particle size, and the density.[39] Once that certification of analysis is received and accepted, the phosphate salts provided by the various suppliers are interchangeable and, according to domestic industry sources, the product can be considered to be a commodity. The certification process can be in a form of a guarantee based on statistical testing of selected samples or a lab result may be based on actual testing of the batch that is being shipped to the customer.[40] In addition to meeting general requirements, a supplier can produce to customer specifications if required.[41]

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[36] ***. Email from ***, to Commission staff, October 27, 2009.

[37] As noted in the previous section, to produce MKP or DKP in solution, customers, especially if they are chemical manufacturers, can react purchased potassium hydroxide with purchased phosphoric acid in house. This method cannot, however, be used to produce TKPP in solution; to produce this product, the potassium orthophosphate starting materials must be calcined. Thus customers requiring TKPP in solution typically will rely on the phosphate salt manufacturer to manufacture anhydrous TKPP which is then dissolved by the manufacturer in water. According to industry sources, dissolving TKPP in water is a difficult and time consuming step; consequently most customers prefer to purchase TKPP as a solution rather than dissolving the TKPP in the customers' facilities. Conference transcript, p. 62 (Sexton).

[38] Conference transcript, p. 23 (Schewe).

[39] A C of A is a tabulation of specific assays performed for a customer at a given date of a particular sample. It may include special specifications requested by a customer. In contrast, a product data sheet usually provides assay ranges that the manufacturer is required to provide a customer. Assays that can be provided either in a C of A or a product data sheet include product assay, pH, amount of insoluble substances, loss on drying, and sizing. Other tests can include data on element content such as phosphorus and granularity. One parameter that is evaluated carefully by producers of food additives because of its toxicity is arsenic content. Staff telephone interview with ***, June 17, 2010.

[40] Conference transcript, pp. 106-107 (Stachiw).

[41] Hearing transcript, p. 44 (Sexton).

DOMESTIC LIKE PRODUCT ISSUES

The Commission's decision regarding the appropriate domestic product(s) that are "like" the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. Information regarding these factors is discussed below.

The Commission defined DKP, MKP, and TKPP as separate and distinct domestic like products in the preliminary phase of these investigations, and did not indicate an intent to revisit the issue.[42] In the final phase of these investigations, the petitioners and respondents were requested to comment on the draft questionnaires. The petitioners made comments, but did not suggest collecting additional information or data regarding the domestic like product. Respondents did not provide comments on the draft questionnaires.[43]

The petitioners, in both their prehearing and posthearing briefs, agreed with the Commission's preliminary determination finding of three separate like products.[44] Respondent Valudor's prehearing brief stated that the Commission had determined that MKP was a separate like product.[45] At the hearing, the respondent explained that they entered the investigations late, but would likely have argued at the onset that MKP should be considered two separate like products (food grade and technical grade).[46]

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[42] *Certain Sodium and Potassium Phosphate Salts from China, Invs. Nos. 701-TA-473 and 731-TA-1173 (Preliminary)*, USITC Publication 4110, November 2009, p. 11.

[43] For the Commission's analysis of the domestic like product, *see Certain Sodium and Potassium Phosphate Salts from China, Invs. Nos. 701-TA-473 and 731-TA-1173 (Preliminary)*, USITC Publication 4110, November 2009, pp. 11, I-10-I-11 and Confidential Staff Report, Certain Sodium and Potassium Phosphate Salts from China, Inv. Nos. 701-TA-473 and 731-TA-1173 (Preliminary), Memorandum INV-GG-105, November 2, 2009, pp. I-15-I-21.

[44] Petitioners' prehearing brief, p. 1 and petitioners' posthearing brief, part II, p. 17.

[45] Respondent's prehearing brief, p. 1.

[46] Hearing transcript, p. 171 (Ritcey-Donohue).

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

U.S. MARKET CHARACTERISTICS

The phosphate salts at issue in this proceeding have many varied uses and characteristics which depend on the chemical properties of each salt. These properties are covered in *Part I: Introduction*, and include differing abilities of sequestration, buffering, emulsification, dispersion, fermentation, and solubility. A witness for ICL summarized these differences as follows:

> "MKP's most important functions are as a buffer and in fermentation. DKP's most important functions would be as a buffer and in emulsification. Also its solubility is very high. TKPP's most important functions are solubility, dispersion and sequestration."[1]

The differing properties of the three subject phosphate salts are useful in a number of downstream industries including, but not limited to, cleaning, water treatment, dairy, meat processing, baking, and fertilizers.

Each phosphate salt may be sold in technical or food grade. Food-grade phosphate salts must meet stricter guidelines in terms of the allowable amounts of certain impurities (arsenic, fluoride, lead, and heavy metals) and pH level.[2] These salts may be sold in solid (anhydrous) form or in solution.[3] Additionally, phosphate salts can be blended with other subject and nonsubject chemicals to produce chemical blends that may have certain chemical properties preferred by certain customers.[4]

The domestic industry reportedly has been shifting toward the food-grade segment of the MKP market.[5] A witness for ICL stated that, "much of the product (MKP) that's actually consumed in the U.S. market is used for fertilizers, and we are not a large participant in that market space."[6] U.S. producers sold *** percent of their MKP as food grade in 2009. Domestically produced DKP is also primarily sold as food grade; U.S. producers sold *** percent of their DKP as food grade in 2009. TKPP produced in the United States is primarily sold as technical grade; U.S. producers sold *** percent of TKPP as technical grade in 2009.

*** U.S. imports of DKP from China were sold as food grade in 2009. U.S. importers sold *** percent of their MKP from China as technical grade in 2009. Moreover, *** importer of MKP, ***, accounted for *** percent of imports of food-grade MKP; *** customer that requested food-grade MKP was using it in a *** application due to its ***. U.S. importers sold *** percent of their TKPP from China as technical grade in 2009.

Food-grade DKP accounted for *** percent of the entire market in 2009. Technical-grade MKP accounted for *** percent of the entire market in 2009. Technical-grade TKPP accounted for *** percent of the entire market in 2009.

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[1] Hearing transcript, p. 19 (Stachiw).

[2] Petition, p. 9.

[3] The solution form of DKP and MKP have been excluded from the scope of these investigations.

[4] Conference transcript, p. 20 (Stachiw) and p. 194 (Wei).

[5] Staff notes from ***. See also tables V-4 and V-5.

[6] Conference transcript, p. 60 (Schewe).

CHANNELS OF DISTRIBUTION

DKP, MKP, and TKPP may either be sold directly to large end-use customers, or through regional or national distributors. Univar and Brenntag are national distributors, although Brenntag's geographically dispersed operations function as regional distributors.[7] [8] Distributors typically buy larger orders – at least full truckloads – so that they can sell less-than-truckload amounts to their customers.[9] Also, sales made to some distributors ***.[10] Some distributors may be importers of record, whereas others may distribute salts that were produced in the United States or imported by another firm.[11] Also, some end users import potassium phosphate salts, in particular MKP, directly for their own use from China as well as nonsubject countries (***).[12] The share of shipments from producers and importers for each of the certain phosphate salts that was reported to be sold to distributors and end users is presented in table II-1.

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[7] Conference transcript, p. 24 (Schewe) and staff telephone interview with ***, October 28, 2009.

[8] A witness for U.S. importer *** reported that *** sells technical-grade MKP mostly to end users, and had never sold technical-grade MKP to distributors because distributors want both food and technical grades. Hearing transcript, pp. 159-1620 (Melamed).

[9] Hearing transcript, p. 28 (Schewe).

[10] ***.

[11] Because of potassium phosphate salts' tendency to absorb moisture, clump, and become brick-like, distributors do not tend to hold inventories of potassium phosphate salts for long periods of time. Hearing transcript, p. 196 (Ritcey-Donohue). *** company policy is that food-grade product has a shelf life of ***, although some customers will not accept product that is over ***. ***.

[12] *** imports MKP from sources other than China.

Table II-1
Certain potassium phosphate salts: U.S. producers' and importers' shares of reported U.S. shipments, by sources and channels of distribution, 2007-09, January-June 2009, and July-December 2009

Item	2007	2008	2009	Jan.-June 2009	Jul.-Dec. 2009
	Share of reported shipments (*percent*)				
DKP					
Domestic producer's U.S. shipments of DKP:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
U.S. importers' U.S. shipments of DKP from China:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
U.S. importers' U.S. shipments of DKP from nonsubject countries:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
MKP					
Domestic producers' U.S. shipments of MKP:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
U.S. importers' U.S. shipments of MKP from China:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
U.S. importers' U.S. shipments of MKP from nonsubject countries:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
TKPP					
Domestic producers' U.S. shipments of TKPP:					
To distributors	41.6	44.4	37.4	40.9	34.5
To end users	58.4	55.6	62.6	59.1	65.5
U.S. importers' U.S. shipments of TKPP from China:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
U.S. importers' U.S. shipments of TKPP from nonsubject countries:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***

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

SUPPLY AND DEMAND CONSIDERATIONS

Supply

Four companies that produce and/or sell domestically produced phosphate salts responded to the Commission's questionnaire. ICL produces all three phosphate salts; Innophos' TKPP is ***; Prayon produces TKPP; and PCS produces MKP and TKPP (***).

Domestic Production

Based on available information, U.S. producers have the ability to respond to changes in demand with large changes in the quantity of shipments of each of the U.S.-produced phosphate salts to the U.S. market. The main factors contributing to the high degree of responsiveness of supply are the availability of unused capacity, inventories, and the existence of alternative markets and production alternatives.

Industry capacity

DKP–Capacity utilization for U.S. producer ICL decreased from *** percent in 2007 to *** percent in 2009. In January-June 2009, capacity utilization was *** percent, but increased to *** percent in July-December 2009 despite an increase in capacity of *** percent between the first and last half of 2009.

MKP–Capacity utilization for U.S. producers increased from *** percent in 2007 to *** percent in 2008, and then fell to *** percent in 2009. In January-June 2009, capacity utilization declined from *** percent to *** percent in July-December 2009. Capacity increased by *** percent between the first and last half of 2009.

TKPP–Capacity utilization for U.S. producers decreased irregularly from 56.9 percent in 2007 to 39.0 percent in 2009. In January-June 2009, capacity utilization was 37.1 percent, then increased to 41.0 percent in July-December 2009. Capacity decreased by 8.0 percent between the first and last half of 2009.

Alternative markets

DKP–Exports of DKP increased from *** percent of *** total shipments in 2007 to *** percent in 2009; exports accounted for *** percent of the U.S. producer's total shipments in January-June 2009 and *** percent in July-December 2009.

MKP–Exports of MKP increased from *** percent of U.S. producers' total shipments in 2007 to *** percent in 2009. Exports as a share of U.S. producers' total shipments fell from *** percent in January-June 2009 to *** percent in July-December 2009.

TKPP–Exports of TKPP decreased irregularly from 6.4 percent of U.S. producers' total shipments in 2007 to 5.5 percent in 2009; exports accounted for 5.7 percent in January-June 2009 and 5.4 percent in July-December 2009.

Inventory levels

DKP–ICL's DKP inventories as a ratio to its total DKP shipments decreased between 2007 and 2009 from *** percent of its shipments in 2007 to *** percent in 2009. Inventories were equivalent to *** percent of total annualized shipments in January-June 2009 compared with *** percent in July-December 2009.

MKP–U.S. producers' MKP inventories as a ratio to their total MKP shipments increased irregularly from *** percent of their shipments in 2007 to *** percent in 2009. Inventories were

equivalent to *** percent of total annualized shipments in January-June 2009 compared to *** percent in July-December 2009.

TKPP–U.S. producers' TKPP inventories as a ratio to their total TKPP shipments increased between 2007 and 2009 from *** percent of their shipments in 2007 to *** percent in 2009. Inventories were equivalent to *** percent of total annualized shipments in January-June 2009 and *** percent in July-December 2009.

Production alternatives

ICL produces *** using the same equipment and machinery or with the same production workers at its St. Louis, MO plant ***. Prayon produces *** and PCS produces *** using the same equipment and machinery.

Foreign Supply

Although China was not the largest foreign source of supply for DKP or MKP during the 2007-09 period, it was the single-largest source of U.S. imports of TKPP. [13] [14] The share of quantity of imports from China of DKP and MKP increased steadily from *** and *** percent respectively in 2007 to *** and *** percent in 2009. The share of quantity imports of TKPP from China decreased from *** percent in 2007 to *** percent in 2009, respectively. In the first half of 2009, China accounted for *** percent, by quantity, of DKP, *** percent of the imports of MKP, and *** percent of imports of TKPP. In the second half of 2009, these shares were *** percent for DKP, and *** percent for MKP, but increased to *** percent for TKPP.

Subject Imports from China

Based on available information, Chinese producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of certain potassium phosphate salts to the U.S. market. The main contributing factors to the moderate degree of supply responsiveness are Chinese producers' demonstrated ability to add production capacity and the existence of substantial alternate markets.

Industry capacity

DKP–According to six foreign producer questionnaire responses received by the Commission, reported capacity of DKP in China increased from *** pounds to *** pounds between 2007 and 2009. Production of DKP increased from *** in 2007 to *** in 2008, but fell in 2009 to *** pounds. DKP capacity utilization in China therefore decreased from a high of *** percent in 2008 to *** percent in

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[13] Official statistics of Commerce indicate that during the period for which data were collected, a larger volume of U.S. imports from France and Germany entered the United States under HTS subheading 2825.39.10. However, these reportedly consist primarily of chemicals other than TKPP. ***.

[14] Innophos reported in its 2009 Annual Report that:

> "Over the past several years, we estimate that imports, including domestically located production facilities owned by foreign based organizations, have accounted for approximately 15-20% of the North American specialty phosphate market. This market share has been fairly stable for the last two years; however, China imports of STPP and Phosphoric acid increased in 2009, off-setting reductions in phosphoric acid imports from Belgium and Israel."

2009; Chinese capacity utilization was at *** percent in the first half of 2009 and *** percent in the second half of 2009. Chinese capacity utilization is projected to be *** percent in 2010.

MKP–According to ten foreign producer questionnaire responses received by the Commission, reported capacity of MKP in China increased from 69.1 million pounds in 2007 to 71.1 million pounds in 2009, while production of MKP increased from 47.0 million pounds in 2007 to 49.7 million pounds in 2009, after reaching 53.9 million pounds in 2008. MKP production in the first half of 2009 was 23.7 million pounds, compared to 25.9 million pounds in the second half of 2009. MKP capacity utilization in China therefore increased irregularly from 67.9 percent in 2007 to 69.8 percent in 2009; Chinese capacity utilization is projected to be 64.9 percent in 2010.

TKPP–According to six foreign producer questionnaire responses received by the Commission, reported capacity of TKPP in China ***. Production of TKPP increased from *** pounds in 2007 to *** pounds in 2009. TKPP production in the first half of 2009 was *** pounds, compared to *** pounds in the second half of 2009. Capacity utilization was *** percent in 2007, then increased to *** percent in 2008 and to *** percent in 2009. Capacity utilization was *** percent in the first half of 2009, compared to *** percent in the second half of 2009. Capacity utilization is projected to retreat to *** percent in 2010.

Alternative markets

DKP–The share of China's shipments of DKP exported to the United States, as a share of its total shipments, increased from *** percent in 2007 to *** percent in 2008, then decreased to *** percent in 2009. In the first half of 2009, this share was *** percent; by the second half of 2009, however, U.S. exports accounted for *** percent of total shipments. Principal alternative export markets identified by Chinese producers and exporters include Australia, Europe, Korea, Japan, Malaysia, Singapore, and South Africa. Shipments to the Chinese home market comprised between *** and *** percent of total shipments for Chinese producers in 2007 to 2009.

MKP–The share of China's shipments of MKP exported to the United States, as a share of its total shipments, increased from 9.3 percent in 2007 to 18.1 percent in 2008, then decreased to 10.0 percent in 2009. In the first half of 2009, this share was 9.7 percent but increased to 10.4 percent in the second half of 2009. Principal alternative export markets identified by Chinese producers and exporters include Asia, Europe, India, Japan, Korea, the Middle East, Thailand, and Vietnam. Shipments to the Chinese home market comprised of 34.0 percent of total shipments for Chinese producers in 2007 and 32.8 percent in 2009.

TKPP–The share of China's shipments of TKPP exported to the United States, as a share of its total shipments, decreased from *** percent in 2007 to *** percent in 2008 and to *** percent in 2009. In the first half of 2009, this share was *** percent, compared to *** percent in the second half of 2009. Principal alternative export markets identified by Chinese producers and exporters of TKPP include Australia, Korea, and Thailand. Shipments to the Chinese home market comprised *** percent of total shipments for Chinese producers in 2007, and increased to *** percent in 2008 and *** percent in 2009.

Inventory levels

DKP–Inventories, as a share of total shipments, of the responding producers in China increased from *** percent in 2007, to *** percent in 2008, to *** percent in 2009. The ratio was *** percent in the first half of 2009, and increased to *** percent in the second half of 2009.

MKP–Inventories**,** as a share of total shipments, of the responding producers in China decreased from *** percent in 2007, to *** percent in 2008, to *** percent in 2009. The ratio was *** percent in the first half of 2009, and increased to *** percent in the second half of 2009.

TKPP–Inventories, as a share of total shipments, of the responding producers in China decreased from *** percent in 2007, to *** percent in 2008, to *** percent in 2009. The ratio was *** percent in the first half of 2009, and decreased to *** percent in the second half of 2009.

Production alternatives

Only two Chinese producers provided responses regarding production alternatives. Chinese producer *** produces *** using the same equipment: ***. Chinese producer *** stated that it does not produce any other phosphate salts using the same equipment.

Nonsubject Imports

Since the start of 2007, Israel and Belgium have been the largest nonsubject sources for DKP; Israel and Mexico for MKP; and Israel for TKPP. According to Commission questionnaire data, nonsubject imports accounted for *** percent of all imports of DKP in 2007, but this decreased to *** percent in 2008, and *** percent of imported DKP in 2009. In the first half of 2009, nonsubject imports accounted for *** percent of all nonsubject imports of DKP, compared to *** percent in the second half of 2009. Until the fourth quarter of 2008, imports from Belgium, Germany, Israel, and Taiwan were all higher than imports of Chinese DKP.[15]

With respect to MKP, nonsubject imports accounted for *** percent of all imports in 2007, but decreased to *** percent in 2008 and *** percent of all imported MKP in 2009. In the first half of 2009, nonsubject imports accounted for *** percent of all imports of MKP, compared to *** percent in the second half of 2009. The largest sources for MKP according to Commission questionnaire data were Israel and Mexico.[16] Importer *** reported that for part of 2008, Israeli producer Haifa was sold out of MKP.

Regarding TKPP, nonsubject imports displayed the opposite trend, accounting for approximately *** percent of all imports in 2007, and increasing to *** percent in 2008 and *** percent of all imported TKPP in 2009. In the first half of 2009, nonsubject imports accounted for *** percent of all imports of TKPP, but decreased to *** percent in the second half of 2009. According to Commission questionnaire data, the largest nonsubject source for TKPP was Israel.[17]

General Supply Conditions

Fertilizers and phosphate salts compete in their respective production processes. Strong agricultural demand in fertilizers increases competition for phosphate feedstock. This can create a tight supply of finished phosphate salts and lead to increased raw material prices, a situation which occurred in 2008.[18]

Firms were asked to discuss the change in demand for fertilizers since January 1, 2007. All four responding U.S. producers and 11 of the 22 responding importers reported fluctuating demand for fertilizers. *** reported that "due to relatively high crop prices, demand for fertilizer increased in 2008

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[15] Based on quarterly pricing data received in response to the Commission's importer questionnaires.

[16] Based on quarterly pricing data received in response to the Commission's importer questionnaires.

[17] Ibid.

[18] Hearing transcript, p. 36 (Allen). See also *1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China and India, Inv. Nos. 731-TA-1146-1147 (Final),* USITC Publication 4072, April 2009, p. 14 (noting a curtailment of phosphorous production in China, "surging" global phosphorous demand for agricultural applications, and the imposition of export taxes by the Chinese government on exports of phosphorous in 2008).

and then as pricing came down in the second half of 2008 into 2009, demand for fertilizer in 2009 was negatively impacted."[19] Three importers reported an increased demand in fertilizers, three importers reported that demand had decreased, and four importers reported that demand was unchanged.

Firms were also asked to discuss the trends in raw material prices and expected future prices of raw materials. Most firms reported fluctuating raw material prices, with a major increase in 2008 and a steady decline in 2009.[20] [21] The fluctuating prices of raw materials were attributed to fertilizer demand, and an increased demand in China and other developing countries. *** reported that from 2007 to 2009, the cost of phosphoric acid increased by *** percent, and potassium hydroxide increased by *** percent. Although future trends in input price changes were less clear, a number of firms reported that they expect input prices to increase when the price and demand of fertilizer increases.

Firms were asked if they had refused, declined, or been unable to supply DKP, MKP, or TKPP since January 1, 2007. ***. ICL reported that it had an *** allocation on *** and limited its customers in 2007 to 2008 levels for all phosphate products, including phosphoric acid.[22] During that time, Prayon supplied purchasers that could not get enough material from ICL.[23] ***. Innophos also reported that ***. *** reported that their customers were affected in terms of their ability to obtain both MKP and TKPP in the fourth quarter of 2008 due to a KOH raw material shortage.[24]

Eight of 33 responding importers reported limitations on the supply of potassium phosphate salts; five specifically reported shortages in 2008.[25] [26] Some importers reported that purchasers of U.S. product turned to them because of the reduced availability of U.S.-produced phosphate salts. Importers reported U.S. product was less available both because of limitations on the inputs and because of an increased fertilizer demand, which caused the inputs to be shifted away from the production of phosphate salts. Importers also reported restrictions on sourcing from China (because of seasonal export taxes), Taiwan, and Israel (because Haifa was sold out of MKP). One importer, ***, reported experiencing supply interruptions and delivery delays of up to four months in 2008 due to the earthquake in China. Petitioners contend that the supply of phosphoric acid from China is seasonal and always declines during the winter months due to the reduction in the availability of hydroelectric power.[27]

Nineteen of the 47 responding purchasers reported that their supplier refused, declined, or was unable to supply DKP, MKP, or TKPP since January 1, 2007. Nine of these purchasers were placed on allocation in 2008. Three purchasers reported that suppliers, including *** refused to accept new customers during 2008. Two purchasers reported that its suppliers were on a controlled order entry during 2008, and that *** implemented a potassium surcharge due to North American potassium

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[19] *** producer's questionnaire responses, section IV-15.

[20] For example, *** reported that "current pricing reflects the drop in KOH 45% solution pricing from $1800 per ton on spot market to down to below $600 per ton today. Yellow phosphorous pricing has dropped from $3385/MT to less than $1850/MT today."

[21] See *Part V*: Pricing and Related Information for data related to domestic producers' raw material prices.

[22] *** producer's questionnaire responses, section IV-24; hearing transcript, pp. 30-31 (Schewe).

[23] Hearing transcript, p. 36 (Allen).

[24] Respondents contend that ***. Respondents' postconference brief, p. 21.

[25] One of these importers reported that the shortage began in October 2007 but continued in 2008.

[26] Two importers reported supply limitations only since March 2009, stating that the loss in competitive pricing resulted in lost accounts.

[27] Hearing transcript, pp. 92-93 (Sexton).

shortages. One purchaser reported that its Chinese source became too expensive due to the preliminary duties in place, and its Israeli source was unable to fill full orders so it has raised its pricing.[28]

Purchasers were asked if they had switched suppliers due to certain potassium phosphate salts being unavailable since January 1, 2007. Six of 28 responding purchasers reported changing their suppliers for DKP; six of 26 responding purchasers switched suppliers for MKP; and seven of 33 responding purchasers changed suppliers for TKPP. Of those that changed suppliers for either DKP, MKP, or TKPP, six purchasers reported finding new suppliers because their previous supplier experienced a shortage of supply, and three purchasers reported switching to Israeli product.

When asked if there had been any changes in the product range or marketing of potassium phosphate salts, *** responding U.S. producers and 31 of 32 responding importers reported "no." The importer of TKPP responding "yes," reported the consolidation of phosphorous manufacturers.

Demand

U.S. Demand Characteristics

Certain phosphate salts are used in a wide range of applications. DKP is used primarily in baked goods, dairy, meat processing, and chemical processing. MKP is used generally in fertilizer, food and beverage, fungicides, cement, and chemical processing. TKPP is used mainly in detergents and cleaning products, household and industrial products, and water treatment, as well as in fertilizer, buffering agents, and metal finishing.

Demand Trends

U.S. producers, importers, and purchasers were asked how demand has changed within the United States for each of the certain potassium phosphate salts since 2007. Their responses appear in table II-2 and are discussed below.

[28] A firm in the fertilizer retail business *** stated that, "***" ***.

Table II-2
DKP, MKP, and TKPP: Producer, importer, and purchaser perceptions regarding DKP, MKP, and TKPP demand

		DKP	MKP	TKPP
Producers	Increase	***	***	1
	No Change	***	***	2
	Decrease	***	***	1
	Fluctuated	***	***	0
Importers	Increase	3	2	1
	No Change	6	6	9
	Decrease	4	8	6
	Fluctuated	5	7	6
Purchasers	Increase	2	6	0
	No Change	9	4	9
	Decrease	3	3	8
	Fluctuated	7	10	11

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

DKP– Demand, as measured by apparent U.S. consumption, increased from *** pounds in 2007 to *** pounds in 2008, and decreased to *** pounds in 2009. U.S. consumption was *** pounds in the first half of 2009, compared to *** pounds in the second half of 2009.

U.S. producer *** reported that U.S. demand of DKP *** since 2007. Six of 18 responding importers reported no change in demand for DKP; five importers reported that demand had fluctuated; four importers reported a decrease in demand; and three importers reported an increase in demand since 2007. Of the importers that reported fluctuating demand, demand for fertilizer and seasonality were the principal factors given. Importers, reporting a decrease in demand, indicated that regulations and higher prices were the primary factors that affected demand. One importer who sold primarily technical-grade DKP, MKP, and TKPP, reported that demand was strong in 2007 and 2008, but demand then dropped because farmers could not afford to apply the subject phosphate salts to the fields due to increased prices.[29] One importer reported that demand for DKP increased due to its new use in meat processing.[30]

Nine of the 21 responding purchasers reported no change in U.S. demand for DKP, seven reported that demand fluctuated, three reported a decrease in demand, and two reported an increase in demand. Of the purchasers reporting that demand fluctuated stated that price and availability were the principal factors that affected demand. One purchaser, ***, stated that the decrease in demand was due to "the sharp increases in price (which) forced the removal (of) as much DKP from formulation of finished goods as possible."[31]

[29] *** importer questionnaire response, section III-19a.

[30] *** importer questionnaire response, section III-19a.

[31] *** purchaser questionnaire response, section III-9a.

MKP–Demand, as measured by apparent U.S. consumption, increased from *** pounds in 2007 to *** pounds in 2008, and decreased to *** pounds in 2009. U.S. consumption was *** pounds in the first half of 2009, compared to *** pounds in the second half of 2009.

U.S. producer *** reported that U.S. demand of MKP had increased since 2007 due to its growing use in horticulture-grade fertilizers. U.S. producer *** reported no change in U.S. demand for MKP. Eight of 23 responding importers reported decreased demand for MKP; seven importers reported that demand had fluctuated; six importers reported no change in demand; and two importers reported an increase in demand since 2007. Of the importers that reported decreased demand, environmental regulations, high prices, lower-cost alternatives, and the current recession were given as primary factors that affected demand.[32] [33]

Ten of 23 responding purchasers reported that demand for MKP fluctuated, six reported that demand had increased, four reported no demand change, and three reported that demand had decreased. Of the purchasers reporting that demand fluctuated, stated that price and availability were the principal factors stated that affected demand. Four purchasers stated that the increased demand for fertilizers was the principal factor for the increased demand for MKP.

TKPP–Demand, as measured by apparent U.S. consumption, decreased from 43.3 million pounds in 2007 to 37.4 million pounds in 2008, and to 28.8 million pounds in 2009. U.S. consumption was 13.1 million pounds in the first half of 2009, and grew to 15.7 million pounds in the second half of 2009.

U.S. producers *** reported no change in demand for TKPP since 2007. *** reported an increase in U.S. demand due to an increase in GDP growth. *** reported that demand for TKPP decreased due to a growing trend to produce phosphate-free cleaning products.

Nine of 22 importers reported that demand for TKPP had not changed since 2007. Six importers reported fluctuating U.S. demand, six reported decreased demand, and one importer reported that demand had increased. Of those that reported a decrease in demand, the recession, higher prices, and environmental concerns were the principal factors that affected demand. Importers reporting fluctuating demand stated that change in fertilizer demand, competitive pricing, and seasonality were the primary factors that affected demand.

Eleven of 28 responding purchasers reported that demand for TKPP had fluctuated, nine reported no change, and eight reported that demand decreased. Of the purchasers that reported a fluctuation in demand, most identified price increases as the primary factor. Of the purchasers that reported a decreased demand in TKPP, two purchasers reported reformulation away from potassium phosphate material, one of which stated was due to rising prices.[34]

End-Use Demand

Purchasers that are end users of phosphate salts were asked to describe how demand for their final products incorporating DKP, MKP, or TKPP has changed since 2007. For final products incorporating DKP, seven of 12 responding purchasers reported that demand had not changed; three purchasers reported that demand had increased; one purchaser reported that demand had fluctuated; and one purchaser reported that demand had decreased. For final products incorporating MKP, five of 12 purchasers reported an increase in demand, four purchasers reported that demand remained unchanged, two purchasers reported fluctuating demand, and one purchaser reported decreasing demand. Six of 17

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[32] Environmental regulations address eutrophication concerns.

[33] *** used MKP when "it was lower than $***/lb as an alternative in *** applications. This demand has decreased as it is too expensive to compete in larger application like ***." Importer questionnaire responses, section III-19.

[34] *** and *** purchaser questionnaire responses, section III-9a.

purchasers reported that demand for final goods incorporating TKPP had not changed, six purchasers reported decreased demand, four purchasers reported that demand had fluctuated, and one purchaser reported that demand had increased. Commodity prices, fluctuating availability of raw materials, global economic conditions, and reformulation of final products were the primary factors affecting demand trends.[35]

Cost Share

Phosphate salts are used in many different applications with wide ranging cost shares, as shown in table II-3. Three importers and U.S. producer *** reported cost shares of DKP in their end uses, seven importers and U.S. producers *** reported cost shares of MKP in their end uses, and five importers and *** reported cost shares for TKPP. Innophos reported that, "our specialty chemical products are often critical ingredients in the formulation of our customers'products, and typically represent only a small percentage of their total production costs. As a result, we believe that the risks associated with our customers switching suppliers often outweigh the potential gains."[36]

[35] A witness for ICL reported a substantial increase in demand in the fertilizer market in 2008, but observed that, with lower crop prices since 2009, farmers have reduced some of the chemicals that they add into their applications, creating a lower consumption of fertilizer. Hearing transcript, pp. 56-57 (Schewe).

[36] Innophos's Form 10-K Annual Report for the period ending 12/31/09, submitted in respondents' prehearing brief as exh. 4.

Table II-3
DKP, MKP, and TKPP: Products for which phosphate salts are used and share of the cost of these end products as reported by U.S. producers and importers

Phosphate salt	End Use	Cost share of phosphate salt in end use
DKP	Antifreeze	5%
	Baked goods	5%
	Meat processing	1-8%
	Dairy (coffee creamers, processed cheese, evaporated milk)	1-5%
	Buffering agent in compounding formulas	10%
	Metal treatment	N/A
MKP	Cement	34%
	Buffering agent in compounding formulas	10%
	Refractories	25%
	Food & beverage (yeast, food nutrient)	1-10%
	Chemical processing	1-15%
	Dog food	5%
	Fertilizer	18-50%
	Metal finishing	50%
	Paints and architectural coating	70%
TKPP	Detergents, industrial cleaners, surfactants (cleaning products)	3-30%
	Food	1%
	Water treatment	1-60%
	Metal finishing	3-65%
	Paints and architectural coatings	1%
	Pulp and paper	5%
	Household and industrial type products	6-47%
	Buffering agent in compounding formulas	5-15%
	Fertilizer, boiler descaling, dyeing, preservative	N/A

Note.–N/A is reported if none of the responding firms reported cost share.

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

Business Cycle

Demand for phosphate salts tends to fluctuate from period to period depending on the general business cycle of the end-use market. One of four responding U.S. producers and 11 of 34 importers reported that there are specific business cycles for certain potassium phosphate salts. One firm reported competition around the world for sources of DKP. Six importers reported that MKP used in fertilizers were subject to seasonal demand. One producer and one importer reported that TKPP used in industrial water treatment was subject to seasonal demand. One importer reported that between October to February, China has less hydroelectric power available which leads to higher phosphate pricing during this period. Furthermore, five of 13 responding importers reported changes in the business cycles and

conditions of competition for certain potassium phosphate salts since January 1, 2007; and indicated that domestic shortages of DKP, MKP, and TKPP, raw material shortages, and the global recession all had affected conditions of competition.

Five of 22 responding purchasers reported that DKP is subject to business cycles or conditions of competition; nine of 23 purchasers reported that MKP is subject to business cycles or conditions of competition; and six of 28 responding purchasers reported that TKPP is subject to business cycles or conditions of competition. Six purchasers reported that the seasonal supply and demand of fertilizers affected business cycles and conditions of competition for DKP and MKP. Purchasers also reported the availability of imported DKP, MKP, and TKPP, the availability of raw materials, agricultural commodity prices, and the economic recession affected business cycles and conditions of competition for certain potassium phosphate salts.

Purchasing Patterns

Purchasers were asked how frequently they purchased DKP, MKP, or TKPP. Of the 26 responding purchasers, nine purchased DKP monthly, eight purchased quarterly, four purchased annually, three purchased DKP on an as-needed basis, one purchased biweekly, and one purchased DKP 2-4 times annually. Fourteen responding purchasers bought MKP on a monthly basis, nine on a quarterly basis, and one purchased MKP annually. Fourteen of 33 firms purchased TKPP monthly, six purchased weekly, five purchased quarterly, four purchased annually, two purchased bimonthly, and two purchased TKPP on an as-needed basis.

Additionally, purchasers were asked how to characterize their purchasing patterns for certain potassium phosphate salts during the last three years, as shown in table II-4.

Table II-4
Purchasing patterns of DKP, MKP, and TKPP by source, as reported by U.S. purchasers

	Increased	No Change	Decreased	Fluctuated
DKP				
United States	3	7	2	5
China	2	5	3	2
Nonsubject Countries	2	4	2	3
MKP				
United States	3	5	4	4
China	4	6	3	5
Nonsubject Countries	2	4	4	5
TKPP				
United States	5	6	9	11
China	1	7	5	3
Nonsubject Countries	2	4	2	2

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

DKP– Seven of 17 responding purchasers reported that their level of domestic product purchases had remained constant; five reported fluctuating purchases; three reported increased purchases; and two reported decreased levels. Purchasers noted the Canadian mining strike, prices, and fluctuating customer demands affecting their purchasing levels of domestic product.

Five of 12 purchasers reported that their level of purchases from Chinese sources had remained the same in the last three years, three firms reported decreased Chinese purchases, two firms reported an increase, and two reported fluctuating purchasing levels. Purchasers identified high tariffs, steady customer demand, competitive pricing, and the mining strike in Canada as factors that affected their levels of purchases from China.

Four of eleven purchasers reported that their purchasing levels from nonsubject countries had remained the same, three reported fluctuating levels, two firms reported an increase, and two firms reported a decrease in purchasing levels from other countries in the last three years.

MKP– Five of 16 responding purchasers reported that their level of domestic product purchases had remained constant, four firms reported decreased levels, four firms reported fluctuated levels, and three firms reported increased purchases. Purchasers reported availability and customer demand as factors that affected their purchasing levels in the United States. One purchaser noted that U.S. product was not offered by their suppliers, and that they only use suppliers who will ship less-than-pallet orders.[37]

Six of 18 purchasers reported that their level of purchases from Chinese sources had remained the same in the last three years, five reported fluctuating levels, four reported increased purchases, and three reported decreased levels of Chinese purchases in the last three years. Purchasers identified high tariffs, customer demands, and pricing as factors that affected their levels of purchases from China.

Five of 15 purchasers reported that their purchasing levels from nonsubject countries had fluctuated, four purchasers reported that their purchase levels had remained the same, four purchasers reported a decrease, and two purchasers reported an increase in the level of purchases made from other countries in the last three years.

TKPP– Eleven of 31 responding purchasers reported that their level of domestic purchases had fluctuated, nine purchasers reported decreased purchases, six purchasers reported a constant level, and five purchasers reported an increase in domestic purchases in the last three years. Purchasers reported fluctuating customer demand and industrial activity, raw material shortages, pricing, and customer reformulation changes as factors that affected their domestic purchasing levels.

Seven of 16 purchasers reported that their level of purchases from Chinese sources had remained the same in the last three years, five purchasers reported decreased purchasing levels, three purchasers reported fluctuating levels, and one purchaser reported increased purchases in the last three years. Purchasers reported customer demands, increased lead times, and domestic shortages pricing as factors that affected their levels of purchases from China. Of those that reported fluctuating purchasing levels, one purchaser reported that TKPP from China was more readily available in 2008, and another purchaser reported immediate shipment availability, demand fluctuation, and cost as factors that affected its purchasing levels from China.

Four of 10 purchasers reported that their purchasing levels from nonsubject countries had remained constant, two purchasers reported an increased level, two purchasers reported a decrease, and two purchasers reported fluctuating purchasing levels from nonsubject countries in the last three years.

Substitute Products

Producers and importers were asked to list substitutes and the applications in which they are used. ***, while seven importers and six purchasers identified nine chemicals as substitutes for DKP, MKP, or TKPP as reported in table II-5. None of the producers, importers, or purchasers identified DKP as a

[37] *** purchaser questionnaire response.

substitute for MKP or TKPP; MKP as a substitute for DKP or TKPP; or TKPP as a substitute for DKP or MKP.

Table II-5
DKP, MKP, and TKPP: Potential substitute products as reported by producers, importers, and purchasers

	Producers		Importers		Purchasers		
Product	Yes	No	Yes	No	Yes	No	**Substitute products reported**
DKP	***	***	5	11	4	16	Potassium hydroxide, phosphoric acid, sulfate of potash, monoammonium phosphate (MAP), potassium nitrate, potassium carbonate, potassium metabisulfite, ammonia bicarbonate, sodium chloride, and combinations
MKP	***	***	6	15	5	15	Monoammonium phosphate (MAP), diammonium phosphate (DAP), and white phosphorous acid, potassium lactate, potassium chloride, potassium hydroxide, and potassium metabisulfite
TKPP	2	2	5	16	5	19	TSPP, STPP, sodium acid pyrophosphate; surfactant (ethylene derived) combinations; citrates, combination of polymers and sodium carbonate (in laundry and dish-wash detergents), sodium hexametaphosphate, potassium metabisulfite

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

Most producers and most importers reported that changes in the price of substitutes had not affected the price of certain phosphate salts, as shown in table II-6.

Table II-6
DKP, MKP, and TKPP: Effect of price changes of substitutes on phosphate salts, as reported by producers, importers, and purchasers

		DKP	MKP	TKPP
Producer	Substitutes affect price	***	***	0
	Substitutes do not affect price	***	***	4
Importer	Substitutes affect price	1	2	1
	Substitutes do not affect price	13	18	15
Purchaser	Substitutes affect price	0	2	0
	Substitutes do not affect price	15	16	20

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

One importer reported that end users can use monoammonium phosphate (MAP) as a substitute for MKP at some sacrifice of function and with a two-month changeover period. Another importer

reported that large end users typically make their own MKP from potassium hydroxide and phosphoric acid, while a third reported that if MKP prices increase, end users increase the cost of their products.

Most responding importers *** reported that substitutes had not changed since 2007. Two of 17 responding importers, however, reported that substitutes changed for DKP and one of 21 responding importers reported substitutes changed for MKP and TKPP. One firm reported that polymers were new substitutes for TKPP for sequestration.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported products depends upon such factors as relative prices, quality, and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on the available information, staff believes that on the whole, there is likely to be a high degree of substitution between the potassium phosphate salts produced in the United States and those produced in China. Technical-grade potassium phosphate salts are likely to have a higher degree of substitution than food-grade potassium phosphate salts, since stricter guidelines apply to the food-grade products and, therefore, fewer Chinese factories are currently capable of producing them. Food-grade potassium phosphate salts can be substituted for technical-grade phosphate salts, but not vice versa.[38] ***.[39] Food-grade phosphate salts must use food-grade phosphoric acid and soda ash or caustic in the production process and meet a more narrow range of specifications set by the Food Chemicals Codex.[40] For food-grade phosphate salts there is reportedly a long qualification process, estimated to be about one year or more.[41] [42]

U.S. producers and importers were asked how much of their MKP produced is Kosher certified. ***. Twenty-one of 28 importers reported that they do not import Kosher-certified MKP. Four importers reported that all their MKP produced is Kosher certified, while two importers reported that 5 to 20 percent of their MKP is Kosher certified.

Purchasers were asked if they required MKP to be Kosher certified. Seventeen of 29 responding purchasers reported that they do not require Kosher-certified MKP. Eight purchasers reported that all their purchases of MKP are Kosher certified, four purchasers reported that 10 to 50 percent of all their purchased MKP is Kosher certified.

U.S. producers, importers, and purchasers were asked how frequently anhydrous DKP, MKP, or TKPP was substitutable for DKP, MKP, or TKPP in solution. U.S. producers *** reported that anhydrous form was "rarely" substitutable for solution for all three potassium phosphate salts. *** specifically reported that "anhydrous MKP and DKP are more expensive to produce than MKP or DKP in solution...as a result, most end users that are capable of using solution in their production process have set up their facilities to receive and utilize liquid MKP and DKP. Such end-users rarely will use anhydrous." *** reported that anhydrous TKPP was "frequently" substitutable for TKPP in solution, and *** reported that anhydrous TKPP was "sometimes" substitutable for TKPP in solution. *** reported "anhydrous TKPP has replaced TKPP in solution at many customer accounts. Roughly *** of end-users of TKPP

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[38] Conference transcript, p. 72 (Cannon), 163 (Metzger), and p. 203 (Wei).

[39] ***.

[40] Respondent's Prehearing brief, p. 3.

[41] Conference transcript, p. 159 (Metzger) and ***.

[42] One major purchaser of food-grade MKP, ***, stated that, "We carried out two audits on a Chinese Supplier (***). The first in January, 2007 and the second in March, 2009. On both occasions we found their quality standards not up to *** requirements and hence did not approve them. We are currently ***." E-mail from ***, June 9, 2010.

either buy solution or put TKPP into a solution in their process. Relatively few end-users therefore can only use anhydrous TKPP."

Eight of 14 importers reported that DKP in anhydrous form is "rarely" or "never" substitutable for solution, and six reported that anhydrous DKP is "sometimes" or "frequently" substituted for solution. Thirteen of 18 importers reported that MKP and TKPP in anhydrous form is "rarely" or "never" substitutable for solution, and five reported that anhydrous MKP or TKPP is "sometimes" or "frequently" substituted for solution. The primary factors cited included the additional costs of putting the anhydrous salts back into solution, additional transportation costs, and formulation restrictions.

Sixteen of 23 purchasers reported that anhydrous DKP was "rarely" or "never" substitutable for DKP in solution, four reported that "sometimes" the two forms are substitutable, two reported "always" and one purchaser reported DKP anhydrous is "frequently" substitutable for solution. Eighteen of 22 purchasers reported that anhydrous MKP was "rarely" or "never" substitutable for MKP in solution, three reported "always" and two purchaser reported MKP anhydrous is "sometimes" substitutable in solution. Twenty-one of 29 purchasers reported that anhydrous TKPP was "rarely" or "never" substitutable for TKPP in solution, seven reported that "sometimes" the two forms are substitutable, and one purchaser reported that TKPP anhydrous is "frequently" substitutable for solution. Purchasers reported reformulation costs as a limiting factor of switching between the two forms.

Lead Times

All four responding producers reported selling *** percent of their phosphate salts from inventories, and the remaining *** percent on a produced-to-order basis. Producers' lead times when selling out of inventory ranged from *** days to *** weeks, while lead times for produced-to-order phosphate salts ranged from *** days to *** weeks. Seventeen of the 22 responding importers selling from U.S. inventories reported selling most their product from U.S. inventories, with 13 of these selling more than 80 percent from U.S. inventories. Lead times from importer inventories ranged from 1 day to 2 weeks, with 12 importers reporting lead times of three days or less. Seventeen importers reported sales from overseas inventories, with ten of these importers making more than 75 percent of their sales from overseas inventories, and the remaining seven selling less than half from overseas inventories. Lead times from importers' overseas inventories ranged from 30 days to 10 weeks, with 15 importers reporting lead times ranging from 4 to 8 weeks. Nine importers reported selling product that is produced to order; five of these sold the majority of their product produced to order. Importers' lead times for produced-to-order phosphate salts ranged from 4 to 12 weeks, with six importers reporting lead times of 8 weeks or longer.

Factors Affecting Purchasing Decisions

Table II-7 summarizes purchasers' responses concerning the top three factors they reported considering in their purchasing decisions. As indicated in the table, quality was cited most frequently as the primary factor in buying decisions. Availability was the most frequently cited second factor, and price was the most frequently cited third factor. When first and second factor responses are combined, price was cited most frequently (27), followed by quality (26) and availability (23).

Table II-7
Certain potassium phosphate salts: Ranking factors used in purchasing decisions by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Quality	18	8	11
Price[1]	13	14	18
Availability	7	16	8
Traditional supplier	2	0	0
Delivery	0	1	1
Contract	2	1	0
Reliability	3	2	1
Other[2]	3	4	1

[1] One firm reported both price and availability for the first factor; both responses are included in the table.
[2] Other factors include logistics, vendor relationship, and qualified manufacturer for first factor; lead time, products (water soluble fertilizer), service, and volume for second factor; packaging, service, and terms for third factor.

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

Purchasers were asked how often each of the potassium phosphate salts met minimum quality specification when domestically produced as well as when imported from China (tables II-8a-c).

Table II-8a
DKP: Ability to meet purchasers' minimum quality specifications, by source

Country	Number of firms reporting		
	Always or Frequently	Sometimes	Never
United States	22	0	2
China	14	2	2
Israel	6	0	0
Germany	2	0	0
Mexico	1	0	0
France	1	0	0

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

Table II-8b
MKP: Ability to meet purchasers' minimum quality specifications, by source

Country	Number of firms reporting		
	Always or Frequently	Sometimes	Never
United States	19	1	3
China	17	2	1
Israel	9	1	0
Germany	1	0	0
Mexico	1	1	0
France	2	0	0
Belgium	2	0	0

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

Table II-8c
TKPP: Ability to meet purchasers' minimum quality specifications, by source

Country	Number of firms reporting		
	Always or Frequently	Sometimes	Never
United States	28	0	3
China	19	2	3
Israel	4	1	0
Germany	2	0	0
Mexico	2	0	0
France	2	0	0
Belgium	2	0	0

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

DKP– Twenty-two of 24 responding purchasers reported that domestically produced DKP "always" or "frequently" meets minimum quality specifications. Fourteen of 18 responding purchasers reported that the Chinese DKP "always" or "frequently" meets minimum quality specifications. Six purchasers reported that DKP imported from Israel "always" or "frequently" meets minimum quality specifications.

MKP– Nineteen of 23 responding purchasers reported that domestically produced MKP "always" or "frequently" meets minimum quality specifications. Seventeen of 20 responding purchasers reported that the Chinese MKP "always" or "frequently" meets minimum quality specifications. Nine purchasers reported Israeli MKP "always" or "frequently" meets minimum quality specifications.

TKPP– Twenty-eight of 31 responding purchasers reported that domestically produced TKPP "always" or "frequently" meets minimum quality specifications. Nineteen of 24 responding purchasers reported that TKPP imported from China "always" or "frequently" meets minimum quality specifications. Israel was listed by three purchasers, and Germany, Mexico, France, and Belgium were listed by two purchasers as sources of TKPP that "always" or "frequently" meets minimum quality specifications.

Purchasers were also asked to rate the importance of 15 factors in their purchasing decisions for DKP, MKP, and TKPP (table II-9). For DKP, 28 of 29 responding purchasers rated availability as very

important, 27 firms reported quality exceeding industry standards as very important, 25 firms rated product consistency as very important, and 24 firms rated price and reliability of supply as very important. For MKP, 25 of 26 responding purchasers rated availability, product consistency, and quality exceeding industry standards as very important, 21 firms reported price and reliability of supply as very important. For TKPP, 31 of 33 responding purchasers ranked availability and quality exceeding industry standards as very important, 28 firms reported product consistency as very important, and 27 firms ranked price and reliability of supply as very important.

Table II-9
Certain potassium phosphate salts: Importance of purchase factors, as reported by U.S. purchasers

	DKP			MKP			TKPP		
	V	S	N	V	S	N	V	S	N
Factor	*Number of firms responding*								
Availability	28	0	1	25	1	0	31	1	1
Delivery terms	12	14	1	9	15	1	11	18	2
Delivery time	18	7	2	12	12	1	16	13	2
Discounts offered	8	16	3	5	15	5	6	20	5
Extension of credit	6	15	6	3	14	8	10	15	6
Minimum quantity requirements	12	9	5	5	7	13	7	18	6
Packaging	6	19	2	6	17	2	7	22	2
Price	24	4	1	21	5	0	27	6	0
Product consistency	25	2	0	25	1	0	28	4	0
Product range	5	11	10	4	10	11	8	13	10
Quality meets industry standards	6	19	2	6	16	4	6	20	6
Quality exceeds industry standards	27	1	0	25	1	0	31	2	0
Reliability of supply	24	1	1	21	4	0	27	3	1
Technical support/service	6	16	4	5	11	8	5	18	8
U.S. transportation costs	10	14	2	7	14	3	16	14	2

Note.– Not all purchasers responded for each factor.
Note.– "V" = Very important, "S" = Somewhat important, "N" = Not important.

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

Purchasers were asked for a country-by-country comparison on the same 15 factors (tables II-10a-c). For U.S.-produced DKP compared to Chinese DKP, most purchasers reported that the U.S. product was comparable with regard to delivery terms, discounts offered, extension of credit, minimum quantity requirements, packaging, product range, and quality meets industry standards. Most purchasers reported Chinese DKP was superior on price, and inferior on availability, delivery time, quality exceeds industry standards, reliability of supply, technical support, and U.S. transportation costs.

For U.S.-produced MKP compared to Chinese MKP, most purchasers reported that the U.S. product was comparable with regard to delivery terms, discounts offered, extension of credit, minimum quantity requirements, packaging, product consistency, product range, quality meets and exceeds industry standards, and reliability of supply. Most purchasers reported China was superior on price, and inferior on availability, delivery time, technical support, and U.S. transportation costs.

For U.S.-produced TKPP compared to Chinese TKPP, most purchasers reported that the U.S. product was comparable with regard to delivery terms, discounts offered, extension of credit, minimum quantity requirements, packaging, product range, and quality meets industry standards.[43] Most purchasers reported Chinese TKPP was superior on price, and inferior on availability, delivery time, product consistency, quality exceeds industry standards, reliability of supply, and technical support.

Table II-10a
DKP: Comparisons between U.S.-produced and imported DKP as reported by U.S. purchasers

Factor	U.S. vs China			U.S. vs nonsubject			China vs nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	11	6	1	0	4	1	0	2	0
Delivery terms	7	8	2	1	3	1	0	1	1
Delivery time	13	4	1	0	3	2	0	1	1
Discounts offered	2	10	6	0	4	1	1	1	0
Extension of credit	8	8	1	0	4	1	0	0	1
Price[1]	2	4	12	0	3	2	1	1	0
Minimum quantity requirements	7	9	2	0	3	2	0	2	0
Packaging	4	13	1	0	3	2	0	2	0
Product consistency	8	9	1	0	3	2	0	1	1
Product range	7	10	1	1	3	1	0	2	0
Quality meets industry standards	5	11	1	0	3	2	0	1	1
Quality exceeds industry standards	9	7	2	0	4	1	0	1	1
Reliability of supply	10	6	2	0	3	2	0	0	2
Technical support/service	13	4	1	0	3	2	0	0	2
U.S. transportation costs[1]	9	7	1	0	3	2	0	1	1

[1] A rating of superior means that price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior", it meant that the price of the U.S. product was generally lower than the price of the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. Not all purchasers responded for all factors.

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

[43] For the factor "U.S. transportation costs," 11 purchasers reported that U.S. product was superior, and 11 reported that U.S. and Chinese products were comparable.

Table II-10b
MKP: Comparisons between U.S.-produced and imported MKP as reported by U.S. purchasers

Factor	U.S. vs China			U.S. vs nonsubject			China vs nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	8	6	1	0	6	1	1	5	0
Delivery terms	6	8	1	1	5	1	1	5	0
Delivery time	9	5	1	0	5	2	1	2	3
Discounts offered	1	8	6	0	5	2	1	5	0
Extension of credit	6	8	1	0	6	1	1	3	2
Price[1]	1	4	10	0	5	2	1	3	2
Minimum quantity requirements	6	7	1	0	6	1	1	5	0
Packaging	5	9	1	0	7	0	1	5	0
Product consistency	6	8	1	0	6	1	1	2	3
Product range	5	9	1	1	6	0	1	3	2
Quality meets industry standards	3	11	1	0	6	1	1	2	3
Quality exceeds industry standards	5	8	2	0	6	1	1	2	3
Reliability of supply	6	7	2	0	6	1	1	2	3
Technical support/service	9	5	1	0	6	1	1	3	2
U.S. transportation costs[1]	9	5	1	0	6	1	1	5	0

[1] A rating of superior means that price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior", it meant that the price of the U.S. product was generally lower than the price of the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. One firm provided comparisons among two nonsubject countries. These responses are not included in the table. Not all purchasers responded for all factors.

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

Table II-10c
TKPP: Comparisons between U.S.-produced and imported TKPP as reported by U.S. purchasers

Factor	U.S. vs China			U.S. vs nonsubject			China vs nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	12	8	2	1	3	1	0	0	1
Delivery terms	9	12	1	0	4	1	0	1	0
Delivery time	16	4	2	2	2	1	0	1	0
Discounts offered	2	15	5	0	3	1	0	0	1
Extension of credit	7	11	3	0	4	1	0	0	1
Price[1]	4	7	11	0	4	1	0	0	1
Minimum quantity requirements	9	12	1	0	4	1	0	1	0
Packaging	7	13	2	0	4	1	0	1	0
Product consistency	13	8	1	0	4	1	0	1	0
Product range	7	14	1	1	3	1	0	1	0
Quality meets industry standards	10	11	1	1	3	1	0	1	0
Quality exceeds industry standards	12	8	2	1	3	1	0	1	0
Reliability of supply	12	9	1	0	3	2	0	0	1
Technical support/service	14	6	2	0	3	1	0	0	1
U.S. transportation costs[1]	11	11	1	1	3	1	0	0	1

[1] A rating of superior means that price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior", it meant that the price of the U.S. product was generally lower than the price of the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. Not all purchasers responded for all factors. No purchasers responded for factors comparing China and nonsubject countries for TKPP.

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

When comparing U.S.-produced product to nonsubject product, most purchasers reported that domestically produced DKP, MKP, and TKPP was comparable in terms of all factors. Two purchasers reported that Chinese produced DKP was comparable to nonsubject product in most factors, but was inferior with regard to reliability of supply and technical support. When comparing Chinese product with nonsubject product, three purchasers reported that Chinese MKP was inferior to nonsubject MKP in terms of delivery times, product consistency, quality meets and exceeds industry standards, and reliability of supply, but a majority considered Chinese MKP comparable in the remaining factors. One purchaser, ***, reported that U.S.-produced MKP was inferior to MKP produced in Mexico in terms of granulation.[44] One purchaser reported that Chinese produced TKPP was comparable to nonsubject product in most factors, but was inferior in terms of discounts offered, extension of credit, price, reliability of supply, technical support, and U.S. transportation costs.

[44] *** purchaser questionnaire response, section IV-6.

When asked if certain grades/types/sizes of certain potassium phosphate salts were available from only a single source, all 26 responding purchasers reported "no" for both DKP and MKP. However, two of 29 firms reported "yes," for TKPP; one firm reported that it required granular low-iron TKPP, and the other reported that it only has qualified TKPP 60 percent solution from ***.

Twelve of 46 responding purchasers reported that they or their customers had preferences for product from one country over other possible sources. Seven of these purchasers reported preferences for U.S. product, two firms did not specifically identify the preferred country source, and the remaining 3 firms reported preferences for multiple countries. Other country sources mentioned include: China (two purchasers), Israel (two purchasers), and Mexico (one purchaser).

Purchasers were asked to rate the importance as a purchasing factor of buying domestically produced phosphate salts. Thirty-two of 46 purchasers reported that buying domestic product was not important. Eight purchasers reported that some domestic purchases were required by their firm or by their customers, and involved 5 to 100 percent of their purchases. For five of these purchasers, over 80 percent of their purchases were domestic. Six purchasers reported buying domestically produced product for other reasons, and that domestic purchases included 30 to 100 percent of their total purchases, with four of these purchasers buying 100 percent domestically. The reasons purchasers bought domestically produced product included approved and preferred supplier, and the breadth of the product line.

Purchasers were also asked if they made purchasing decisions based on the country of origin of certain potassium phosphate salts. Twenty-seven purchasers indicated "never," 16 indicated "sometimes," 3 indicated "usually," and 1 reported "always." Of those that reported "never," three firms reported that quality, price, delivery, and ability to meet specifications were the important factors when determining the source. Of those that reported "sometimes," price, supply, and lead times were the primary factors when choosing a source.

Purchasers were also asked if their customers made purchasing decisions based on the country of origin of certain potassium phosphate salts. Twenty-six purchasers indicated "never," 15 indicated "sometimes," and 1 indicated "usually."

Thirty of 47 responding purchasers reported that they required their suppliers to become certified or pre-qualified for all products, and 17 firms did not require certification or pre-qualification. Eighteen purchasers reported requiring a sample and spec sheet to be approved by the technical department. Other requirements mentioned include third-party audit, payment terms, insurance, state registration, reliability of supply, and financial stability. Thirty purchasers reported the time required for certification or pre-qualification, which ranged from 3 to 355 days. The majority reported qualification times of 30-90 days.

When purchasers were asked what characteristics they consider when determining the quality of certain potassium phosphate salts, 14 of 37 responding purchasers mentioned meeting quality and industry standards, 14 purchasers mentioned solubility and particle size, and 9 firms mentioned purity levels. Other factors noted by purchasers that determined quality included: product consistency, Kosher certification, packaging, certificate of analysis, absence of heavy metals, lack of clumping, meeting FCC standards, appearance, flow properties, and price.

Comparisons of Domestic Products and Subject Imports

Producers, importers, and purchasers were asked to assess the interchangeability of DKP, MKP, or TKPP produced in the United States, China, and nonsubject countries; responses are presented in Table II-11.

Table II-11
DKP, MKP, and TKPP: U.S. firms' perceived degree of interchangeability of products produced in the United States and in other countries[1]

	DKP											
	U.S. producers				U.S. importers				U.S. purchasers			
Country comparison	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	3	12	6	0	5	5	7	1
U.S. vs. other countries	***	***	***	***	2	2	5	0	2	4	6	1
China vs. other countries	***	***	***	***	2	1	5	0	1	4	4	1
	MKP											
	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	4	7	5	2	7	5	5	0
U.S. vs. other countries	***	***	***	***	2	4	5	1	7	3	4	0
China vs. other countries	***	***	***	***	3	2	6	1	2	3	3	0
	TKPP											
	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	0	3	0	0	2	9	6	0	6	6	7	1
U.S. vs. other countries	0	3	0	0	2	3	5	0	4	5	5	1
China vs. other countries	0	3	0	0	1	3	6	0	2	4	3	1

[1] Producers, importers, and purchasers were asked if certain phosphate salts produced in the United States and in other countries are used interchangeably and to what degree.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

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

***. ***.

Most responding importers reported that all DKP, MKP, and TKPP from all sources were either "frequently" or "sometimes" interchangeable. Importers typically reported that factors such as particle size, solubility, granulation, and packaging limited interchangeability.[45] Additionally, three importers reported that U.S. producers do not produce technical-grade MKP, and one of these importers stated that food-grade MKP can not be used by most fertilizer customers.[46]

U.S. purchasers' responses varied widely from "always" interchangeable to "sometimes" interchangeable from all sources. Purchasers primarily reported quality, lead times, FCC standards, and supply as important factors for interchangeability.

In addition, producers and importers were asked to assess how often differences other than price were significant in sales of phosphate salts from the United States, China, and nonsubject countries (table II-12). ***. The majority of importers reported that differences other than price were "sometimes" important for DKP when comparing the United States and China. For comparisons involving nonsubject countries, half the importers reported that differences other than price were "always" significant, and the other half of importers reported that differences other than price were "sometimes" significant in their sales of DKP. Responses varied widely for both MKP and TKPP with all country pairs. Differences reported include: lead times, logistics problems, technical support, European or Israeli product being of equal or better quality than U.S. product, variation in quality among the Chinese producers, product requiring qualification, solubility concerns, consistency, shipments, granulation size, and U.S. MKP is food grade while Chinese MKP is technical grade which can not be used by many customers.

[45] *** reported that "products are frequently interchangeable, but costs for higher grade/quality of U.S. products often make the purchase of U.S. products not possible. Many applications do not require the higher quality of U.S. products and companies cannot afford the unnecessary additional cost." U.S. importer questionnaire response, section III-26.

[46] *** importer questionnaire responses, section III-27.

Table II-12
DKP, MKP, and TKPP: U.S. producers' and importers' perceived importance of factors other than price in sales of product produced in the United States and in other countries[1]

Country comparison	DKP							
	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	3	0	14	2
U.S. vs. other countries	***	***	***	***	3	0	3	1
China vs. other countries	***	***	***	***	3	0	2	1
	MKP							
	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	6	0	6	6
U.S. vs. other countries	***	***	***	***	2	0	5	2
China vs. other countries	***	***	***	***	3	0	4	2
	TKPP							
	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	0	0	3	0	4	1	9	3
U.S. vs. other countries	0	0	2	0	2	0	4	2
China vs. other countries	0	0	2	0	2	0	6	0

[1] Producers and importers were asked if certain phosphate salts produced in the United States and in other countries are used interchangeably and to what degree.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

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

ELASTICITY ESTIMATES[47]

U.S. Supply Elasticity

The domestic supply elasticity for certain potassium phosphate salts measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price for certain potassium phosphate salts. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced potassium phosphate salts. Previous analysis of these factors suggests that the U.S. industry may have a relatively high ability to increase or decrease shipments to the U.S. market based principally on unused capacity and large share to export markets. An estimate in the range of 3 to 6 is suggested for each of the potassium phosphate salts at issue in this proceeding.

U.S. Demand Elasticity

The U.S. demand elasticity for certain potassium phosphate salts measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of certain potassium phosphate salts. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of certain potassium phosphate salts in the final cost of end-use products in which it is used. Because of a limited number of broadly accepted substitutes and the low share of the final cost of end-use products, it is likely that the aggregate demand for each of the potassium phosphate salts at issue in this proceeding is moderately inelastic, with suggested values ranging between -0.25 to -0.75.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between domestic and imported certain potassium phosphate salts. Product differentiation, in turn, depends upon such factors as quality and condition of sale (availability, delivery, etc.). Based on available information indicating that the domestic and imported products can frequently be used interchangeably, the elasticity of substitution between U.S.-produced DKP, MKP, and TKPP and imported DKP, MKP, and TKPP salts is likely to be in the range of 3 to 5.[48]

---

[47] This section discusses elasticity estimates. Parties were encouraged to provide comments in their prehearing briefs. No parties provided comments. The elasticity responses in this section refer to changes that could occur within 12 months, unless otherwise indicated.

[48] Based on the available information, the elasticity of substitution between U.S.-produced MKP and imported MKP is likely to be in the lower end of this range.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidy and dumping margins was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV and V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire responses of all known U.S. producers of the potassium phosphate salts at issue in this proceeding during 2009.

U.S. PRODUCERS

The petition identified four U.S. producers of the phosphate salts at issue in this proceeding. The Commission sent producer questionnaires to the companies identified in the petition as well as eight companies listed as possible producers in ***. The Commission received completed questionnaire responses from the four companies identified in the petition.[1]

Presented in table III-1 is a list of current domestic producers of DKP, MKP, and TKPP, as well as each company's position on the petition, production location(s), firm ownership, and share of reported production of phosphate salts in 2009.[2]

Table III-1
DKP, MKP, and TKPP: U.S. producers, positions on the petition, firm ownership, U.S. production locations, and quantities and shares of 2009 reported U.S. production

Firm	Position on petition	Firm ownership	U.S. production location(s)	Quantities and share of production					
				DKP		MKP		TKPP	
				1,000 lbs.	%	1,000 lbs.	%	1,000 lbs.	%
ICL	Petitioner	Israel Chemical Limited	Lawrence, KS St. Louis, MO Carteret, NJ[1]	***	***	***	***	***	***
Innophos	***	***	([2])	---	---	---	---	([2])	([2])
PCS	***	***	([2])	---	---	***	***	***	***
Prayon	Petitioner	Prayon, S.A.	Augusta, GA	---	---	---	---	***	***
Totals				***	100.0	***	100.0	***	100.0

[1] ***. ***. ***. Petitioners' prehearing brief, p. 69.
[2] PCS produces TKPP in Cincinnati, OH ***. In 2009, Innophos reported total shipments of ***.

Note.–Because of rounding, shares may not total to 100.0 percent.

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

[1] In addtion, *** certified to the Commission that it does not produce any of the products subject to these investigations.

[2] PCS produces TKPP ***. Approximately *** percent of PCS' production of TKPP is produced as ***.

Three U.S. producers are related to foreign producers of potassium phosphate salts at issue in this proceeding[3] but none are related to U.S. importers of DKP, MKP, or TKPP from China. ICL is a subsidiary of Israel Chemical Limited of Israel. Israel Chemical Limited is a primary producer of MKP (production in 2009 was *** pounds) and is a large supplier to the United States of MKP (supplied *** pounds in 2009). Innophos is affiliated with Innophos Mexicana in Mexico which produces MKP (production in 2009 was *** pounds) and is a supplier of MKP to the United States (supplied *** pounds in 2009). Prayon is a subsidiary of Prayon SA of Belgium. Prayon SA also has operations in France. Prayon SA is a leading producer of MKP in Belgium (production in 2009 was *** pounds) and is a supplier of MKP to the United States (supplied *** pounds in 2009). Prayon SA is a leading producer in France of DKP and TKPP (production in 2009 was *** pounds, respectively, and is a supplier of DKP and TKPP to the United States (supplied *** pounds, respectively, in 2009). In addition, as discussed in greater detail below, three U.S. producers directly import certain potassium phosphate salts and one purchases certain potassium phosphate salts from U.S. importers.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. producers' capacity, production, and capacity utilization data for DKP, MKP, and TKPP are presented in tables III-2 through III-4, respectively.[4] [5] As noted by ICL in its questionnaire response, "***."

With respect to plant capacity, ICL explained that ***.[6]

Table III-2
DKP: U.S. producer's capacity, production, and capacity utilization, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-3
MKP: U.S. producers' capacity, production, and capacity utilization, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

[3] U.S. Producers' Questionnaire (question I-6).

[4] In the final phase of these investigations, the Commission received a producer questionnaire response from PCS indicating that ***. Staff telephone interviews with ***, April 22, 2010 and April 26, 2010.

[5] ***. Petitioners' prehearing brief, pp. 14 and 43.

[6] Email from ***, May 20, 2010.

Table III-4
TKPP: U.S. producers' capacity, production, and capacity utilization, 2007-09, January-June 2009, and July-December 2009 [1] [2] [3]

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
Capacity (*1,000 lbs. dry weight*)	72,176	62,072	60,453	31,489	28,964
Production (*1,000 lbs. dry weight*)	41,076	36,211	23,553	11,676	11,877
Capacity utilization (*percent*)	56.9	58.3	39.0	37.1	41.0

[1] ***. Email from ***, May 20, 2010. With respect to the decrease in capacity from 2007 to 2008, this can be attributed to both ***. ***. Email from ***, June 9, 2010.
[2] ***.
[3] ***. Prayon's preliminary phase questionnaire response.

Note.–TKPP production declined by 12.7 million pounds from 2008 to 2009. The decrease in production reflects the TKPP operations of ***, which saw its production decline by *** percent from 2008 to 2009.

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

U.S. PRODUCERS' SHIPMENTS

Data on U.S. producers' shipments of DKP, MKP, and TKPP are presented in tables III-5 through III-7. More than 98 percent of U.S. shipments were commercial shipments, rather than transfers to related firms or internal consumption. The quantity of U.S. shipments of DKP, MKP, and TKPP declined by *** percent, *** percent, and 40.0 percent, respectively, during the period for which data were collected. The value of U.S. shipments of DKP, MKP, and TKPP increased by *** percent, *** percent, and 16.3 percent, respectively. The quantity of export shipments of DKP increased by *** percent from 2007 to 2009, whereas the quantity of export shipments of MKP and TKPP decreased by *** percent and *** percent, respectively, during the same period. The value of export shipments of DKP and MKP increased during the period for which data were collected by *** percent and *** percent, respectively, whereas the value of export shipments of TKPP decreased by *** percent.[7] The quantity of total shipments of DKP increased by *** percent during the period for which data were collected. In contrast, the quantity of total shipments of MKP and TKPP decreased by *** percent and *** percent, respectively, over the period for which data were collected. Average unit values for U.S. shipments of DKP, MKP, and TKPP all increased between 2007 and 2009, despite declining in the second half of 2009. The average unit values for U.S. shipments of DKP are higher than the average unit values for export shipments of DKP. *** explained the pricing difference is related to ***.[8] The average unit values for U.S. shipments of MKP are lower than the average unit values for export shipments of MKP. *** explained the pricing difference is due to ***; its export accounts are *** than its domestic accounts. ***.[9]

[7] U.S. producers do not report any barriers to trade. The principal export market for DKP is ***. The principal export markets for MKP are ***. The principal export markets for TKPP are Australia, Canada, China, Honduras, Japan, Mexico, Panama, South Korea, and Taiwan.

[8] Email from ***, June 9, 2010.

[9] Ibid.

Table III-5
DKP: U.S. producer's shipments, by types, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-6
MKP: U.S. producers' shipments, by types, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-7
TKPP: U.S. producers' shipments, by types, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
Quantity (*1,000 lbs. dry weight*)					
U.S. shipments	39,162	32,763	23,489	10,653	12,835
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Value (*1,000 dollars*)					
U.S. shipments	23,538	31,793	27,365	13,701	13,663
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Unit value (*per pound dry weight*)					
U.S. shipments	$0.60	$0.97	$1.17	$1.29	$1.06
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Share of quantity (*percent*)					
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0

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

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

U.S. SHIPMENTS BY GRADE/PURITY AND END USES

Table III-8 presents U.S. shipments by grade/purity and table III-9 presents U.S. shipments by end uses. The majority of DKP and MKP produced and sold in the United States is food grade and the majority of the TKPP produced and sold in the United States is technical grade. This is consistent with the largest end uses reported for DKP, MKP, and TKPP. The largest end use reported for DKP is meat processing. The largest end uses reported for MKP are split between food & beverage (yeast, food nutrient) and buffering agent in compounding formulas.[10] The largest end use reported for TKPP is water treatment.

Table III-8
Potassium phosphate salts: U.S. producers' U.S. shipments, by grade/purity, 2009

Potassium phosphate salt	Share of potassium phosphate salt grade/purity (percent)
DKP:	
Food grade	***
Technical grade	***
Other	***
Total	100.0
MKP:	
Food grade	***
Technical grade	***
Other	***
Total	100.0
TKPP:	
Food grade	***
Technical grade	***
Other	***
Total	100.0
Source: Compiled from data submitted in response to Commission questionnaires.	

[10] At the hearing, ICL stated that its U.S.-made MKP competes in the fertilizer market, at accounts such as Miller Chemical and Fertilizer Corp. Hearing transcript, p. 33 (Schewe). However, at the present time there are no reports of U.S.-made MKP being sold for use in the fertilizer industry. Valudor stated at the hearing that it was not aware that ICL sold to Miller Chemical and Fertilizer Corp. Valudor testified that it sold to Miller Chemical and Fertilizer Corp. in 2005 and 2006. However, Miller Chemical and Fertilizer Corp. "complained bitterly" about Chinese MKP. In 2008 and 2009 Valudor's sales to Miller Chemical and Fertilizer Corp. were a fraction of its sales in 2006. Hearing transcript, pp. 144-145 (Melamed).

Table III-9
Potassium phosphate salts: U.S. producers' U.S. shipments, by end use, 2009

Potassium phosphate salt	Share of potassium phosphate salt end use (percent)
DKP:	
Antifreeze	***
Baked goods	***
Buffering agent in compounding formulas	***
Dairy (coffee creamers, processed cheese, evaporate milk)	***
Meat processing	***
Chemical processing	***
Other[1]	***
Total	100.0
MKP:	
Buffering agent in compounding formulas	***
Cement	***
Chemical processing	***
Dog food	***
Fertilizer	***
Food & beverage (yeast, food nutrient)	***
Fungicide	***
Refractories	***
Other[1]	***
Total	100.0
TKPP:	
Boiler descaling, dyeing, non-food preservative	***
Buffering agent in compounding formulas	***
Detergents, industrial cleaners, surfactants (cleaning products)	***
Fertilizer[2]	***
Food	***
Household and industrial type products	***
Metal finishing	***
Paints	***
Pulp and paper	***
Water treatment	***
Other[1 3]	***
Total	100.0

[1] "Other" is reported distribution. *** reported that most of its DKP, MKP, and TKPP sold to distributors go into stock and thus, *** does not know into what industry it goes. In some cases *** is able to identify the end user because the product is sold to a distributor, but shipped directly to an end user. *** reported that in general ***. Email from ***, May 20, 2010. *** reported that it did not know to whom its distributors sold TKPP to, but that it would surmise that the majority of its distributors sold to end users for water treatment. Email from ***, May 10, 2010.
[2] *** reported *** percent of its TKPP production is sold for use in fertilizer. Specifically, it sells to *** who uses it to make specialty fertilizer products for turf. Email from ***, May 20, 2010.
[3] ***.

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

U.S. PRODUCERS' INVENTORIES

Tables III-10 through III-12 present end-of-period inventories for DKP, MKP, and TKPP, respectively. Inventories of DKP decreased throughout the period for which data were collected.

Conversely, with respect to MKP and TKPP, inventories peaked in 2008 and declined overall for MKP and increased overall for TKPP.

Table III-10
DKP: U.S. producer's end-of-period inventories, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-11
MKP: U.S. producers' end-of-period inventories, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-12
TKPP: U.S. producers' end-of-period inventories, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES

U.S. producers' imports and purchases are presented in tables III-13 through III-15. ***. ***. ***.[11] ***. ***. ***. ***.

Table III-13
DKP: U.S. producers' imports and purchases, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-14
MKP: U.S. producers' imports and purchases, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-15
TKPP: U.S. producers' imports and purchases, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

[11] ***. Petitioners' prehearing brief, p. 45. ICL's parent company is Israel Chemicals Limited of Israel. In 2009, imports of MKP from China were *** pounds while ICL reported importing *** pounds from Israel. In 2008, imports of MKP from China were *** pounds while ICL reported importing *** pounds from Israel. In 2007, imports of MKP from China were *** pounds while ICL reported importing *** pounds from Israel.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for DKP, MKP, and TKPP are presented in tables III-16 through III-18. Employment for the production of DKP in terms of workers and hours worked trended upwards between 2007 and 2009, as did hourly and total wages, although a declining trend in productivity contributed to rising unit labor costs (most pronounced in the first half of 2009). Employment for the production of MKP fluctuated between *** and *** employees during the period for which data were collected. Wages paid fluctuated over the period despite hourly wages increasing throughout the period for which data were collected. Hours worked per employee generally increased as did unit labor costs, while productivity decreased throughout the period. Employment for the production of TKPP decreased between 2007 and 2009, as did wages paid (despite higher hourly wages). Productivity peaked in 2008 before declining by nearly one-third in 2009, contributing to a sharp increase in unit labor costs.

Table III-16
DKP: U.S. producer's employment-related data, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-17
MKP: U.S. producers' employment-related data, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table III-18
TKPP: U.S. producers' employment-related data, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
Production and related workers (PRWs)	60	52	46	50	43
Hours worked by PRWs (*1,000 hours*)	117	98	94	50	44
Hours worked per PRW	1,950	1,885	2,043	1,000	1,023
Wages paid to PRWs (*1,000 dollars*)	4,205	3,656	3,637	1,883	1,754
Hourly wages	$35.95	$37.48	$38.79	$37.64	$40.10
Productivity (*lbs. dry weight produced per hour*)	351.2	371.2	251.2	233.4	271.6
Unit labor costs (*per lb. dry weight*)	$0.10	$0.10	$0.15	$0.16	$0.15

Note.–*** PCS' employment data were used in this table.

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

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

U.S. IMPORTERS

The Commission issued importer questionnaires to 109 firms believed to import subject potassium phosphate salts, as well as to all U.S. producers of potassium phosphate salts.[1] Thirty-seven companies provided usable questionnaire responses. The reported quantities of DKP and MKP imports from China were equivalent to 84 percent of total imports from China entering under HTS subheading 2835.24.00[2] during 2007-09, while imports from nonsubject sources substantially exceeded the volumes recorded in official import statistics.[3] With respect to TKPP, imports from China substantially exceeded the volumes recorded in official import statistics during 2007-09,[4] while imports from nonsubject sources were equivalent to 40 percent of imports from sources other than China entering under HTS subheading 2835.39.10.[5] With respect to imports from nonsubject countries, companies representing the large majority of imports entering under the relevant HTS subheading responded to the Commission's questionnaires, confirming that a substantial portion of the nonsubject import volume consisted of the nonsubject chemical KTPP. Accordingly, Staff believes that importer coverage for all three potassium phosphate salts is substantially complete. Table IV-1 lists all responding U.S. importers of DKP, MKP, and TKPP from China and other sources.

Table IV-1
DKP, MKP, and TKPP: U.S. importers, January 2007-December 2009 aggregated

Firm	Phosphate salt		
	DKP	MKP	TKPP
American International Chemical Co.	***	***	***
BK Giulini	***	***	***
Brenntag North America, Inc.	***	***	***
Budenheim USA, Inc.	***	***	***
Cascade Columbia Distribution	***	***	***
Chem One Ltd.	***	***	***
Chemical Specialty Group	***	***	***
ChemSol, LLC	***	***	***

Table continued on next page.

[1] The Commission sent questionnaires to those firms identified in the petition and firms identified through a review of data provided by U.S. Customs and Border Protection ("Customs").

[2] "Heading 2835.24.00, HTSUS, includes MKP and DKP, as well as another potassium phosphate, Tri-potassium phosphate ("TKP"). MKP and DKP are the most significant imports. The petitioners have not encountered imports of TKP from China in the market, and ships' manifest data indicate that there have been only erratic, small-volume imports. All or nearly all imports of potassium phosphate from China are therefore MKP or DKP." Petition, p. 18.

[3] *** reported importing approximately *** pounds more than appear in Customs' data. *** reported approximately *** pounds more than appear in Customs' data.

[4] At least one importer of TKPP, ***, reported importing TKPP under a different HTS subheading (***).

[5] "Heading 2835.39.1000, HTSUS, includes TKPP, as well as Potassium tri-polyphosphate ("KTPP"). However, TKPP is the more important potassium polyphosphate in commercial terms. Indeed, TKPP is the only potassium polyphosphate known to be imported from China." Petition, pp. 17-18.

Table IV-1-- *Continued*
DKP, MKP, and TKPP: U.S. importers, January 2007-December 2009 aggregated

Firm	Phosphate salt		
	DKP	MKP	TKPP
Compass Chemical International LLC	***	***	***
Connell Brothers Company, Division of Wilbur Ellis	***	***	***
CST-SurTec, Inc.	***	***	***
Global Chemical Resources, Inc.	***	***	***
Graham Chemical Corp.	***	***	***
Great Earth Chemical LLC	***	***	***
Grow More, Inc.	***	***	***
Haifa Nutritech, Inc.	***	***	***
ICL Premium Fertilizers NA (f/k/a Rotem BKG LLC)	***	***	***
Innophos, Inc.	***	***	***
K.G. International, Inc.	***	***	***
Kaltron-Pettibone	***	***	***
Laszlo Corporation	***	***	***
Lidochem, Inc.	***	***	***
Omni Agri Trade Group, LLC	***	***	***
Omni-Chem 136, LLC	***	***	***
PepsiCo, Inc.	***	***	***
Prayon, Inc.	***	***	***
S and G Resources, Inc.	***	***	***
Sampco, Inc.	***	***	***
SBC Group, Inc. (Nutrichem)	***	***	***
Silver Fern Chemical, Inc.	***	***	***
Univar USA, Inc.	***	***	***
V.L. Clark Chemical Co., Inc.	***	***	***
Valudor Products Inc.	***	***	***
Wego Chemical and Mineral Corp.	***	***	***
Wenda America, Inc.	***	***	***
White Cross Laboratories, Inc.	***	***	***
Zhong Ya Chemical (USA) Ltd.	***	***	***

Note.–*** and ***, responded to the Commission's questionnaires for these investigations, but did not supply usable data. Both importers account for *** percent of imports in any given year for any given potassium phosphate salt at issue in this proceeding.
Note.–*** erroneously reported imports of TKPP to the Commission. However, the company subsequently confirmed that its imports ***. Thus, ***'s data have been removed from the data set. Email from ***, June 9, 2010.

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

U.S. IMPORTS

Tables IV-2 through IV-4 present data for U.S. imports of DKP, MKP, and TKPP, respectively, from China and all other sources. The quantity of imports of DKP, MKP, and TKPP from China increased from 2007 to 2009 as did the average unit value of all three potassium phosphate salts at issue in this proceeding. The average unit values of imports from China were lower than those from nonsubject sources for every chemical and period except for ***. U.S. imports of DKP and MKP from China accounted for a growing share of total imports between 2007 and 2009. With respect to TKPP, subject imports from China accounted for the majority of all TKPP imports.[6]

Table IV-2
DKP: U.S. imports, by sources, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table IV-3
MKP: U.S. imports, by sources, 2007-09, January-June 2009, and July-December 2009

Source	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
	Quantity (*1,000 lbs. dry weight*)				
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	45,651	44,893	37,207	17,196	20,013
	Value (*1,000 dollars*)[1]				
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	19,176	39,618	29,078	15,280	13,797
	Unit value (*per pound dry weight*)[1]				
China	$***	$***	$***	$***	$***
Nonsubject[2]	***	***	***	***	***
Average	0.42	0.88	0.78	0.89	0.69
	Share of quantity (*percent*)				
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
	Share of value (*percent*)				
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

[1] Landed, U.S. port of entry, duty-paid.
[2] The majority of nonsubject imports of MKP are imported from Israel and Mexico, followed by Belgium.

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

[6] Critical circumstances were alleged at Commerce, but subsequently withdrawn by petitioners. On June 1, 2010, Commerce terminated its critical circumstances investigations. *Certain Potassium Phosphate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry*, 75 FR 30375, June 1, 2010 and *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377, June 1, 2010.

Table IV-4
TKPP: U.S. imports, by sources, 2007-09, January-June 2009, and July-December 2009

Source	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
Quantity (*1,000 lbs. dry weight*)					
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	4,423	4,946	6,055	2,382	3,653
Value (*1,000 dollars*)[1]					
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	2,303	4,647	5,339	2,319	3,000
Unit value (*per pound dry weight*)[1]					
China	$***	$***	$***	$***	$***
Nonsubject[2]	***	***	***	***	***
Average	0.52	0.94	0.88	0.97	0.82
Share of quantity (*percent*)					
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Share of value (*percent*)					
China	***	***	***	***	***
Nonsubject[2]	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

[1] Landed, U.S. port of entry, duty-paid.
[2] The majority of nonsubject imports of TKPP are imported from Israel.

Note.– Questionnaire responses were not received from ***, which imported in aggregate *** pounds of product from China entered under HTS subheading 2835.39.10 in 2009 compared with *** pounds in 2008 according to Customs. A questionnaire response was received from *** for TKPP; however, it reported importing TKPP under HTS subheading ***.

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

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[7] Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.[8] Based on data collected in the preliminary phase of these investigations for the period July 2008-June 2009, U.S. imports from China accounted for *** percent of total imports of DKP by quantity, *** percent of total imports of MKP by quantity, and *** percent of total imports of TKPP by quantity. For full-year 2009 (a period that includes three months after the filing of the petition) imports from China continued to account for a substantial share for each of the potassium phosphate salts at issue in this proceeding. For 2009, U.S. imports from China accounted for *** percent of total imports of DKP by quantity, *** percent of total imports of MKP by quantity, and *** percent of total imports of TKPP by quantity.

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of DKP, MKP, and TKPP are shown in tables IV-5 through IV-7, respectively. The quantity of apparent U.S. consumption of DKP increased from 2007 to 2009, whereas the quantity of apparent U.S. consumption of MKP and TKPP decreased over the same period. However, the value of apparent U.S. consumption of DKP, MKP, and TKPP increased from 2007 to 2009. The quantity and value of apparent U.S. consumption of DKP and MKP peaked in 2008, whereas the quantity of apparent U.S. consumption of TKPP peaked in 2007, although the value of apparent U.S. consumption of TKPP peaked in 2008.

Table IV-5
DKP: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

[7] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

[8] Section 771(24) of the Act (19 U.S.C. § 1677(24)).

Table IV-6
MKP: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
	Quantity (*1,000 lbs. dry weight*)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports from–					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total U.S. imports	37,461	42,042	34,054	21,422	12,633
Apparent U.S. consumption	***	***	***	***	***
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports from--					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total U.S. imports	17,990	38,940	31,949	22,193	9,755
Apparent U.S. consumption	***	***	***	***	***

Note.–The pronounced difference in the first half of 2009 versus the second half of 2009 volumes for MKP from China and nonsubject sources is consistent with its use in fertilizer applications. Hearing transcript, p. 152 (Melamed). Domestic shipments did not share in this difference.
Note.–Because of rounding, figures may not add to the totals shown.

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

Table IV-7
TKPP: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
	Quantity (*1,000 lbs. dry weight*)				
U.S. producers' U.S. shipments	39,162	32,763	23,489	10,653	12,835
U.S. shipments of imports from–					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total U.S. imports	4,101	4,593	5,261	2,444	2,817
Apparent U.S. consumption	43,263	37,356	28,750	13,097	15,652
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	23,538	31,793	27,365	13,701	13,663
U.S. shipments of imports from--					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total U.S. imports	2,684	5,368	5,749	3,059	2,810
Apparent U.S. consumption	26,222	37,161	33,114	16,760	16,473

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

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

U.S. MARKET SHARES

U.S. market share data for DKP, MKP, and TKPP are presented in tables IV-8 through IV-10. U.S. producers' share of apparent U.S. consumption (quantity) of DKP and TKPP decreased from 2007 to 2009 while the Chinese share and nonsubject countries' share increased over the same period. U.S. producers' share of apparent U.S. consumption (quantity) of MKP decreased, as did nonsubject countries' share, while the Chinese share of apparent U.S. consumption (quantity) of MKP increased throughout the period examined.

Table IV-8
DKP: U.S. consumption and market shares, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table IV-9
MKP: U.S. consumption and market shares, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table IV-10
TKPP: U.S. consumption and market shares, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
			Quantity (*1,000 lbs. dry weight*)		
Apparent U.S. consumption	43,263	37,356	28,750	13,097	15,652
			Value (*1,000 dollars*)		
Apparent U.S. consumption	26,222	37,161	33,114	16,760	16,473
			Share of quantity (*percent*)		
U.S. producers' U.S. shipments	90.5	87.7	81.7	81.3	82.0
U.S. shipments of imports from--					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
All countries	9.5	12.3	18.3	18.7	18.0
			Share of value (*percent*)		
U.S. producers' U.S. shipments	89.8	85.6	82.6	81.8	82.9
U.S. shipments of imports from--					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
All countries	10.2	14.4	17.4	18.2	17.1

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

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

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of DKP, MKP, and TKPP is presented in tables IV-11 through IV-13, respectively.

Table IV-11
DKP: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table IV-12
MKP: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
	Quantity (*1,000 lbs. dry weight*)				
U.S. production	***	***	***	***	***
Imports from:					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total imports	45,651	44,893	37,207	17,196	20,013
	Ratio of U.S. imports to production (*percent*)				
Imports from:					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total imports	***	***	***	***	***

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

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

Table IV-13
TKPP: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			January-June	July-December
	2007	2008	2009	2009	2009
	Quantity (*1,000 lbs. dry weight*)				
U.S. production	41,076	36,211	23,553	11,676	11,877
Imports from:					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total imports	4,423	4,946	6,055	2,382	3,653
	Ratio of U.S. imports to production (*percent*)				
Imports from:					
China	***	***	***	***	***
Nonsubject countries	***	***	***	***	***
Total imports	10.8	13.7	25.7	20.4	30.8

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

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

U.S. IMPORTERS' IMPORTS BY GRADE/PURITY AND END USES

Table IV-14 presents U.S. imports by grade/purity from China and all other countries and table IV-15 presents U.S. imports by end uses from China and all other countries. Almost all imports of DKP from China and all other countries were food grade, whereas imports of MKP and TKPP were primarily technical grade. The end uses reported by importers consistent with the importation of food grade DKP. For example, the majority of DKP imports from China are used in dairy products while the majority of DKP imports from all other countries are used in baked goods, dairy products, and meat processing. The largest reported end use for imports of MKP from China and all other countries is fertilizer.[9] [10] The largest reported end uses for imports of TKPP from China and from all other countries are detergents/industrial cleaners/surfactants and fertilizer (for imports from China) or food applications (for imports from all other sources). These end uses are consistent with the importation of relatively larger volumes of technical grade MKP and TKPP.

Table IV-14
Potassium phosphate salts: U.S. importers' imports, by grade, 2009

* * * * * * *

Table IV-15
Potassium phosphate salts: U.S. importers' imports, by end use, 2009

* * * * * * *

[9] *** importers from China, *** reported imports of MKP for the food & beverage (yeast, food nutrient) end use. *** reported *** percent of its MKP imports went to the food & beverage end use, whereas *** reported *** percent of its MKP imports went to the food & beverage end use. Commission staff contacted *** and confirmed that *** percent of its MKP imports from China were used in the food & beverage industry. Staff telephone interview with ***, June 3, 2010. In 2009, *** reported imports of *** pounds and *** reported imports of *** pounds. Total imports of MKP from China in 2009 were *** pounds. A *** importer from China, *** reported imports of MKP for the food & beverage (yeast, food nutrient) end use, but is not included in table IV-15 because it did not import MKP in 2009. In ***'s importer questionnaire response it reported importing *** pounds of MKP from China in 2008. *** percent of its Chinese MKP was used as a buffering agent in compounding formulas. The remaining *** percent was used in the food & beverage industry.

[10] *** of the larger importers, *** of subject product from China were not able to break their imports out by end use. *** reported importing *** pounds of MKP from China in 2009; *** of its imports were technical grade. *** reported importing *** pounds of MKP from China in 2009; *** of its imports were food grade.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The primary raw materials used in the production of potassium phosphate salts are phosphoric acid and potassium hydroxide.[1] In addition, energy is needed to heat the chemical mixture to bring about the proper chemical reactions necessary to produce the phosphate salts. As discussed in greater detail in *Part VI* of this report, these chemicals and other raw materials accounted for *** percent of the total cost of goods sold (COGS) in 2007 for DKP, *** percent for MKP, and *** percent for TKPP. Raw materials as a percentage of the total cost of goods sold increased for all three subject potassium phosphate salts in both 2008 and 2009, and accounted for *** percent of COGS in 2009 for DKP, *** percent for MKP, and *** percent for TKPP.

The price of phosphoric acid began rising in 2008, partly due to increased demand for phosphates used in corn and soybean fertilizer as federal biofuel mandates came into effect, but has fallen sharply starting in early 2009.[2] In May 2008, the price of phosphoric acid increased by 400 percent.[3] Prices for potassium hydroxide began rising in the first half of 2008 and increased by 300 percent between the third quarter of 2008 and the second quarter of 2009 (figure V-1).[4] A three-month potassium miners' strike in Canada in late 2008 greatly reduced ICL's potassium phosphate production and in response, ICL imported finished product from sister companies in Brazil and Europe, as well as from China.[5]

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[1] *** uses purified phosphoric acid which is made from green acid or MGA, while Chinese producers use thermal phosphoric acid. Although purified phosphoric acid is less expensive to produce, it has a higher level of impurities than thermal acid. Hearing transcript, pp. 26 (Schewe).

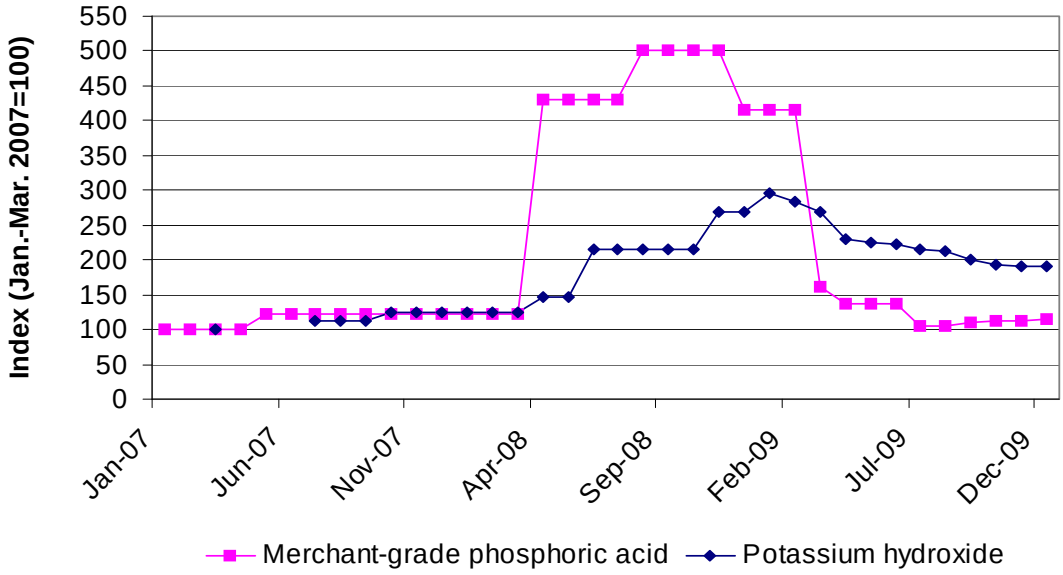
[2] *See, e.g.*, Respondents' postconference brief, p. 16-17 and exh. 12, and *1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China and India, Inv. Nos. 731-TA-1146-1147 (Final)*, USITC Publication 4072, April 2009, p. 14.

[3] Hearing transcript, p. 30 (Schewe).

[4] Hearing transcript, p. 36 (Allen).

[5] Conference transcript, pp. 101-102 (Schewe).

Figure V-1
Indexed monthly prices of merchant grade phosphoric acid and potassium hydroxide, January 2007-December 2009



Source: Compiled from data submitted by ***, *Green Markets* (phosphoric acid), and *CMA*I (potassium hydroxide). Email from ***, May 5, 2010.

U.S. Inland Transportation Costs[6]

The four responding U.S. producers reported that U.S. inland transportation costs ranged from *** percent of the total delivered cost of phosphate salts. Importers reported U.S. inland transportation costs that ranged from 0 to 50 percent, with 24 of 33 responding importers reporting that U.S. inland transportation costs ranged between 1 to 5 percent of the total delivered cost of phosphate salts.

The four responding U.S. producers reported that *** arranged delivery. Twenty-three of 33 responding importers reported that they arranged delivery, nine reported that the purchaser did so, one importer reported that it and the purchaser arranged transportation.[7]

GEOGRAPHIC MARKETS

*** responding U.S. producers, and 11 importers reported selling potassium phosphate salts nationwide; five of these importers imported subject potassium phosphate salts from China. Of the remaining 23 importers, four importers only sell to the Midwest, two importers only sell to the Southeast, two importers only sell to the Pacific Coast, and one importer only sells to the Northeast. Fourteen importers supply to two or more regions, mainly to the Midwest (11), the Northeast (8), and the Pacific Coast (8). Details regarding the geographic presence of U.S. producers and importers of DKP, MKP, and TKPP appear in table V-1.

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[6] Questionnaire respondents were requested to separate their answers if their responses differed by product; unless noted, responses were generally applicable for each of the three chemicals.

[7] The final importer reported that the Chinese supplier arranged transportation, apparently referring to its international shipment.

Table V-1
Geographic markets of DKP, MKP, and TKPP by source, as reported by U.S. producers and importers

	U.S.-produced			Imported from China			Imported from nonsubject countries		
	DKP	MKP	TKPP	DKP	MKP	TKPP	DKP	MKP	TKPP
Nationwide	***	***	4	1	4	5	5	6	2
Northeast[1]	***	***	0	5	5	4	1	2	2
Midwest[2]	***	***	0	6	8	7	1	2	2
Southeast[3]	***	***	0	4	5	5	1	2	1
Central Southwest[4]	***	***	0	1	2	3	0	0	0
Mountains[5]	***	***	0	0	2	1	0	0	0
Pacific Coast[6]	***	***	0	3	5	4	0	1	1
Other[7]	***	***	0	0	0	0	0	0	0

[1] Includes CT, ME, MA, NH, NJ, NY, PA, RI, and VT.
[2] Includes IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI.
[3] Includes AL, DE, DC, FL, GA, KY, MD, MS, NC, SC, TN, VA, and WV.
[4] Includes AR, LA, OK, and TX.
[5] Includes AZ, CO, ID, MT, NV, NM, UT, and WY.
[6] Includes CA, OR, and WA.
[7] Includes all other markets in the United States not previously listed, including AK, HI, PR, and VI, among others.

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

Three of the four responding domestic producers reported shipping *** percent of their phosphate salts less than 100 miles, *** percent between 101 and 1,000 miles, and *** percent more than 1,000 miles. The other domestic producer, ***, reported shipping *** percent of its phosphate salts less than 100 miles, and the remaining *** percent between 101 and 1,000 miles. Thirty-four importers reported shipping distances. Thirty-two responding importers reported selling within 100 miles of their U.S. point of shipment, with 14 selling the majority within 100 miles. Twenty-seven responding importers sold phosphate salts between 101 and 1,000 miles of their point of shipment, with 18 selling the majority of their salts in this range. Sixteen importers reported selling phosphate salts over 1,000 miles from their U.S. point of shipment, of which two firms sold the majority of their salts in this range.

PRICING PRACTICES

Pricing Methods

Three of the four domestic producers reported selling phosphate salts *** as well as by using ***. The remaining producer, ***, sold using ***. Most responding importers (31 of the 35) reported transaction-by-transaction negotiations, 7 reported contracts, and 6 reported price lists, reflecting the use of multiple pricing methods by the same importers.

*** reported selling under ***. None of the 33 responding importers reported selling via long-term contracts of 12 months or longer. Sixteen importers reported selling via short-term contracts, with

nine of these selling half or more using short-term contracts. The majority of importers (32) reported selling on the spot market, with 24 of these selling the majority of their product this way.

U.S. producers *** reported typical terms for their long-term contracts. *** reported that their long-term contracts averaged 2 years or more, and could be renegotiated during the contract period. *** reported that price was fixed by the contract, while *** reported that both price and quantity were fixed by the contract. U.S. producer *** reported the existence of meet-or-release clauses in its long-term contracts, while *** reported that its long-term contracts did not contain meet-or-release clauses.

*** reported their short-term contracts were typically *** in length. Sixteen importers reported the length of their short-term contracts, ranging from one month to twelve months. *** 9 of 16 responding importers reported that short-term contracts could be renegotiated.[8] Two importers reported that their contracts fix price only, and two importers reported that quantity was fixed by the contract, while *** 13 importers reported that contracts fixed both price and quantity.[9] U.S. producers *** and 7 of 16 responding importers reported the existence of meet-or-release clauses in their short-term contracts, while the remaining 9 importers reported that their short-term contracts typically do not contain these clauses.

Sales Terms and Discounts

Two of the four responding producers and eight of 34 responding importers reported using discounts for their sales of certain potassium phosphate salts. Two produce
rs and six importers reported offering quantity discounts, two producers and three importers reported offering annual total volume discounts, two producers reported a discount offered to distributors, and one importer offers early payment discounts. All four responding producers and 17 of the 30 responding importers reported that the majority of their sales are from domestic inventory, while 9 importers reported that more than 75 percent of their sales are from foreign manufacturer's inventory. Six importers reported that 70 percent or more of their sales was produced to order. Producers reported lead times of 2-14 days from inventory or 2-4 weeks for sales of product which is made to order. Importers reported lead times of 1-10 days for domestic inventory, 4-10 weeks for foreign manufacturer's inventory, and 4-12 weeks for sales of product which is made to order.

PRICE DATA

The Commission asked U.S. producers and importers of phosphate salts to provide quarterly data for the total quantity and f.o.b. value of phosphate salts that was shipped to unrelated customers in the U.S. market during the period January 2007 to December 2009. The products for which pricing data were requested are as follows:

<u>Product 1.</u>--Dipotassium phosphate (DKP), anhydrous, food grade, whether granular or powder and regardless of packaging size
<u>Product 2.--</u>Dipotassium phosphate (DKP), anhydrous, technical grade, whether granular or powder and regardless of packaging size
<u>Product 3.</u>--Monopotassium phosphate (MKP), anhydrous, food grade, whether granular or powder and regardless of packaging size

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[8] U.S. importer, ***, reported that short-term contracts of one month in length could not be renegotiated, but three month long contracts could be renegotiated. U.S. importer questionnaire response, section IV-8.

[9] U.S. importer, ***, reported that six month contracts fix both price and quantity, while contracts 12 months in length could be renegotiated in terms of price, but fixed quantity. U.S. importer questionnaire response, section IV-8.

<u>Product 4.</u>--Monopotassium phosphate (MKP), anhydrous, technical grade, whether granular or powder and regardless of packaging size
<u>Product 5.</u>--Tetrapotassium pyrophosphate (TKPP), anhydrous, food grade, whether granular or powder and regardless of packaging size
<u>Product 6.--</u>Tetrapotassium pyrophosphate (TKPP), anhydrous, technical grade, whether granular or powder and regardless of packaging size

Four U.S. producers provided usable pricing data for sales of the requested products including one for both DKP and MKP, and three for TKPP.[10] Twenty-four importers reported pricing data for sales of these pricing products from China including 7 for DKP, 14 for MKP, and 17 for TKPP. Ten importers reported pricing product data for product from nonsubject countries including 7 for DKP, 9 for MKP, and 4 for TKPP. Not all firms reported pricing for all products for all quarters. Pricing data for the six products reported by these firms, shown in tables V-2 to V-7 and figures V-2 to V-7, accounted for 99.9 percent of U.S. producers' U.S. shipments of DKP, for 100.0 percent for MKP, and for 47.4 percent for TKPP.[11] [12] Pricing data for product from China accounted for 98.4 percent of U.S. imports of DKP from China from January 2007 to December 2009, for 86.8 percent for MKP, and for 85.7 percent for TKPP.[13]

Table V-2
DKP: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, and margins of underselling/(overselling), January 2007-December 2009

* * * * * * *

Table V-3
DKP: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, and margins of underselling, January 2007-December 2009

* * * * * * *

Table V-4
MKP: Weighted-average f.o.b. prices and quantities of domestic and imported product 3, and margins of underselling/(overselling), January 2007-December 2009

* * * * * * *

Table V-5
MKP: Weighted-average f.o.b. prices and quantities of domestic and imported product 4, and margins of underselling/(overselling), January 2007-December 2009

* * * * * * *

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[10] ***.

[11] Data reported on a quantity basis.

[12] Data for commercial shipments of TKPP includes both anhydrous and solution form, but pricing data was requested for TKPP in anhydrous form only to insure price comparability.

[13] Due to the large share of sales of imports from nonsubject sources in these markets, quantity data for nonsubject countries as well as China and the United States are presented graphically in appendix D. As discussed in *Part IV* of this report, imports from nonsubject countries comprised a substantial share of overall imports.

Table V-6
TKPP: Weighted-average f.o.b. prices and quantities of domestic and imported product 5, and margins of underselling/(overselling), January 2007-December 2009

* * * * * * *

Table V-7
TKPP: Weighted-average f.o.b. prices and quantities of domestic and imported product 6[1], and margins of underselling/(overselling), January 2007-December 2009

Period	United States		China		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2007:					
January-March	0.59	4,554,950	***	***	***
April-June	0.58	5,179,050	***	***	***
July-September	0.61	4,532,550	***	***	***
October-December	0.61	4,280,150	***	***	***
2008:					
January-March	0.72	4,275,050	***	***	***
April-June	0.95	4,458,850	***	***	***
July-September	1.23	4,264,350	***	***	***
October-December	1.37	2,235,700	***	***	***
2009:					
January-March	1.49	1,880,000	***	***	***
April-June	1.29	1,906,050	***	***	***
July-September	1.20	2,463,900	***	***	***
October-December	1.14	2,067,200	***	***	***

[1] Product 6.—Tetrapotassium pyrophosphate (TKPP), anhydrous, technical grade, whether granular or powder and regardless of packaging size.

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

Figure V-2
DKP: Weighted-average f.o.b. selling prices and quantities of product 1 as reported by U.S. producers and importers, by quarters, January 2007-December 2009

* * * * * * *

Figure V-*3*
DKP: Weighted-average f.o.b. selling prices and quantities of product 2 as reported by U.S. producers and importers, by quarters, January 2007-December 2009

* * * * * * *

Figure V-4
MKP: Weighted-average f.o.b. selling prices and quantities of product 3 as reported by U.S. producers and importers, by quarters, January 2007-December 2009

* * * * * * *

Figure V-5
MKP: Weighted-average f.o.b. selling prices and quantities of product 4 as reported by U.S. producers and importers, by quarters, January 2007-December 2009

* * * * * * *

Figure V-6
TKPP: Weighted-average f.o.b. selling prices and quantities of product 5 as reported by U.S. producers and importers, by quarters, January 2007-December 2009

* * * * * * *

Figure V-7
TKPP: Weighted-average f.o.b. selling prices and quantities of product 6,[1] as reported by U.S. producers and importers, by quarters, January 2007-December 2009

* * * * * * *

Price Trends

Prices of all products increased substantially from their 2007 levels, consistent with higher input costs. Pricing for the U.S.-produced products typically followed similar patterns.[14] Prices generally fluctuated in 2007, began rising in the first quarter of 2008, accelerated through the second and third quarters, peaked in late 2008 or early 2009, and decreased in 2009, generally by the second quarter. The fourth quarter of 2008 corresponds to the potassium miners' strike in Canada, which is the source for ICL's potassium hydroxide. ***. Overall, prices for five of the six products increased from the first quarter of 2007 to the fourth quarter of 2009, by amounts ranging from *** percent (***) to *** percent (***). Prices for *** decreased *** percent from the first quarter of 2007 to the fourth quarter of 2009. For the most part, prices of phosphate salts products imported from China followed similar trends since 2007.[15] Prices for imported Chinese products peaked in the second and third quarters of 2008, and began decreasing in the first and second quarter of 2009. Unlike pricing for domestically produced food-grade MKP and food-grade TKPP, prices of both imported products from China more than doubled in the fourth quarter of 2009. Overall, prices for these six products increased from the first quarter of 2007 to the fourth quarter of 2009, by amounts ranging from *** percent (***) to *** percent (***).[16]

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[14] The primary exception to this is food-grade MKP, which fluctuated noticeably in 2007. In particular, the *** price for food-grade MKP beginning in *** is reflective of ***. Sales to ***. Email from ***, June 4, 2010. ***. Further detail regarding *** are presented in the following tabulation:

* * * * * * *

[15] Only four quarters of data are available for product 2, technical-grade DKP, so trends are not available.

[16] This excludes product 2, food-grade DKP, for which only 2009 data were submitted.

Table V-8
DKP, MKP, and TKPP: Summary of weighted-average f.o.b. prices for products 1-6 from the United States and China

Item	Number of quarters	Low price (*per pound*)	High price (*per pound*)	Change in price[1] (*percent*)
Product 1				
United States	12	$***	$***	***
China	12	***	***	***
Product 2				
United States	12	***	***	***
China	4	***	***	***
Product 3				
United States	12	***	***	***
China	12	***	***	***
Product 4				
United States	12	***	***	***
China	12	***	***	***
Product 5				
United States	12	***	***	***
China	5	***	***	***
Product 6				
United States	12	0.58	1.49	92.4%
China	12	***	***	***

[1] Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data.

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

Price Comparisons

Subject imports from China undersold the U.S. product in 8 of 12 quarterly comparisons for food-grade DKP, and in all 4 possible quarterly comparisons for technical-grade DKP. Subject imports from China undersold the U.S. product of food-grade MKP in 10 of 12 quarterly comparisons, and in 11 of 12 possible quarterly comparisons for technical-grade MKP. Chinese food-grade TKPP undersold U.S. product in all 5 quarterly comparisons, and in 7 of 12 quarterly comparisons for technical-grade TKPP. The largest margins of underselling occurred in comparisons involving technical-grade DKP, with an average margin of *** percent; technical-grade MKP had the second largest margin of underselling, with an average margin of *** percent; and food-grade MKP had the third largest margin of underselling, with an average margin of *** percent. Moreover, technical-grade DKP and both food-grade and technical-grade MKP exhibited the largest quarterly margins (peaking at over *** percent). Imports of phosphate salts from China oversold the U.S. product in 12 quarterly comparisons, with margins of overselling ranging from *** to *** percent. Overselling occurred predominantly in comparisons involving both food-grade MKP and technical-grade TKPP. A summary of margins of underselling and overselling is presented in table V-9.

Table V-9
Certain potassium phosphate salts: Summary of underselling/(overselling) by product and by year from China, January 2007-December 2009

* * * * * * *

LOST SALES AND LOST REVENUES

In the preliminary and final phases of these investigations, the Commission requested U.S. producers of certain potassium phosphate salts to report any instances of lost sales or revenues they experienced due to competition from imports from China. During the preliminary phase of these investigations, four producers reported having lost sales or revenues due to Chinese import competition during this time period. During the final phase of these investigations, U.S. producers also reported an additional 3 lost sales allegations for TKPP and 10 lost revenues allegations for TKPP and MKPP.

The total value of the lost sales allegations for DKP was $*** involving *** pounds of DKP, for MKP was $*** involving *** pounds of MKP, and for TKPP[17] was $*** involving *** pounds of TKPP. The total value of the lost revenue allegations for TKPP was $*** involving *** pounds of TKPP, for MKP was $*** involving *** pounds of MKP, and for DKP was $*** involving *** pounds of DKP. Staff contacted all purchasers listed in the allegations.[18] All of the lost sales and lost revenues allegations are presented in tables V-10 and V-11. More detail is provided for certain allegations thereafter.

Table V-10
DKP, MKP, and TKPP: U.S. producers' lost sales allegations

* * * * * * *

Table V-11
DKP, MKP, and TKPP: U.S. producers' lost revenue allegations

* * * * * * *

DKP Lost Sales and Lost Revenues

***.

MKP Lost Sales and Lost Revenues

***.

TKPP Lost Sales and Lost Revenues

***.

[17] *** lost sale allegation is not included in lost sales totals because the quantity was unknown. *** reported a lost sale of *** per pound, and a rejected U.S. price of ***.

[18] A number of the allegations involved multiple locations for a given purchaser.

General Information on Purchasing Behavior

In addition, purchasers responding to lost sales and lost revenue allegations were asked whether they shifted their purchases of phosphate salts from U.S. producers to suppliers of phosphate salts from China and if U.S. producers had reduced their prices because of imported product from China (table V-10). One of 24 responding purchasers, ***, reported shifting from U.S. product to Chinese product for both DKP and MKP because of price; two purchasers, ***, reported shifting from U.S. product to Chinese product for MKP because of price.[19] However, *** reported that "MKP is not an active item for us currently, our price is still a list price". One firm, ***, reported that U.S. producers had reduced prices of DKP, MKP, and TKPP because of imports. *** reported seeing "***".

Table V-10
DKP, MKP, and TKPP: Purchasers' responses to questions about shifting purchases and Chinese prices influencing U.S. prices, by product

	DKP		MKP		TKPP	
	yes	no	yes	no	yes	no
Shifted from U.S. to Chinese product	1	23	3	21	7	18
Shifted because of price	1	0	3	0	6	1
U.S. producers reduced price to compete with China	1	17	1	17	6	12

Source: Compiled from purchasers' responses to lost sales and lost revenue allegations.

*** reported shifting from U.S. to Chinese TKPP product, but reported that the reason for the shift was not due to price, but in order to support "***". *** reported shifting TKPP purchases due to price; however, it reported this shift did not work out because of quality concerns. The other four purchasers reporting changes did not explain why. ***, responding for TKPP, reported that, without imported product from China, domestic prices would still be very high.

[19] Neither ***, ***, nor *** was identified in a domestic producer lost sale or lost revenue allegation for MKP.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

ICL, Innophos, PCS, and Prayon[1] provided usable financial results for their individual operations on DKP, MKP, and TKPP.[2] These firms are believed to account for all of the domestic industry's sales and production during 2009.[3] Anhydrous DKP is produced solely by ICL; MKP is produced by ICL and PCS;[4] and TKPP is produced by ICL and Prayon, as well as by PCS ***.[5] *** was the *** to report internal consumption of MKP and TKPP (*** percent in terms of total aggregate net sales value in 2009). *** reported transfers to related firms of all three products (*** percent in terms of total aggregate net sales values in 2009).

OPERATIONS ON DKP, MKP, and TKPP

Results of the U.S. producers on their DKP, MKP, and TKPP operations are presented in tables VI-1, VI-2, and VI-3, respectively, which include data on quantity and value bases, as well as per-pound and operating income (loss) to net sales ratios.

The two chemicals in this proceeding with the smallest volume of domestic sales are DKP and MKP (tables VI-1 and VI-2). While net sales quantities and values of DKP increased between 2007 and 2009, operating income decreased, declining to an operating loss in 2009, due primarily to the large increase in per-pound total cost, in spite of an increased per-pound sales values. Operating income was much lower in July-December (the second half) of 2009 compared to January-June (the first half) of 2009 even though sales quantities and values increased. This was due to the substantial decrease in per-unit sales price and the simultaneous increase in per-unit cost of goods sold ("COGS").

Even though net sales quantities of MKP decreased between 2007 and 2009, net sales values and operating income increased by all measures as the increase in per-pound net sales price was greater than the increase in per-pound total cost during this period. However, the opposite was true in comparing results for the second half of 2009 and the first half of 2009, as net sales quantities increased slightly while net sales values were lower, and per-pound sales values decreased while per-pound total costs increased, resulting in *** in the second half of 2009.

Aggregate income-and-loss data for ICL, Innophos, PCS (***), and Prayon on their TKPP operations are presented in table VI-3. The financial results of the producers on their TKPP operations improved from 2007 to 2008 (reflecting of a large increase in per-pound net sales ($0.61 to $0.97 per pound) that exceeded the increase in per-pound total costs (from $0.60 to $0.86 per pound). The results deteriorated substantially from 2008 to 2009, as an operating income of $3.9 million in 2008 fell to an operating loss of nearly $2.0 million in 2009. The net sales values slightly decreased despite higher sales quantities from the first half of 2009 to the second half of 2009, reflecting a decrease of per-pound sales values which eventually resulted in a deepened operating loss in the second half of 2009 (as the change in per-pound net sales from $1.29 to $1.07 exceeded the decrease in per-pound total cost from $1.35 to $1.17.

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[1] All four companies' fiscal years end on December 31.

[2] PCS, which produced TKPP by *** operations, submitted a response for both operations. PCS manufactures TKPP at its plant in Cincinnati, OH. Approximately *** percent of PCS's production of TKPP is ***.

[3] Petition, p. 5.

[4] PCS manufactured and sold ***.

[5] Petition, p. 5.

Per-pound average selling prices and per-pound total costs for MKP and DKP were consistently higher compared to those for TKPP (*** was the highest and *** was the second), and their costs increased continuously during the period, particularly in 2008, due mainly to the increase of raw material costs. The operating income and per-pound profitability for all three products fluctuated between 2007 and 2009, but by the second half of 2009, all three products were generating ***.

Table VI-1
DKP: Results of operations of U.S. producer, fiscal years 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table VI-2
MKP: Results of operations of U.S. producers, fiscal years 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table VI-3
TKPP: Results of operations of ICL, Innophos, PCS, and Prayon, fiscal years 2007-09, January-June 2009, and July-December 2009

Item	Fiscal year			2009	
	2007	2008	2009	Jan-June	July-Dec
Net sales:	**Quantity (*1,000 pounds*)**				
Commercial sales	41,320	33,900	24,775	11,251	13,524
Internal consumption	59	46	92	52	40
Related transfers	497	407	0	0	0
Total net sales	41,876	34,353	24,867	11,303	13,564
Net sales:	**Value (*$1,000*)**				
Commercial sales	25,085	33,042	28,964	14,492	14,472
Internal consumption	34	31	145	82	63
Related transfers	271	241	0	0	0
Total net sales	25,390	33,314	29,109	14,574	14,535
COGS	22,577	26,226	28,085	13,766	14,327
Gross profit	2,813	7,088	1,024	808	208
SG&A expenses	2,675	3,139	2,997	1,461	1,537
Operating income (loss)	138	3,949	(1,973)	(653)	(1,329)
Interest expense	163	174	78	57	21
Other expense	107	98	10	7	3
Other income	60	14	8	6	2
Net income (loss)	(72)	3,691	(2,053)	(711)	(1,351)
Depreciation/amortization	899	844	821	433	388
Cash flow	827	4,535	(1,232)	(278)	(963)
	Value (*per pound*)				
Net sales	$0.61	$0.97	$1.17	$1.29	$1.07
COGS	0.54	0.76	1.13	1.22	1.06
Gross profit	0.07	0.21	0.04	0.07	0.02
SG&A expenses	0.06	0.09	0.12	0.13	0.11
Operating income (loss)	0.00	0.12	(0.08)	(0.06)	(0.10)
	Ratio to net sales (*percent*)				
COGS	88.9	78.7	96.5	94.5	98.6
Gross profit	11.1	21.3	3.5	5.5	1.4
SG&A expenses	10.5	9.4	10.3	10.0	10.6
Operating income (loss)	0.5	11.9	(6.8)	(4.5)	(9.1)
	Number of firms reporting				
Operating losses	2	0	3	3	2
Data	4	4	4	4	4

Note.–revenue, cost, and income related to PCS's *** operations appear separately in table VI-9.

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

Selected financial data, by firm, are presented in table VI-4 for TKPP[6] (since, as noted above, only ICL produces anhydrous DKP and commercial quantities of anhydrous MKP, although PCS produced ***). While *** in 2009, *** for the year and, indeed, *** of the period for which data were collected. ***.

Table VI-4
TKPP: Results of operations of ICL, Innophos, PCS, and Prayon, by firm, fiscal years 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table VI-5
TKPP: Per-pound costs of U.S. producers, fiscal years 2007-09, January-June 2009, and July-December 2009

Item	Fiscal year			2009	
	2007	2008	2009	Jan-June	July-Dec
COGS:	Value (*per pound*)				
Raw materials	$0.345	$0.480	$0.932	$1.002	$0.873
Direct labor	0.067	0.071	0.083	0.091	0.076
Factory overhead	0.127	0.212	0.115	0.125	0.107
Total COGS	0.539	0.763	1.129	1.218	1.056
SG&A expenses	0.064	0.091	0.121	0.129	0.113
Total cost	0.603	0.855	1.250	1.347	1.170

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

A variance analysis showing the effects of prices and volume on the producers' sales of DKP, MKP, and TKPP, and of costs and volume on their total costs, is shown in tables VI-6, VI-7, and VI-8, respectively. The analysis is summarized at the bottom of the table. In the case of DKP (table VI-6), the decrease in operating income between 2007 and 2009 was the result of unit costs/expenses increasing at a higher rate than unit prices. With respect to MKP (table VI-7), the increase in operating income was the result of unit prices increasing more than unit costs/expenses. The analysis of TKPP (table VI-8) indicates that the decrease in operating income ($2.1 million) between 2007 and 2009 was attributable mainly to the negative effect of increased costs/expenses ($16.1 million) which was offset by the positive effect of increased price ($14.0 million).

[6] Throughout this section, the per-unit values are presented in three decimal points rather than in the usual two decimal points because two decimal points may not indicate any changes in the per-unit values due to rounding.

Table VI-6
DKP: Variance analysis of operations of U.S. producer, fiscal years 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table VI-7
MKP: Variance analysis of operations of U.S. producers, fiscal years 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table VI-8
TKPP: Variance analysis of operations of U.S. producers, fiscal years 2007-09, January-June 2009, and July-December 2009

Item	Between fiscal years			2009
	2007-09	2007-08	2008-09	1H09-2H09
	Value (*$1,000*)			
Net sales:				
Price variance	14,032	12,485	4,994	(2,954)
Volume variance	(10,313)	(4,561)	(9,199)	2,915
Total net sales variance	3,719	7,924	(4,205)	(39)
Cost of sales:				
Cost variance	(14,678)	(7,705)	(9,101)	2,193
Volume variance	9,170	4,056	7,242	(2,754)
Total cost variance	(5,508)	(3,649)	(1,859)	(561)
Gross profit variance	(1,789)	4,275	(6,064)	(600)
SG&A expenses:				
Expense variance	(1,409)	(945)	(725)	216
Volume variance	1,087	481	867	(292)
Total SG&A variance	(322)	(464)	142	(76)
Operating income variance	(2,111)	3,811	(5,922)	(676)
Summarized as:				
Price variance	14,032	12,485	4,994	(2,954)
Net cost/expense variance	(16,087)	(8,650)	(9,826)	2,409
Net volume variance	(56)	(25)	(1,090)	(131)

Note.--Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in operating income as presented in table VI-3.

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

In addition to the TKPP operations discussed above, there is also a *** in which ***. *** TKPP for *** and also produced ***. Based upon questionnaire responses, *** accounted for approximately *** percent of the total combined value of TKPP (including *** revenue) in 2009. ***. The income-and-loss data for *** are presented in table VI-9. The results are in contrast to the *** results contained in table VI-3. As *** revenues of the *** operations increased from 2007 to 2009, *** operating income also increased during the same periods, because the increase in *** revenue was greater than the increase of *** costs.

The differences between *** operations becomes evident when the financial results of the different companies are reviewed. Using 2009 data as an example, the unit sales revenue reported by the *** producers is $*** per pound for TKPP, while the costs include the cost of phosphoric acid and KOH, the costs of processing ($*** per pound), and SG&A costs ($*** per pound). These are in contrast to the financial results reported by ***, where the revenues are *** per pound), and the costs are *** per pound) and SG&A expenses *** per pound).

Table VI-9
TKPP: Results of * operations, fiscal years 2007-09, January-June 2009, and July-December 2009**

* * * * * * *

Aggregate income-and-loss data on ICL's, PCS's, and Prayon's production and sales of TKPP are presented in table VI-10. The data in this table differ from the data in tables VI-3 and VI-4 in that ***. The sales, cost of goods sold, and SG&A expense average unit value ("AUV") data in table VI-10 are lower than the AUV data in table VI-3 because PCS's data for its *** in table VI-10 ***. While the period-to-period trends for sales quantities and values are essentially the same for both sets of data (tables VI-3 and VI-10), the profitability data are quite different. This, in turn, is a reflection of the substitution of *** (see table VI-9) for *** (see table VI-4).

Table VI-10
TKPP: Results of combined operations of U.S. producers excluding * and including ***, fiscal years 2007-09, January-June 2009, and July-December 2009**

* * * * * * *

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' aggregate data on capital expenditures and research and development (R&D) expenses are presented in table VI-11. *** reported capital expenditures for TKPP (***) during the period for which data were collected. *** reported R&D expenses. Capital expenditures, by firm, for each product, are presented in table VI-12. Capital expenditures fluctuated over the period, falling *** in 2008, then partially recovering (MKP excepted) in 2009. R&D expenses remained relatively stable over the period.

Table VI-11
DKP, MKP, and TKPP: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table VI-12
DKP, MKP, and TKPP: Capital expenditures by U.S. producers, by products and firms, fiscal years 2007-09, January-June 2009, and July-December 2009

* * * * * * *

ASSETS AND RETURN ON INVESTMENT

U.S. producers were requested to provide data on their assets used in the production and sales of DKP, MKP, and TKPP during the period for which data were collected to assess their return on investment ("ROI"). Because sales values and the allocated assets of DKP and MKP are too small for meaningful tables for ROI, they are not presented separately. Nonetheless, the trend of ROI over the period was the same as the trend of the operating income margin to net sales shown in tables VI-1 and VI-2. Data on the U.S. producers' total assets and their ROI for TKPP are presented in table VI-13.

The value of total assets for TKPP increased from 2007 to 2008, due to the increased values of accounts receivable and inventories, and decreased from 2008 to 2009 because the values of accounts receivable and inventories decreased as did the original cost and net book value of property, plant, and equipment ("PPE"). The return on investment decreased substantially from 2008 to 2009, from a positive 14.1 percent in 2008 to a negative 9.0 percent in 2009. The trend of ROI for TKPP over the period was the same as the trend of the operating income margin to net sales in table VI-3.

Table VI-13
TKPP: Value of assets and return on investment of U.S. producers, fiscal years 2007-09

Item	Fiscal year		
	2007	2008	2009
Value of assets:	**Value (*$1,000*)**		
1. Current assets:			
A. Cash and equivalents	688	538	774
B. Trade receivables (net)	3,802	5,120	3,765
C. Inventories	3,455	7,443	5,577
D. All other current	262	2,034	1,166
Total current	8,207	15,135	11,282
2. Non-current assets:			
A. Productive facilities[1]	15,961	15,266	14,257
B. Productive facilities (net)[2]	12,413	11,106	9,479
C. Other non-current	2,257	1,710	1,228
Total non-current	14,670	12,816	10,707
Total assets	22,877	27,951	21,989
	Value (*$1,000*)		
Operating income (loss)	138	3,949	(1,973)
	Ratio of operating income to total assets (*percent*)		
Return on investment	0.6	14.1	(9.0)

[1] Original cost of property, plant, and equipment (PPE).
[2] Net book value of PPE (original cost less accumulated depreciation).

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

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects since January 1, 2007, on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of certain phosphate salts from China. Their responses for DKP, MKP, and TKPP are as follows:

ICL.–***.

Innophos.–***.

PCS.–***.

Prayon.–***.

The Commission also requested U.S. producers to describe any anticipated negative impact of imports of certain phosphate salts from China. Their responses are as follows:

ICL.–***.

Innophos.–***.

PCS.–***.

Prayon.–***.

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that--

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors[1]--
>
> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,
>
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
>
> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,
>
> (V) inventories of the subject merchandise,
>
> (VI) 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,
>
> (VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission

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[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

> under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),
>
> (VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
>
> (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the nature of the subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV and V*; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in *Part VI*. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries and the global market.

THE INDUSTRY IN CHINA

The petition identified 60 alleged producers of phosphate salts in China. Tables VII-1 and VII-2 provide information on 13 Chinese firms that supplied usable data.[3]

Table VII-1
Certain potassium phosphate salts: Chinese firms' reported 2009 production, exports to the United States, and share of exports to the United States

* * * * * * *

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

[3] *** did not supply usable questionnaire responses (the data sections were left blank). Three additional Chinese firms reported production of DKP, MKP, or TKPP during the preliminary phase of these investigations and their responses have been included. During the preliminary phase, data were collected for January-June 2009, projected 2009, and projected 2010. As a result, in the final phase investigations the Commission staff has used projected 2009 data for full-year 2009 data and subtracted January-June 2009 data from projected 2009 for July-December 2009 data.

Table VII-2
DKP, MKP, and TKPP: Chinese firms' production/exports

Firm	DKP	MKP	TKPP
Lianyungang Mupro Imp & Exp Co., Ltd.	X		
Mianyang Aostar Phosphorus Chemical Industry Co., Ltd.		X	
Onward International Trade Co., Ltd.		X	
Reephos Chemical Co., Ltd.	X	X	X
Santai Aostar Phosphate Chemical Industry Co., Ltd.		X	
SD BNI (CN) Co., Ltd.	X	X	X
Shifang Anda Chemicals Co., Ltd.		X	
Sichuan Blue Sword Chemical (Group) Co., Ltd.	X	X	X
Sichuan Shifang Jinda Chemical Company Limited		X	
Sichuan Shifang Juxintai Chemical Co., Ltd.		X	
Thermphos (China) Food Additive Co., Ltd.	X	X	X
Wenda Co., Ltd.	X		X
Yunnan Newswift Co. Ltd.			X
Total	6	10	6

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

In general, responding Chinese foreign producers did not report producing other products on the same equipment used in the production of the individual potassium phosphate salts that are at issue in this proceeding. *** reported that it produced DKP and MKP in equal parts on the same equipment. *** reported that it produces nonsubject products diammonium phosphate (DAP) and monoammonium phosphate (MAP) on the same equipment that it produces MKP. ***. *** reported that it produced DKP, as well as sodium acid pyrophosphate (SAPP), on the same equipment.

Coverage of export data reported by foreign producers compared to import data reported for 2009 in *Part IV* are 99.5 percent for DKP; 48.0 percent for MKP; and 8.2 percent for TKPP. Foreign producer/exporter questionnaires were not received from the largest four Chinese exporters of goods under HTS subheading 2835.39.10, TKPP, according to data compiled by Customs. These exporters are ***.

Tables VII-3 through VII-5 present data, by product, for the thirteen responding firms during 2007-09, January-June 2009, July-December 2009, and forecasts for 2010 and 2011. *** were the largest reporting Chinese producers, accounting for *** and *** percent, respectively of reported Chinese potassium phosphate salt production. *** were the largest reporting Chinese exporters, accounting for about *** percent and *** percent, respectively, of reported Chinese potassium phosphate salt exports to the United States.

Both the petitioners and respondent provided additional information in their posthearing briefs addressing which Chinese producers are able to produce certain potassium phosphate salts for food grade or technical grade. The petitioners identified Thermphos and SD BNI (CN) Co., Ltd. ("SD BNI") as joint venture Chinese producers that produce food grade DKP, MKP, and TKPP,[4] ***.[5] The respondent identified ***.[6] [7]

Table VII-3
DKP: Chinese production capacity, production, shipments, and inventories, 2007-09, January-June 2009, July-December 2009, and projected 2010-11

* * * * * * *

[4] Petitioners' posthearing brief, part II, pp. 23-24 and exhibits 7 and 8. Petitioners also identified Norwest as a joint venture Chinese producer that produces food grade MKP. Petitioners' posthearing brief, part II, p. 24 and exhibit 9. The Commission did not receive a questionnaire response from Norwest.

[5] Petitioners' posthearing brief, part II, p. 27.

[6] Respondent's posthearing brief, pp. 11-12. ***. Ibid.

[7] The respondent also identified ***. Respondent's posthearing brief, p. 12. The respondent also provided correspondence from *** indicating that the *** certificate for *** had been withdrawn in ***. E-mail from ***, June 17, 2010.

Table VII-4
MKP: Chinese production capacity, production, shipments, and inventories, 2007-09, January-June 2009, July-December 2009, and projected 2010-11

Item	Actual experience					Projections [1]	
	2007	2008	2009	January-June 2009	July-December 2009	2010[2]	2011
Quantity (*1,000 lbs. dry weight*)							
Capacity	69,142	71,126	71,126	34,802	36,324	71,126	([3])
Production	46,956	53,949	49,673	23,749	25,924	46,130	([3])
End of period inventories	***	***	***	***	***	***	([3])
Shipments:							
Internal consumption	2,274	1,738	1,278	604	674	2,183	([3])
Home market	15,726	14,713	16,270	8,037	8,233	17,108	([3])
Exports to--							
The United States	4,319	9,713	4,973	2,339	2,635	1,962	([3])
All other markets	23,874	27,605	27,052	13,157	13,895	25,328	([3])
Total exports	28,193	37,318	32,025	15,496	16,530	27,290	([3])
Total shipments	46,193	53,770	49,573	24,137	25,437	46,581	([3])
Ratios and shares (*percent*)							
Capacity utilization	67.9	75.9	69.8	68.2	71.4	64.9	([3])
Inventories to production	***	***	***	***	***	***	([3])
Inventories to total shipments	***	***	***	***	***	***	([3])
Share of total quantity of shipments:							
Internal consumption	4.9	3.2	2.6	2.5	2.6	4.7	([3])
Home market	34.0	27.4	32.8	33.3	32.4	36.7	([3])
Exports to--							
The United States	9.3	18.1	10.0	9.7	10.4	4.2	([3])
All other markets	51.7	51.3	54.6	54.5	54.6	54.4	([3])
All export markets	61.0	69.4	64.6	64.2	65.0	58.6	([3])

[1] According to ***, market demand for MKP is decreasing because of the economic crisis.
[2] Projected 2010 data was not provided by ***.
[3] Projected 2011 data was provided by ***. *** projected that it would not produce MKP in 2011.

Note.–Because of rounding, figures may not add to the totals shown.
Note.--Data in this table include shipments by the trading company ***. Total shipments have been adjusted to avoid double counting of domestic shipments by Chinese producers to the trading company as the volume in question was ultimately exported.

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

Table VII-5
TKPP: Chinese production capacity, production, shipments, and inventories, 2007-09, January-June 2009, July-December 2009, and projected 2010-11

* * * * * * *

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of certain potassium phosphate salts from China after December 31, 2009.

Table VII-6
Certain potassium phosphate salts: U.S. importers' orders for delivery after December 31, 2009

Item	Quantity (*1,000 lbs. dry weight*)
DKP	***
MKP	***
TKPP	***
Total	177
Source: Compiled from data submitted in response to Commission questionnaires.	

U.S. INVENTORIES OF PHOSPHATE SALTS

U.S. importers' end-of-period inventories of U.S. imports as reported are presented in tables VII-7 through VII-9. Inventories of Chinese DKP, MKP, and TKPP increased in absolute terms between 2007 and 2009. Inventories of all other sources of DKP and TKPP likewise were higher between 2007 and 2009. All other sources of inventories of DKP peaked in 2008, whereas, all other sources of inventories of TKPP peaked in 2009. Inventories of MKP from sources other than China declined from 2007 to 2009 with the lowest level of inventories being reported in 2008.

Inventories of DKP from China were the highest in 2009. *** drove the increase in inventories (second half 2009 inventories were *** pounds). Inventories of MKP from China increased in the second half of 2009 as *** increased its holdings to *** pounds. Inventories of TKPP from China were the highest in 2009, as ***'s inventories increased to *** pounds in the second half of 2009.

Table VII-7
DKP: U.S. importers' end-of-period inventories of imports, by source, 2007-09, January-June 2009, and July-December 2009

* * * * * * *

Table VII-8
MKP: U.S. importers' end-of-period inventories of imports, by source, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			Jan.-June	July-Dec.
	2007	2008	2009	2009	2009
China:					
Inventories (*1,000 lbs. dry weight*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
All other sources:					
Inventories (*1,000 lbs. dry weight*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
All sources:					
Inventories (*1,000 lbs. dry weight*)	9,865	8,154	8,783	2,697	8,783
Ratio of inventories to imports (*percent*)	21.6	18.2	23.6	7.9	21.9
Ratio to U.S. shipments of imports (*percent*)	26.3	19.4	25.8	6.3	34.8
Source: Compiled from data submitted in response to Commission questionnaires.					

Table VII-9
TKPP: U.S. importers' end-of-period inventories of imports, by source, 2007-09, January-June 2009, and July-December 2009

Item	Calendar year			Jan.-June	July-Dec.
	2007	2008	2009	2009	2009
China:					
Inventories (*1,000 lbs. dry weight*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
All other sources:					
Inventories (*1,000 lbs. dry weight*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
All sources:					
Inventories (*1,000 lbs. dry weight*)	1,058	1,396	2,167	1,223	2,167
Ratio of inventories to imports (*percent*)	23.9	28.2	35.8	25.7	29.7
Ratio to U.S. shipments of imports (*percent*)	25.8	30.4	41.2	25.0	38.5

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

ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS IN THIRD-COUNTRY MARKETS

None of the parties to these investigations reported dumping findings or antidumping remedies imposed on potassium phosphate salts in third-country markets.

INFORMATION ON NONSUBJECT COUNTRIES

Production and Exports of Potassium Phosphates

Presented in table VII-10 are selected foreign producers' trade data for 2009.

Table VII-10
Potassium phosphate salts: Leading nonsubject foreign producers' trade data, 2009

* * * * * * *

Shown in table VII-11 are total export data, in metric tons, by leading countries of export, for ortho potassium phosphates as compiled by the Global Trade Atlas for 2009.[8] Trade data for Israel are not provided by that publication. ***.[9] Trade data for potassium phosphates exported from France appear to be in a broad basket category and individual trade data to countries to which France exports potassium phosphates are not, therefore, available.

[8] The HS number for the ortho potassium phosphate chemicals in the Global Trade Atlas is 2835.24. These chemicals are believed to be predominantly MKP and DKP. TKPP is classified in another basket category and is not included in the tabulation below.

[9] As noted, Israeli export data are not compiled by the World Trade Atlas. ***.

VII-11
Ortho potassium phosphates: Global Trade Atlas exports, by leading country, 2009[1]

Country	Exports (*metric tons*)
China	45,498
Belgium	7,677
Germany	6,566
United States	4,111
France[2]	4,103
Mexico	4,025
Netherlands	1,991
Singapore	1,784
Czech Rep.	1,131
Lithuania	335
Italy	277
Poland	277
South Korea	250
Japan	224
Hong Kong	218
Spain	217
Malaysia	182
Canada	162
Austria	159
Taiwan	150
UK	105
Thailand	95
Jordan	93

[1] Israeli export data are not compiled by the World Trade Atlas. ***.
[2] In the Global Trade Atlas, export data for France for the ortho potassium phosphates are not reported. This information can, however, be obtained indirectly from import data for these chemicals provided by partner countries with France.

Source: Global Trade Atlas (2835.24).

Additional Demand Considerations

In many of the more affluent markets such as the United States, environmental bans and restrictions have resulted in sharp reductions of consumption of phosphate products. In less affluent markets, regulations have been less restrictive and consumption of phosphate products for use in cleaning applications has been growing, especially since population and per capita use has been increasing.

Demand outside the United States

Producers, importers, and purchasers were asked how demand outside the United States has changed for each of the certain potassium phosphate salts since 2007.

DKP– U.S. producer *** reported that demand for DKP outside the United States had remained the same. Four of eleven responding importers reported that demand had not changed, three importers reported that demand had increased, three importers reported that demand fluctuated, and one importer reported a decrease in demand since 2007. U.S. importer *** stated that the increase is due to the growing consumption of potassium phosphates in China due to the increase demand in fertilizer.[10]

Five of seven responding purchasers reported no change in demand outside the United States, one reported that demand has increased, and one purchaser reported that demand has decreased.

[10] *** importer questionnaire responses, section III-19b.

MKP– U.S. producer *** reported that demand for MKP outside the United States had remained the same. Five of 13 responding importers reported that demand had fluctuated, four importers reported that demand had remained unchanged, three importers reported that demand had increased, and one importer reported a decrease in demand since 2007. Importers stated that growth in developing countries, an increased demand for fertilizers, and a global increase in GNP were the factors contributing to increased demand for MKP outside the United States.

Four of ten responding purchasers reported that demand for MKP has increased, four reported no change in demand, and two reported that demand outside the United States remained the same. Of the purchasers that reported an increase in demand outside the United States, increased fertilizer demand and commodity prices were the principal factors listed.

TKPP- U.S. producers *** reported that demand for TKPP outside the United States had remained the same. Six of 14 responding importers reported that demand had not changed, four reported fluctuating demand, three importers reported an increased demand, and one importer reported that demand for TKPP had decreased outside the United States.

Seven of nine responding purchasers reported no change in demand for TKPP, and two reported an increase in demand outside the United States**.**

Additional Supply Considerations

As discussed previously, a key trend affecting the global market and industry has been a shortage of raw materials – especially phosphoric acid in 2008 – resulting in a surge of prices. This price surge has reportedly subsided somewhat in 2009 but not necessarily to pre-2008 levels.[11]

Although there are other sources of supply for the potassium phosphate salts that comprise the subject merchandise in these investigations, the leading nonsubject suppliers to the U.S. and other markets are Israel, Germany, and France (TKPP), and Israel, Mexico, Germany, and France (DKP and MKP). Other global suppliers with less of a presence in the U.S. market include Belgium, Japan, and the United Kingdom.[12]

The following information on the leading suppliers to the United States of potassium phosphate salts is drawn largely from ***

In Mexico, Innophos and Mexichem produce industrial phosphates. Based on information provided by ***. Nevertheless, the Global Trade Atlas reported that exports of the potassium phosphates from Mexico were about 4,000 metric tons in 2009.

There is robust production of MKP, DKP, and TKPP in Western Europe. Western European producers of the potassium phosphates, include Prayon in Belgium and France; and BK Giulini Chemie, Chemische Fabrik Budenheim and Thermphos in Germany. ***. ***.[13]

Israel has become an important participant in the global phosphate industry, taking advantage of rich phosphate rock deposits located in the Negev.[14] Two Israeli companies, Israel Chemicals Limited ("ICL (Israel)") and Haifa Chemicals, LTD have emerged as major producers of phosphate specialty products both technical and food grade. On its web site, Haifa Chemicals lists 25 specialized phosphate chemicals that it produces including MKP, DKP, and TKPP. In anticipation of potentially strong market growth, Haifa Chemicals Ltd., has constructed a MKP plant near Haifa, Israel.[15] The plant utilizes potash rather than KOH as a raw material, thereby saving significantly on costs. ***. ICL is a global supplier

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[11] ***.

[12] Analysis obtained from trade data provided by the Department of Commerce.

[13] ***.

[14] "http://www.icl-perfproductslp.com," retrieved October 26, 2009.

[15] BC Insight, http:/bcinsight.com, issue ID=77.

and the parent company of ICL Performance Chemicals, headquartered in St. Louis, MO, a leading producer of phosphate chemicals in the United States. ICL (Israel) through its subsidiaries/partners has manufacturing and production facilities in other countries as well, including Argentina, Australia, Austria, Belgium, Brazil, China, France, Germany, the Netherlands, Spain, Turkey, the United Kingdom. ICL (Israel) has also continued to expand its operations within Israel itself.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–473 (Final) and 731–TA–1173 (Final)]

Certain Potassium Phosphate Salts From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–473 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1173 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of certain potassium phosphate salts, provided for in subheadings 2835.24.00 and 2835.39.10 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* March 16, 2010.

FOR FURTHER INFORMATION CONTACT: Angela M. W. Newell (202–708–5409), 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*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of certain potassium phosphate salts, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on September 29, 2009, by ICL Performance Products, LP, St. Louis, MO and Prayon, Inc. Augusta, GA.

Participation in the investigations 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 final phase of these investigations 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, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as anhydrous Monopotassium Phosphate (MKP), anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts"). *Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 75 FR 12508, March 16, 2010.

section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations 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 final phase of these investigations will be placed in the nonpublic record on May 18, 2010, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on June 2, 2010, 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 May 26, 2010. 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 May 28, 2010, 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), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is May 25, 2010. 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 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 9, 2010; 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 investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before June 9, 2010. On June 23, 2010, 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 June 25, 2010, but such final comments must not contain new factual information and must otherwise comply with section 207.30 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, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

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

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 29, 2010.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010–7312 Filed 3–31–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–963]

Certain Potassium Phosphate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry

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

DATES: *Effective Date:* June 1, 2010.

SUMMARY: On March 8, 2010, the Department of Commerce (Department) published its preliminary affirmative determination in the countervailing duty investigation of certain potassium phosphate salts from the People's Republic of China (PRC).[1] The period of investigation (POI) is January 1, 2008 through December 31, 2008. We invited interested parties to comment on our *Preliminary Determination,* and received comments from the domestic industry. We have made no changes for the final determination. We determine that countervailable subsidies are being provided to producers and exporters of certain potassium phosphate salts from the PRC. For information on the estimated countervailing duty rates, *please see* the "Suspension of Liquidation" section, below.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street, and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3148.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the announcement of the *Preliminary Determination,* which was published in the **Federal Register** on March 8, 2010. ICL Performance Products LP and Prayon, Inc. (Petitioners) filed a critical circumstances allegation on April 6, 2010. Subsequently, on April 29, 2010, the Department issued a preliminary affirmative critical circumstances determination. *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Countervailing Duty Investigation,* 75 FR 24575, 24577 (May 5, 2010).

On April 27, 2010, we received a case brief from Petitioners. We received no other case briefs and no rebuttal briefs. Petitioners' brief simply notes its agreement with the Department's preliminary countervailing duty determination, and reiterates its arguments in favor of an affirmative critical circumstances determination.[2] Petitioners put forth no arguments for revisions to our adverse facts available (AFA) methodology or to any other aspect of our determinations. On May 18, 2010, Petitioners withdrew their critical circumstances allegation.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the U.S. International Trade Commission (ITC) is required to determine pursuant to section 701(a)(2) of the Act whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a United States industry. On November 23, 2009, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States producing monopotassium phosphate (MKP) is materially injured or threatened with material injury, and industries in the United States producing dipotassium phospate (DKP) and tetrapotassium pyrophosphate (TKPP) are threatened with material injury by reason of allegedly subsidized imports from the PRC of subject merchandise. *See Investigations Nos. 701–TA–473 and 731–TA–1173 (Preliminary), Certain Sodium and Potassium Phosphate Salts from China,* 74 FR 61173 (November 23, 2009). The ITC found that there is no reasonable indication that an industry producing sodium tripolyphosphate (STPP) is materially injured by reason of imports alleged to be subsidized by the PRC. *Id.*

Scope of the Investigation

The phosphate salts covered by this investigation include anhydrous monopotassium phosphate (MKP), anhydrous dipotassium phospate (DKP) and tetrapotassium pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts").

TKPP, also known as normal potassium pyrophosphate, diphosphoric acid or tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, Harmonized Tariff Schedule of the United States (HTSUS).

MKP, also known as potassium dihydrogen phosphate, KDP, or monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778–77–0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.

DKP, also known as dipotassium salt, dipotassium hydrogen orthophosphate or potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The products covered by this investigation include anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the investigation, the narrative description is dispositive, not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

Period of Investigation

The period for which we are measuring subsidies, *i.e.,* the period of investigation, is January 1, 2008 through December 31, 2008.

Comments on the Preliminary Determination

As noted above, the Department received a case brief from Petitioners only, and no rebuttal briefs. Petitioners' brief simply states their agreement with the Department's preliminary AFA determination, and reiterates their arguments for finding critical circumstances, but does not offer any arguments or suggestions for modifying our determinations or methodologies in any manner. Moreover, Petitioners' affirmative statements regarding critical circumstances have become moot now

[1] *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 75 FR 10466 (March 8, 2010) (*Preliminary Determination*).

[2] Because the critical circumstances allegation was not filed until April 6, 2010, we were not able to issue our determination before the due date for case briefs. We did not receive any requests to extend the due date.

that they have withdrawn their allegation (*see* below). Therefore, given Petitioners' complete concurrence with the Department's positions, we have not addressed their comments specifically.

Use of Facts Available and Adverse Facts Available

For purposes of this final determination, we relied on AFA in accordance with sections 776(a) and (b) of the Act to determine the total countervailable subsidy rates. The government of the PRC and the three mandatory company respondents did not respond to the Department's questionnaire. Because of the failure to provide requested information, we determine that the use of facts otherwise available is required, pursuant to section 776(a)(2)(C), and that, because of this lack of cooperation, the application of an adverse inference is also warranted, pursuant to section 776(b) of the Act. In determining appropriate AFA rates for the programs under investigation, we applied the methodology developed in prior CVD investigations. A full discussion of our decision to apply AFA, and the methodology we followed, is presented in the *Preliminary Determination* in the section "Application of Facts Otherwise Available," and a detailed explanation of the AFA rates determined for each program can be found in Memorandum to the File, "Application of Adverse Facts Available Rates for Preliminary Determination," March 1, 2010. There is no new information or more recently calculated rates in final CVD determinations involving the PRC which warrant any revisions to the rates assigned in the *Preliminary Determination.*

Critical Circumstances

As noted above, Petitioners withdrew their critical circumstances allegation on May 18, 2010. Pursuant to this withdrawal, and because the Department has not "expended significant resources" in examining the allegation,[3] the Department determines there is no need to make a critical circumstances determination in this investigation and is terminating the critical circumstances inquiry. We will, therefore, instruct U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation, refund any cash deposits, and release any bond or other security previously posted, for entries from December 8, 2009 until March 8, 2010, the publication date of the *Preliminary Determination,* effectively rescinding our instructions to CBP pursuant to the preliminary affirmative critical circumstances determination.

Continuation of Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have assigned a subsidy rate to each of the three producers/exporters of the subject merchandise that were selected as mandatory company respondents in this CVD investigation. With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the rate calculated for the three investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which to determine an all-others rate. As a result, we have used the AFA rate assigned to the three mandatory respondents as the all-others rate. This method is consistent with the Department's past practice. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina,* 66 FR 37007, 37008 (July 16, 2001); *see also, Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India,* 68 FR 68356 (December 8, 2003); *Sodium Nitrite from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 73 FR 38981 (July 8, 2008).

As a result, we have determined the following subsidy rates.

Producer/Exporter	Subsidy rate
Lianyungang Mupro Import Export Co Ltd	109.11 percent *ad valorem.*
Mianyang Aostar Phosphate Chemical Industry Co. Ltd	109.11 percent *ad valorem.*
Shifang Anda Chemicals Co. Ltd	109.11 percent *ad valorem.*
All-Others	109.11 percent *ad valorem.*

In accordance with section 703(d)(1)(A)(i) of the Act, we directed CBP to suspend liquidation of all entries of the subject merchandise from the PRC, which are entered or withdrawn from warehouse, for consumption on or after March 8, 2010, the date of publication of the *Preliminary Determination.* After the preliminary affirmative critical circumstances determination, we directed CBP to suspend liquidation of all entries on or after December 8, 2009 (encompassing the retroactive 90-day period) pursuant to section 703(e)(2) of the Act. As noted above, however, we will now instruct CBP to remove the suspension of liquidation for the 90-day pre-preliminary determination period, to refund any cash deposits and release any bond or other security previously posted within the 90-day period, but to continue collecting bonds or cash deposits on all entries, entered or withdrawn from warehouse, for consumption on or after March 8, 2010.

If the ITC issues a final affirmative injury determination, we will issue a countervailing duty order under section 706(a) of the Act, and instruct CBP to require cash deposits of the estimated countervailing duties. If the ITC determines that material injury to, threat of material injury to, or material retardation of, the domestic industry does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose

[3] *See e.g., Notice of Final Determination of Sales at Less Than Fair Value and Termination of Critical-Circumstances Investigation: Electrolytic Manganese Dioxide from Australia,* 73 FR 47586, 47586–87 (August 14, 2008), granting a post-preliminary determination request to withdraw a critical circumstances allegation.

such information, either publicly or under an Administrative Protective Order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 24, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–13070 Filed 5–28–10; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–962]

Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry

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

EFFECTIVE DATE: June 1, 2010.

SUMMARY: On March 16, 2010, the Department of Commerce (the "Department") published its notice of preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain potassium phosphate salts ("salts") from the People's Republic of China ("PRC").[1] The period of investigation ("POI") is January 1, 2009, through June 30, 2009. We invited interested parties to comment on our preliminary determination of sales at LTFV. We made no changes for the final determination. We determine that salts from the PRC are being, or are likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry or Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–7906 or (202) 482–6905, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The Department published its Preliminary Determination on March 16, 2010. On April 2, 2010, Petitioners filed an allegation of critical circumstances.[2] On April 15, 2010, we received a case brief from Petitioners. We did not receive any case or rebuttal briefs from any other interested parties. On May 5, 2010, we published the preliminary affirmative determination of critical circumstances.[3] On May 18, 2010, Petitioners withdrew their allegation of critical circumstances.[4]

Tolling of Administrative Deadlines

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for this final determination is now May 24, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Scope of Investigation

The phosphate salts covered by this investigation include anhydrous Monopotassium Phosphate (MKP), anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts").

TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, HTSUS.

MKP, also known as Potassium dihydrogen phosphate, KDP, or Monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778–77–0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.

DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The product covered by this investigation includes anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the investigation, the narrative description is dispositive, and not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

Comments on the Preliminary Determination

On April 15, 2010, Petitioners submitted a case brief in which they agreed with the decisions the Department made in the *Preliminary Determination* and stated that the Department's use of adverse facts available ("AFA") in the *Preliminary Determination* was warranted and appropriate. No other interested party commented on the *Preliminary Determination*.

[1] *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 75 FR 12508 (March 16, 2010) ("*Preliminary Determination*").

[2] *See* Letter from Petitioners to the Department; regarding Certain Potassium Phosphate Salts from the People's Republic of China: Allegation of Critical Circumstances; dated April 2, 2010.

[3] *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572 (May 5, 2010) ("*Prelim Critical Circumstances Determination*").

[4] *See* letter to the Department from Petitioners, regarding Certain Potassium Phosphate Salts from the People's Republic of China: Withdrawal of Allegation of Critical Circumstances, dated May 18, 2010.

Separate Rates

In proceedings involving non–market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that Wenda Co., Ltd., Yunnan Newswift Company Ltd., Tianjin Chengyi International Trading Co., Ltd., and Snow–Apple Group Limited, demonstrated their eligibility for, and were hence assigned, separate rate status. No party has commented on the eligibility of these companies for separate rate status. Therefore, for the final determination, we continue to find that the evidence placed on the record of this investigation by these companies demonstrates both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation. Thus, we continue to find that they are eligible for separate rate status.

Use of Facts Available, Adverse Facts Available and The PRC–Wide Rate

Section 776(a)(2) of the Act provides that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the administering authority finds that an interested party has not acted to the best of its ability to comply with a request for information, the administering authority may, in reaching its determination, use an inference that is adverse to that party. The adverse inference may be based upon: (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information placed on the record.

In the *Preliminary Determination*, the Department found that SiChuan Blue Sword Import & Export Co., Ltd. ("SiChuan Blue Sword") did not respond to our requests for information and was therefore part of the PRC–wide entity. Additionally, in the *Preliminary Determination*, the Department found that SD BNI(LYG) Co. Ltd. ("SD BNI"), who was selected as a mandatory respondent and failed to submit the information required, would not receive a separate rate and would remain part of the PRC–wide entity. In the *Preliminary Determination* we treated PRC exporters/producers, that did not respond to the Department's request for information as part of the PRC–wide entity because they did not demonstrate that they operate free of government control. No additional information has been placed on the record with respect to these entities, SiChuan Blue Sword, or SD BNI after the *Preliminary Determination*.

The PRC–wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC–wide rate. As noted above, section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon–Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). *See also*, Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316, vol. 1, at 870 (1994) ("SAA"). We find that, because the PRC–wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC–wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate - the PRC–wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. *See, e.g., Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC–wide rate applies to all entries of merchandise under consideration except for entries from Wenda Co., Ltd., Yunnan Newswift Company Ltd., Tianjin Chengyi International Trading Co., Ltd., and Snow–Apple Group Limited, which are listed in the "Final Determination Margins" section below.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information, rather than on

information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise."[5] The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.[6] The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.[7] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[8]

As total AFA the Department preliminarily selected the rate of 95.40 from the Petition.[9] Petitioners' methodology for calculating the export price and normal value ("NV") in the Petition is discussed in the *Initiation Notice*.[10] At the *Preliminary Determination*, because there were no margins calculated for the mandatory respondents, to corroborate the 95.40 percent margin used as AFA for the China–wide entity, to the extent appropriate information was available, we affirmed our pre–initiation analysis of the adequacy and accuracy of the information in the petition.[11] During our pre–initiation analysis, we examined evidence supporting the calculations in the petition and the supplemental information provided by Petitioners prior to initiation to determine the probative value of the margins alleged in the petition. During our pre–initiation analysis, we examined the information used as the basis of export price and normal value ("NV") in the petition, and the calculations used to derive the alleged margins. Also during our pre–initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition, which corroborated key elements of the export price and NV calculations.[12]

Similarly, for the final determination, we have also corroborated our AFA margin by affirming our pre–initiation analysis. Because no parties commented on the selection of the PRC–wide rate, we continue to find that the margin of 95.40 percent has probative value. Accordingly, we find that the rate of 95.40 percent is corroborated within the meaning of section 776(c) of the Act.

Critical Circumstances

On April 2, 2010, Petitioners submitted an allegation of critical circumstances with respect to the merchandise under consideration. On March 5, 2010, we issued the *Preliminary Critical Circumstances Determination*, stating that we had reason to believe or suspect critical circumstances exist with respect to imports of salts from the PRC. As noted above, Petitioners withdrew their critical circumstances allegation on May 18, 2010. Pursuant to this withdrawal, and because the Department has not "expended significant resources" in examining the allegation,[13] the Department determines there is no need to make a critical circumstances determination in this investigation and is terminating the critical circumstances inquiry. We will instruct U.S. Customs and Border Protection ("CBP") to terminate the suspension of liquidation and refund any cash deposits and release any bond or other security previously posted for all imports of subject merchandise entered, or withdrawn from warehouse, for consumption between December 16, 2009, which is 90 days prior to the date of publication of the *Preliminary Determination*, and March 15, 2010.

Final Determination Margins

We determine that the following percentage weighted–average margins exist for the following entities for the POI:

Exporter	Supplier	Weighted–Average Margin
Snow–Apple Group Limited	Chengdu Long Tai Biotechnology Co., Ltd.	69.58
Tianjin Chengyi International Trading (Tianjin) Co., Limited	Zhenjiang Dantu Guangming Auxiliary Material Factory	69.58
Tianjin Chengyi International Trading (Tianjin) Co., Limited	Sichuan Shifang Hongsheng Chemicals Co., Ltd.	69.58
Wenda Co., Ltd.	Thermphos (China) Food Additive Co., Ltd	69.58
Yunnan Newswift Company Ltd.	Guangxi Yizhou Yisheng Fine Chemicals Co., Ltd.	69.58
Yunnan Newswift Company Ltd.	Mainzhu Hanwang Mineral Salt Chemical Co., Ltd.	69.58
Yunnan Newswift Company Ltd.	Sichuan Shengfeng Phosphate Chemical Co., Ltd.	69.58
PRC–Wide[14]		95.40

[14] The PRC-wide rate includes Sichuan Blue Sword Import and Export Co., Ltd., and SD BNI (LYG) Co., Ltd.

[5] *See* SAA at 870.

[6] *See id.*

[7] *See id.*

[8] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

[9] *See* Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Sodium and Potassium Phosphate Salts from the People's Republic of China, dated September 24, 2009.

[10] *See Certain Sodium and Potassium Phosphate Salts from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 54024 (October 21, 2009), ("*Initiation Notice*").

[11] *See* Antidumping Investigation Initiation Checklist: Certain Sodium and Potassium Phosphate Salts ("Initiation Checklist").

[12] *See id.*

[13] *See Notice of Final Determination of Sales at Less Than Fair Value and Termination of Critical-Circumstances Investigation: Electrolytic Manganese Dioxide from Australia*, 73 FR 47586, 47586-87 (August 14, 2008), granting a post-preliminary determination request to withdraw a critical circumstances allegation.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from warehouse, for consumption for the PRC–wide entity and the Separate Rate Recipients on or after March 16, 2010. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted–average dumping margins shown above.

These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the merchandise under investigation. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the merchandise under investigation entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the 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. Timely notification of return or 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 determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 24, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–13071 Filed 5–28–10; 8:45 am]

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APPENDIX B

HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Certain Potassium Phosphate Salts from China

Inv. Nos.: 701-TA-473 and 731-TA-1173 (Final)

Date and Time: June 2, 2010 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioners (**James R. Cannon, Jr.**, Williams Mullen)
Respondents (**Joanna M. Ritcey-Donohue**, White & Case LLP)

In Support of the Imposition of
Antidumping and Countervailing Duty Orders:

Williams Mullen
Washington, D.C.
on behalf of

ICL Performance Products, LP
Prayon, Inc.

Angie Schewe, Business Director, Industrial, Phosphates, ICL Performance Products, LP

Nancy Stachiw, Director, Technical Service and Applications, ICL Performance Products, LP

Anthony J. Repaso, Corporate Counsel, ICL Performance Products, LP

In Support of the Imposition of
<u>Antidumping and Countervailing Duty Orders (continued):</u>

Allen Sexton, Vice President – Sales, Prayon, Inc.

Beth Allen, Vice President – Finance and Procurement,
Prayon, Inc.

James R. Cannon, Jr.)
) – OF COUNSEL
Benjamin Arden)

In Opposition to the Imposition of
<u>Antidumping and Countervailing Duty Orders:</u>

White & Case LLP
Washington, D.C.
<u>on behalf of</u>

Valudor Products, Inc. ("Valudor")

Semyon Melamed, President, Valudor

Deirdre Maloney, Senior Trade Advisor,
White & Case LLP

Joanna Ritcey-Donohue)
Kristine Zissis) – OF COUNSEL
David Quayat)

<u>REBUTTAL/CLOSING REMARKS:</u>

Petitioners (**James R. Cannon, Jr.**, Williams Mullen)
Respondents (**Kristina Zissis**, White & Case LLP)

APPENDIX C

SUMMARY DATA

Table C-1
DKP: Summary data concerning the U.S. market, 2007-09

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

	Reported data			Period changes		
Item	2007	2008	2009	2007-09	2007-08	2008-09
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from:						
China:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
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)	***	***	***	***	***	***
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.
(2) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

Table C-2
MKP: Summary data concerning the U.S. market, 2007-09

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

	Reported data			Period changes		
Item	2007	2008	2009	2007-09	2007-08	2008-09
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from:						
China:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	37,461	42,042	34,054	-9.1	12.2	-19.0
Value	17,990	38,940	31,949	77.6	116.5	-18.0
Unit value	$0.48	$0.93	$0.94	95.4	92.9	1.3
Ending inventory quantity	9,866	8,154	8,783	-11.0	-17.4	7.7
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)	***	***	***	***	***	***
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. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

Table C-3
TKPP: Summary data concerning the U.S. market, 2007-09

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

	Reported data			Period changes		
Item	2007	2008	2009	2007-09	2007-08	2008-09
U.S. consumption quantity:						
Amount	43,263	37,356	28,750	-33.5	-13.7	-23.0
Producers' share (1)	90.5	87.7	81.7	-8.8	-2.8	-6.0
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	9.5	12.3	18.3	8.8	2.8	6.0
U.S. consumption value:						
Amount	26,222	37,161	33,114	26.3	41.7	-10.9
Producers' share (1)	89.8	85.6	82.6	-7.1	-4.2	-2.9
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	10.2	14.4	17.4	7.1	4.2	2.9
U.S. shipments of imports from:						
China:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	4,101	4,593	5,261	28.3	12.0	14.5
Value	2,684	5,368	5,749	114.2	100.0	7.1
Unit value	$0.65	$1.17	$1.09	67.0	78.6	-6.5
Ending inventory quantity	1,058	1,396	2,167	104.8	31.9	55.3
U.S. producers':						
Average capacity quantity	72,176	62,072	60,453	-16.2	-14.0	-2.6
Production quantity	41,076	36,211	23,553	-42.7	-11.8	-35.0
Capacity utilization (1)	56.9	58.3	39.0	-18.0	1.4	-19.4
U.S. shipments:						
Quantity	39,162	32,763	23,489	-40.0	-16.3	-28.3
Value	23,538	31,793	27,365	16.3	35.1	-13.9
Unit value	$0.60	$0.97	$1.17	93.8	61.5	20.1
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	60	52	46	-23.3	-13.3	-11.5
Hours worked (1,000s)	117	98	94	-19.8	-16.6	-3.9
Wages paid ($1,000s)	4,205	3,656	3,637	-13.5	-13.0	-0.5
Hourly wages	$35.95	$37.48	$38.79	7.9	4.3	3.5
Productivity (pounds per hour)	351.2	371.2	251.2	-28.5	5.7	-32.3
Unit labor costs	$0.10	$0.10	$0.15	50.8	-1.4	52.9
Net sales:						
Quantity	41,876	34,353	24,867	-40.6	-18.0	-27.6
Value	25,390	33,314	29,109	14.6	31.2	-12.6
Unit value	$0.61	$0.97	$1.17	93.1	59.9	20.7
Cost of goods sold (COGS)	22,577	26,226	28,085	24.4	16.2	7.1
Gross profit or (loss)	2,813	7,088	1,024	-63.6	152.0	-85.6
SG&A expenses	2,675	3,139	2,997	12.0	17.3	-4.5
Operating income or (loss)	138	3,949	(1,973)	(2)	2,761.6	(2)
Capital expenditures	***	***	***	***	***	***
Unit COGS	$0.54	$0.76	$1.13	109.5	41.6	47.9
Unit SG&A expenses	$0.06	$0.09	$0.12	88.7	43.0	31.9
Unit operating income or (loss)	$0.003	$0.11	($0.08)	(2)	3,388.3	(2)
COGS/sales (1)	88.9	78.7	96.5	7.6	-10.2	17.8
Operating income or (loss)/ sales (1)	0.5	11.9	(6.8)	-7.3	11.3	-18.6

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Note.--Revenue, cost, and income related to PCS' tolling operations appear separately in table VI-9.

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

Table C-4
DKP, MKP, and TKPP: Summary data concerning the U.S. market, 2007-09

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

	Reported data			Period changes		
Item	2007	2008	2009	2007-09	2007-08	2008-09
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from:						
China:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
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)	***	***	***	***	***	***
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.
(2) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Note.--Revenue, cost, and income related to PCS' tolling operations appear separately in table VI-9.

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

APPENDIX D

QUARTERLY DOMESTIC AND NONSUBJECT-COUNTRY PRICE DATA

Presented graphically below in figures D-1 through D-6 are quarterly pricing and quantity data for potassium phosphate salts from the United States, China, and nonsubject countries. Nonsubject pricing data were received from Belgium, Canada, Germany, France, Israel, Mexico, and Taiwan.

When comparing domestic pricing data to pricing data from all nonsubject sources, there were *** possible pricing comparisons, in which domestic potassium phosphate salts were priced *** in ***. Domestically produced DKP was priced *** than nonsubject DKP in *** possible comparisons. Domestically produced MKP was priced *** than nonsubject product in *** possible comparisons. Domestically produced TKPP was priced *** than nonsubject product in *** possible comparisons.

When comparing Chinese pricing data to pricing data from all nonsubject sources, there were *** possible pricing comparisons, in which Chinese potassium phosphate salts were priced *** in ***. Imported Chinese DKP was priced *** than nonsubject DKP in *** possible comparisons. Chinese MKP was priced *** than MKP imported from nonsubject sources in *** possible comparison. Chinese TKPP was priced *** than nonsubject TKPP in *** possible comparisons. A summary of margins of underselling and overselling is presented in table D-1.

Table D-1
Certain potassium phosphate salts: Summary of underselling/(overselling) by product and by year from nonsubject countries, January 2007-December 2009

* * * * * * *

Figure D-1
DKP: Average prices and quantities for product 1, January 2007-December 2009

* * * * * * *

Figure D-2
DKP: Average prices and quantities for product 2, January 2007-December 2009

* * * * * * *

Figure D-3
MKP: Average prices and quantities for product 3, January 2007-December 2009

* * * * * * *

Figure D-4
MKP: Average prices and quantities for product 4, January 2007-December 2009

* * * * * * *

Figure D-5
TKPP: Average prices and quantities for product 5, January 2007-December 2009

* * * * * * *

Figure D-6
TKPP: Average prices and quantities for product 6, January 2007-December 2009

* * * * * * *

APPENDIX E

SUPPLEMENTAL END USE TABLE (U.S. PRODUCERS' U.S. SHIPMENTS AND IMPORTERS' IMPORTS, BY END USE)

Table appendix E
Potassium phosphate salts: U.S. producers' U.S. shipments and U.S. importers' imports, by end use, 2009

* * * * * * *