CHLOROPICRIN FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination of the Commission in Investigation No. 731-TA-130 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would reveal the confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 731-TA-130 (Preliminary)

CHLOROPICRIN FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured, 2/ by reason of imports from the People's Republic of China of chloropicrin, provided for in items 408.16, 408.29, or 425.52 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 6, 1983, counsel for LCP Chemicals and Plastics, Inc., and Niklor Chemical Co., Inc., filed a petition with the Commission and the Department of Commerce alleging that imports of chloropicrin from the People's Republic of China are being sold in the United States at LTFV, and that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Accordingly, effective April 6, 1983, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Act (19 U.S.C. § 1673b(a)).

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

2/ Commissioner Stern determines that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of the subject imports.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on April 13, 1983 (48 F.R. 15964). The conference was held in Washington, D.C. on April 28, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

On the basis of the record in investigation No. 731-TA-130, we determine, pursuant to section 733(a) of the Tariff Act of 1930, 1/ that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of chloropicrin from the People's Republic of China (PRC), which are allegedly sold at less than fair value (LTFV). 2/ 3/

Domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 4/ Section 771(10) defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with" the article under investigation. 5/

The imported product which is the subject of this investigation is chloropicrin from the PRC. It is used primarily in the fumigation of agricultural soils to kill verticillium and fusarium fungi. 6/ Chloropicrin is often blended in formulations which contain other fumigants, such as methyl

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1/ 19 U.S.C. 1673b(a).
2/ Commissioner Stern also determines that there is a reasonable indication of threat of material injury.
3/ Since there is a domestic industry, material retardation of the establishment of an industry is not an issue and will not be discussed.
4/ 19 U.S.C. 1677(4)(A).
5/ 19 U.S.C. 1677(10).
6/ Report at A-2.

bromide. 7/ These blended formulations are used to eliminate various soil problems such as fungi, certain insects, pests, and weeds. 8/

Chloropicrin is generally manufactured by two production methods. The imported product is manufactured by bubbling chlorine gas through a solution of picric acid in water, resulting in the formulation of chloropicrin, carbon dioxide gas, and a dilute hydrochloric acid solution. 9/ The domestic product is manufactured by the chlorination of nitromethane, i.e., by reacting nitromethane with sodium hypochlorite, resulting in the formulation of chloropicrin and sodium hydroxide (caustic soda). 10/

The purity (assay) of chloropicrin produced via the picric acid method is slightly higher than that produced via the nitromethane process. However, the difference in purity due to the different production methods is so small that it is insignificant for end use purposes. 11/

The characteristics and uses of chloropicrin produced in the United States do not differ from those of the chloropicrin imported from the PRC. 12/ Accordingly, we determine that the product "like" the imported product is chloropicrin produced through the use of nitromethane. There are

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7/ Great Lakes alleges that the high cost of the domestic product has forced end users to turn to substitute blended formulations. However, the record indicates that although some other chemical blends can be substituted for chloropicrin blends, they are not as effective. Report at A-3. For the purposes of the like product analysis, these substitute products do not have characteristics and uses which are most similar to imported chloropicrin.

8/ Report at A-2. Chloropicrin can be also used in the manufacture of dyestuffs (crystal violet), some organic synthesis procedures, insecticides and rat poisons.

9/ Id. at A-2.

10/ Id. at A-2.

11/ Id. at A-3.

12/ Id.

two companies in the United States which currently produce chloropicrin--Niklor Chemical Co. (Niklor) and LCP Chemicals and Plastics, Inc. (LCP). 13/ Thus, the domestic industry consists of these two producers of chloropicrin.

Condition of the domestic industry 14/

Domestic consumption of chloropicrin remained relatively stable during the period of investigation. 15/ However, the condition of the domestic industry deteriorated in 1982 as production, shipments, and capacity utilization 16/ declined significantly. 17/ Cash flow generated from U.S. producers' chloropicrin operations increased from 1980 to 1981, but declined substantially in 1982. 18/ Also in 1982, sales declined, and operating profits were adversely affected. The aggregate profit and loss experience of the domestic industry reflects operating losses in the first quarter of 1983. 19/ Thus, the relevant data indicate that the domestic industry is experiencing difficulties.

13/ International Minerals and Chemical Corp. (IMC) and Dow Chemical Co. (Dow), were also domestic producers of chloropicrin until 1982 and 1980, respectively. Their departure from the industry was not related to imports. Report at A-4. IMC produced chloropicrin for approximately 20 years, but sold its chloropicrin operation to LCP in April of 1982. Report at A-4.

14/ The record contains substantial amounts of business confidential information because there are only two domestic producers. In order to protect the confidentiality of this information, data must necessarily be referred to only in general terms.

15/ Report at A-7.

16/ Because of the manner in which one producer reported its capacity, the available data on capacity may be overstated and consequently, the data on capacity utilization may be understated. Nevertheless, the data are useful in analyzing trends. Report at A-10.

17/ Report at A-7, A-10.

18/ Id. at A-15.

19/ Id.

Reasonable indication of material injury by reason of alleged LTFV imports

In making its determination, the Commission is directed by Section 771(7) of the Tariff Act of 1930 to consider, among other factors: (1) the volume of imports of the merchandise under investigation; (2) their impact on domestic prices; and (3) the impact of such imports on the domestic industry. 20/

Imports from the PRC first entered the United States market in 1980 when a small trial shipment of chloropicrin was imported by Great Lakes Chemical Corporation (Great Lakes). 21/ Imports in 1981 increased substantially from their 1980 level. In 1982, the level of imports nearly tripled, capturing a significant share of the U.S. market. Imports from the PRC continued to increase during the first quarter of 1983 compared with the same period in 1982. 22/

Both domestic producers and importers are in agreement that price, quality, and availability of supply are important factors in purchase decisions. 23/ Great Lakes, however, contends that although price is an important factor, the quality and supply problems it experienced with IMC forced it to seek an alternative source of supply of chloropicrin . 24/ Great Lakes further contends that Niklor, the only other domestic producer, was unable to meet its seasonal product needs in 1981, and that the PRC provided

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20/ 19 U.S.C. § 1677(7).
21/ Great Lakes is the principal importer of chloropicrin from the PRC and directly or indirectly accounted for a preponderance of imports from the PRC during the period of investigation.
22/ Report at A-19.
23/ Id. at A-21.
24/ Id. at A-20

an alternative source of supply. Nevertheless, the best information available at this time provides some support for the conclusion that there is a reasonable indication that price was an important factor in Great Lakes' decision to purchase the imported product from the PRC.

Both domestic and imported chloropicrin are sold both by long term contracts and by negotiated spot sales. Pricing in the chloropicrin market is very competitive. The Commission obtained data on the net delivered prices received by domestic producers from their two largest customers during the period under investigation. Only Niklor sold chloropicrin throughout the entire 13-quarter period under consideration. The data indicate that Niklor's price to a major customer increased in the last quarter of 1980 and remained at the same level through June of 1981. Subsequently, Niklor's prices again increased and then remained stable through 1982. However, during the first quarter of 1983, Niklor decreased its prices significantly. The available data indicate that after IMC's chloropicrin operation was acquired by LCP in April of 1982, prices declined significantly. 25/ 26/

The Commission also obtained data on the net delivered prices paid by purchasers of domestic and imported chloropicrin from the PRC. Available data permit price comparisons for domestic and imported products in only four

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25/ Id. at A-23.

26/ An explanation for the recent decreases in the domestic price distinct from the subject imports may be the decreasing price during 1982 of the principal raw material (nitromethane) used to produce chloropicrin in the United States. The relationship between these two factors will be explored further should there be a final investigation.

quarters. Although the data are limited, margins of underselling are present in each of the four quarters. 27/

Pricing information was received from the two domestic producers relating to lost revenues incurred because of price competition from imports. Both Niklor and LCP have provided data indicating that they had to lower their prices in 1982 on specific sales to some of their major customers. 28/ 29/

The principal lost sale allegation involved Great Lakes, which made no purchases from domestic sources in 1982. 30/ In 1982, Great Lakes obtained all its chloropicrin from the PRC at prices below its previous purchase price for domestic chloropicrin. With respect to additional lost sales allegations, information obtained during the course of this preliminary investigation indicates that the imported product was purchased primarily because of its lower price. The volume on one of the lost sales in 1982 (other than that lost to Great Lakes) represented a significant portion of domestic production for that year.

There is evidence on the record that although there is only one plant currently producing chloropicrin in the PRC, there is a possibility that other plants (certified to EPA as facilities used for the production of pesticides) could be converted to increase chloropicrin production. 31/ There is also

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27/ Commissioner Stern notes that the exchange rate could be another factor in underselling by the PRC. Report at A-24. She further notes differing methods of production could also be reflected in this underselling. See Conference Transcript (Tr.) of April 28, 1982, at 90.

28/ Report at A-22.

29/ Report at A-22. LCP's largest customer had demanded this price cut in order to compete in the blended products market.

30/ As indicated previously, Great Lakes has alleged that it has turned to importing chloropicrin from the PRC because of long-standing quality and supply problems with IMC.

31/ Petitioners' post-conference Brief at 14 and Exhibit 3.

information on the record that a domestic purchaser has made inquiries concerning possible purchase of chloropicrin from the PRC. 32/ Furthermore, the available data presented also indicate that the PRC is selling chloropicrin in the United States at a higher price than in other world markets. 33/ This makes the United States an attractive market and could lead to diversion of product.

The statute requires that there be a "reasonable indication" that the subject imports are a cause of material injury. Based upon the volume of the imports, the depressed condition of the domestic industry, evident underselling, lost revenue and lost sales information, and their consequent impact on the domestic industry, we conclude, based on the best information currently available, that there is a reasonable indication that an industry in the United States is experiencing material injury by reason of imports of chloropicrin from the PRC.

32/ Staff memorandum of 5-23-83.
33/ Tr. at 109.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On April 6, 1983, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of LCP Chemicals & Plastics, Inc., Edison, N.J., and Niklor Chemical Co., Inc., Long Beach, Calif. The petition alleges that chloropicrin is being imported from the People's Republic of China (China) at less than fair value (LTFV) with the effect and threat of material injury to the chloropicrin industry in the United States. Accordingly, effective April 6, 1983, the Commission instituted investigation No. 731-TA-130 (Preliminary) under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation from China of chloropicrin provided for in items 408.16, 408.29, or 425.52 of the Tariff Schedules of the United States (TSUS). The statute directs that the Commission make its determination within 45 days after its receipt of a petition, or in this case by May 23, 1983.

Notice of the institution of the Commission's investigation and of the public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on April 13, 1983 (48 F.R. 15964). 1/ The public conference was held in Washington, D.C., on April 28, 1983, at which time all interested parties were afforded the opportunity to present information for consideration by the Commission. 2/ The Commission voted on the investigation on May 17, 1983.

Nature and Extent of Alleged Sales at LTFV

According to the petition, chloropicrin from China is being sold in the United States at LTFV, i.e., at prices which are below its foreign market value. The petitioners did not provide data on the actual Chinese foreign market value because "the economy of the PRC is state-controlled to the extent that foreign market value cannot be calculated. . . ." 3/ Instead, the petitioners provided data on the price charged for chloropicrin produced and sold in Japan, a non-state-controlled economy. The petitioners believe that the cost of producing chloropicrin in Japan is similar to that in China because the Japanese chloropicrin industry is allegedly at a state of development similar to that of the Chinese chloropicrin industry (the production of chloropicrin by means of the picric-acid process--the process used in both China and Japan--is highly capital intensive, and thus the cost of production allegedly is not significantly influenced by differences in wage rates in the two countries).

1/ A copy of the Commission's notice is presented in app. A. A copy of the U.S. Department of Commerce's notice is presented in app. B.

2/ A list of witnesses appearing at the conference is presented in app. C.

3/ Petition, p. 9.

In order to calculate the alleged dumping margins, the petitioners made comparisons between an average price of chloropicrin produced and sold in Japan and the adjusted west coast port price of chloropicrin quoted in the contract between Great Lakes Chemical Corp. (the principal U.S. importer) and China National Chemical Import and Export Corp. The resulting margins range from 59 percent to 61 percent.

The Product

Description and uses

Chloropicrin (trichloronitromethane) is a slightly oily, colorless, nonflammable, relatively stable liquid having the chemical formula CCl_3NO_2. It is not decomposed by mineral acids and is soluble in alcohol, benzene, ether, and carbon disulfide. Chloropicrin is highly toxic if inhaled or ingested. It is a strong irritant, resulting in the secretion of tears and in inflammation at levels in excess of 0.1 part per million in air. The lethal dose is 250 parts per million (ppm).

Chloropicrin is used principally in the fumigation of agricultural soils to kill verticillium and fusarium fungi. It is usually used in formulations containing other fumigants such as methyl bromide. These formulations are used to eliminate a wide variety of soil problems such as fungi, various insects, weeds, and other pests.

Other possible uses for chloropicrin include the manufacture of certain poisonous gases for military use, the manufacture of dyestuffs (crystal violet), and use in some organic synthesis procedures. It can also be used as an insecticide and in rat poison.

Chloropicrin is generally shipped in unlined metal containers. It must be kept free of water contamination. The addition of small amounts of water to chloropicrin results in the formation of nitric acid and hydrochloric (muriatic) acid. These two acids in combination form a solution known as aqua regia, which will vigorously attack the metal of the typical container used in the transportation of chloropicrin. The petitioner has stated that a water content in excess of 100 ppm can cause this problem.

Chloropicrin is manufactured commercially in the United States through the chlorination of nitromethane by reacting nitromethane with sodium hypochlorite, resulting in the formulation of chloropicrin and sodium hydroxide (caustic soda).

In other countries where chloropicrin is known to be produced, it is manufactured by bubbling chlorine gas through a solution of picric acid in water, resulting in the formulation of chloropicrin, carbon dioxide gas, and a dilute hydrochloric acid solution. This production method was used in the United States until the 1950's, when the nitromethane method was introduced.

The selection of the nitromethane production process by domestic manufacturers appears to be based on economic considerations, including the relative cost of the major starting material for each process (picric acid and nitromethane), the cost of disposing of the dilute hydrochloric acid solution generated in the picric-acid method, and the safety equipment and other costs associated with the handling of picric acid, which is an explosive.

The purity of chloropicrin produced by the picric-acid process is slightly higher than that produced by the nitromethane process, but the difference is small enough to be insignificant for end-use purposes.

As previously stated, chloropicrin is usually blended with other fumigants to produce highly effective fumigating formulations. There is no actual substitute for chloropicrin, but there are certain "substitutes" for some of the formulations which include it, although they are not as effective. If the price of chloropicrin is too high, end users may choose to utilize blends which contain a lower percentage of chloropicrin or may even change to fumigants which do not contain it, even though they may be less effective.

U.S. tariff treatment

Chloropicrin is classified under items 408.29 (pesticides, not artificially mixed, other than insecticides, herbicides, and fungicides) and 425.52 (a basket provision for "other nitrogenous compounds") of the TSUS, according to representatives of the U.S. Customs Service. 1/ The column 1 (most-favored-nation) rate of duty for item 408.29 is 12.5 percent ad valorem, and that for item 425.52 is 7.9 percent ad valorem. 2/ These rates were not changed as a result of the Tokyo round of the Multilateral Trade Negotiations (MTN). As a result, imports of chloropicrin from "least developed developing countries" (LDDC's) are dutiable at the respective column 1 rates for each item rather than at preferential rates. 3/

The column 2 rate for item 408.29 is 7 cents per pound plus 64.5 percent ad valorem and that for item 425.52 is 30.5 percent ad valorem. 4/ Imports of chloropicrin from all beneficiary developing countries are eligible for duty-free treatment under either item under the Generalized System of Preferences (GSP). 5/

1/ The petitioner believes that some chloropicrin has entered under TSUS item 408.16 (fungicides), but the Commission has received no indication of such imports to date.

2/ Col. 1 rates are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China is not so enumerated and thus enjoys col. 1, most-favored-nation, status. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences or under the "LDDC" rate of duty column.

3/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of LDDC's enumerated in general headnote 3(d) of the TSUS. Because there are no staged reductions of duty specified for items 408.29 and 425.52 in the Trade Agreements Act of 1979, which implemented the concessions granted as a result of the MTN, the LDDC rates of duty for these items are equivalent to the col. 1 rate.

4/ Col. 2 rates apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

5/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented in Executive Order No. 11888, of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

U.S. Producers

Two firms currently produce chloropicrin in the United States. These two firms, Niklor Chemical Co., Inc., and LCP Chemicals & Plastics, Inc., are the petitioners in this investigation. Two other firms, International Minerals & Chemical Corp. (IMC) and Dow Chemical Co., also produced chloropicrin in the United States, until 1982 and 1980, respectively. The following tabulation, which was compiled from data submitted in response to the Commission's questionnaires, shows each domestic producer's share of total U.S. producers' shipments and intracompany consumption of chloropicrin during 1980-82 (in percent):

Firm	1980	1981	1982
Niklor	***	***	***
LCP	***	***	***
IMC	***	***	***
Dow	***	***	***

The * * * Niklor, which has both its sole producing establishment and its headquarters in Long Beach, Calif. Niklor has produced chloropicrin since 1958, and is the only U.S. firm that produced it each year throughout 1980-82. Chloropicrin directly or indirectly accounts for all of Niklor's production and sales, either through production and sales of actual chloropicrin or through sales of Niklor's chloropicrin/ methyl bromide mixtures.

LCP has been producing chloropicrin for only 1 year. It acquired both of its chloropicrin-producing facilities on April 30, 1982, from IMC. LCP currently produces chloropicrin in plants located in Orrington, Maine, and Ashtabula, Ohio. For LCP, as for IMC, chloropicrin has been a means of recycling waste chlorine from chloroalkali plants. 1/

IMC produced chloropicrin for approximately 20 years, but sold its chloropicrin operations to LCP in April 1982. The reason was IMC's decision to abandon its entire chloroalkali operations (i.e., not abandon chloropicrin production per se).

Dow also produced chloropicrin for about 20 years, but terminated its production of the chemical in late 1980. All Dow's production is believed to have been for its own internal use, and Dow is now a major buyer of chloropicrin. * * * its purchases are from * * * and are for use in Dow's blended end products for crop fumigation.

U.S. Importers

There are * * * U.S. importers of chloropicrin. The principal importer by far is Great Lakes Chemical Corp., which directly or indirectly accounted for nearly all U.S. imports of chloropicrin during 1980-82. The other * * * Toyomenka (America), Inc., * * *.

1/ Postconference brief of Sidley & Austin, p. 3.

Great Lakes is the world's leading producer and marketer of bromine and brominated specialty chemicals. 1/ Great Lakes obtains chloropicrin in order to blend it with methyl bromide or ethylene dibromide at plants in El Dorado, Ark., and Bakersfield, Calif. (previously in Irvine, Calif.). These blends are either used in Great Lakes' soil-fumigation operations or are sold to distributors or growers for soil fumigation.

Toyomenka is a wholly owned subsidiary of the Japanese trading firm Toyomenka-Kisha, Ltd. Toyomenka began importing chloropicrin in * * *. All its chloropicrin imports are believed to be produced in China, although they are transshipped through Japan. Toyomenka sells its imports of chloropicrin to Great Lakes.

* * * * * * *

U.S. Market and Channels of Distribution

The principal market for chloropicrin in the United States consists of a limited number of companies which blend the chloropicrin with other chemicals, principally methyl bromide or ethlylene dibromide, to produce effective blends for crop fumigation. The blended crop fumigants are then used for crop fumigation by fumigation divisions of the blending companies, sold to other fumigators, or sold to distributors (and ultimately to farmer end users). The diagram on page A-6 traces the flow of chloropicrin from major sources to major purchasers.

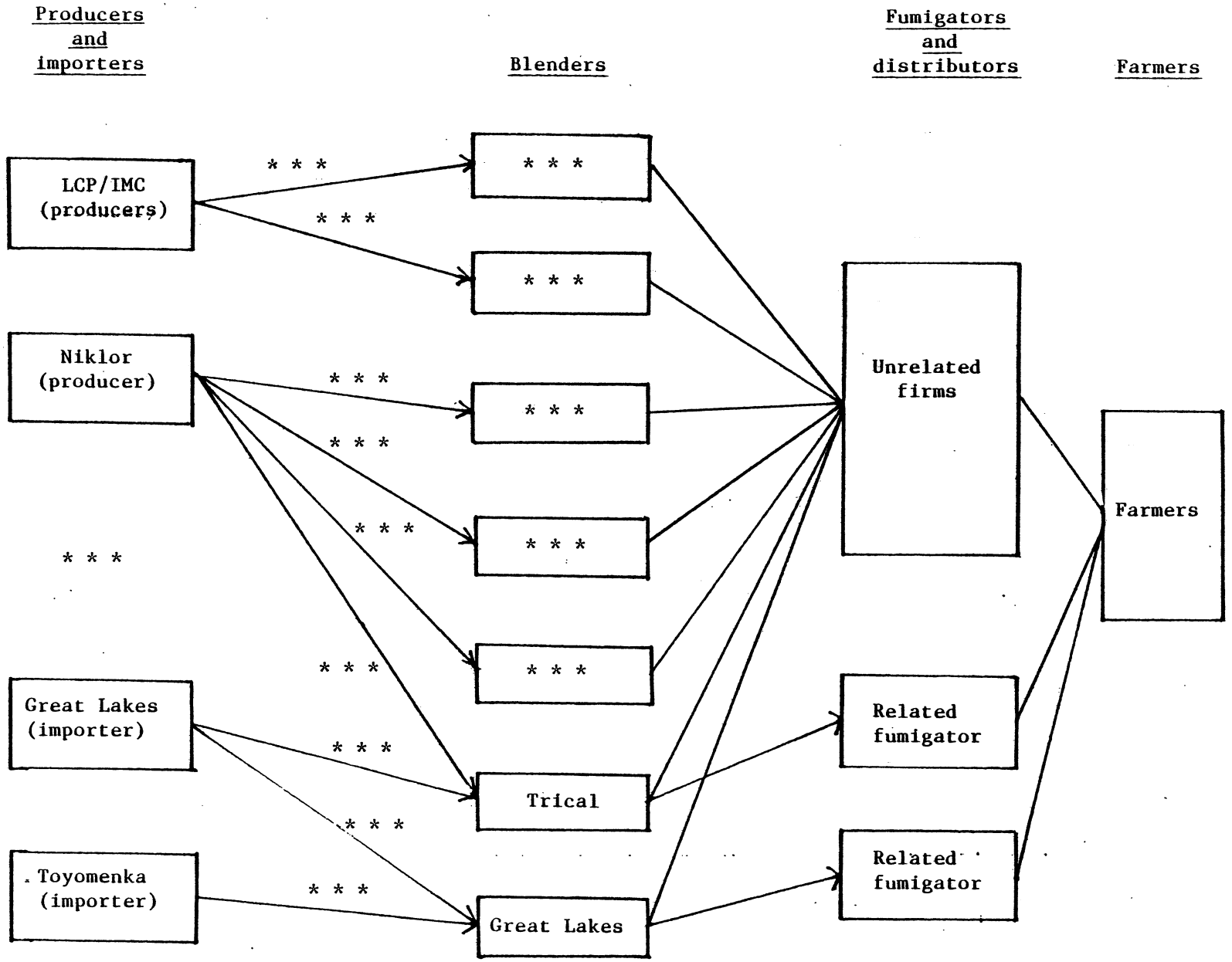
As previously noted, there are currently only two U.S. producers of chloropicrin, Niklor and LCP, and there is one principal importer, Great Lakes. There are three major blender/purchasers--Dow, Great Lakes, and Trical, as well as others such as * * *. Data obtained from these companies in the course of this investigation have made it possible to track not only the general distribution of chloropicrin to end users, but also actual amounts of chloropicrin bought, used, and sold by each of the major companies involved with production or use of chloropicrin in the United States.

Niklor had * * * major customers for its chloropicrin production throughout 1980-82. Trical, located in California and * * * accounted for * * * million pounds, or * * * percent, of Niklor's sales in 1980; * * * million pounds, or * * * percent, in 1981; and * * * million pounds, or * * * percent, in 1982. The other major customers * * *. Niklor also sold to * * * in 1980 and 1981, but made no sales of chloropicrin to * * *.

Except for Trical, Niklor ships its chloropicrin directly to its customers in its full-strength state, in appropriate containers. Niklor has a contract with Trical to blend Niklor chloropicrin with methyl bromide. The resulting blends are then shipped to Trical, which in turn either uses them in its own crop fumigation business or sells them to distributors or end users.

1/ Great Lakes Chemical Corp., Annual Report 1982.

Chloropicrin: Principal channels of distribution, 1982 .



Note.--Numbers represent thousands of pounds shipped.

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

A-6

LCP and IMC had * * * major customers for their chloropicrin production in 1980-82: * * * (although neither firm sold to * * *). * * * was by far the major customer. * * * uses the chloropicrin for blending and then sells the blends to distributors and end users.

Great Lakes, which purchased chloropicrin from * * * in 1981 (in addition to importing in that year), did not purchase any domestic chloropicrin in 1982 because it found a lower priced and allegedly higher quality chloropicrin in China, which it has imported in significant quantities since the * * *. Great Lakes imports its chloropicrin * * * its own account, and also * * * through Toyomenka. Most of Great Lakes' purchases of chloropicrin have been for its own use in blending with methyl bromide or ethylene dibromide. The blended products are either used in Great Lakes' crop fumigation operations or are resold to distributors and end users. Great Lakes also sold * * * pounds of unblended imported chloropicrin to Trical in 1982.

* * * use chloropicrin for blending and then sell the blended product. * * * purchases only domestically produced chloropicrin. During the period under consideration, * * * purchased most of its chloropicrin from * * * but obtained some chloropicrin * * * from * * * in 1982 and some * * * from * * * in early 1983, also * * *.

Apparent U.S. Consumption

Apparent U.S. consumption of chloropicrin increased from * * * million pounds in 1980 to * * * million pounds in 1981, or by * * * percent. Consumption then decreased by * * * percent in 1982 to * * * million pounds, as shown in table 1.

Table 1.--Chloropicrin: U.S. producers' domestic shipments, exports, imports, and apparent U.S. consumption, 1980-82

Year	Domestic shipments 1/	Exports	Imports	Apparent consumption	Ratio of imports to-- Domestic shipments	Ratio of imports to-- Apparent consumption
	1,000 pounds				Percent	
1980	***	***	***	***	2/	2/
1981	***	***	***	***	***	***
1982	***	***	***	***	***	***

1/ Includes intracompany shipments.
2/ Less than 0.5 percent.

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

The share of the chloropicrin market supplied by U.S. producers declined during the period. Indeed, the ratio of imports to consumption increased from well below 1 percent in 1980 to * * * percent in 1981 and * * * percent in 1982.

Foreign Producers

The only countries other than the United States known to produce chloropicrin are China, Japan, and France. In these countries chloropicrin is produced through the chlorination of picric acid; in the United States it is produced through the aqueous chlorination of nitromethane.

China

Chloropicrin is known to be produced in the China National Dyestuffs plant in the city of Dairen. 1/ China has notified the Environmental Protection Agency that pesticides are produced * * * at five other specified locations--Wuhan, Tientsin, Shanghai, Shenyan, and Quing-dao. However, the Commission has received no evidence indicating that chloropicrin is * * * produced in those cities, and the Dairen plant appears to be the sole source of the chloropicrin imported into the United States by Great Lakes.

In 1982, the Dairen plant exported * * * metric tons (approximately * * * million pounds) of chloropicrin. 2/ Most of the exports were apparently destined for the United States; other markets are Australia, New Zealand, and the Netherlands. Exports of chloropicrin are handled by China National Chemical Import and Export Corp.

The Dairen plant's annual production capacity of chloropicrin is * * * metric tons (approximately * * * million pounds). 3/ The volume of domestic Chinese consumption of chloropicrin * * * 4/ indicating that the plant may be producing at near capacity. Indeed, the president of Trical, a major U.S. purchaser of chloropicrin, traveled to * * * in 1982 to inquire about importing chloropicrin and was told that no supplies were available for sale to him at that time, and that the plant had only a limited amount to sell. However, Trical did obtain * * * pounds of Chinese chloropicrin in 1982, through a purchase from Great Lakes.

Japan

The petition indicates that chloropicrin is produced in Japan by three different companies: Mitsui Toatsu Chemicals, Inc., with a capacity of 3.7 million to 4.0 million pounds per year; Nippon Kayaku Co., Inc., with the same capacity; and Nankai Dyestuff Mfg., Ltd., with a capacity of 1.1 million pounds per year. It is not known which of these companies * * *.

1/ As indicated by Andrew J. Barbera of Great Lakes in a telephone conversation, Apr. 29, 1983.

2/ Postconference confidential brief of Haight, Gardner, Poor & Havens, p. 3.

3/ Ibid., p. 2.

4/ Ibid.

France

Chloropicrin is produced in France by the Société Nationale des Poudres et Explosifs, a subsidiary of Générale Pour Favoriser le Développement du Commerce et de l'Industrie en France, S.A., and is controlled by the French Government. 1/ There are no known U.S. imports of chloropicrin from France.

Consideration of Material Injury to an Industry in the United States

U.S. production

U.S. production of chloropicrin during the period under consideration decreased from * * * million pounds in 1980 to * * * million pounds in 1982, or by * * * percent. Production increased by * * * percent in 1981, however, and then decreased by * * * percent in 1982, as shown in the following tabulation:

Year	Production (million pounds)
1980	***
1981	***
1982	***

Production of chloropicrin by individual companies during 1980-82 is shown in table 2.

Table 2.--Chloropicrin: U.S. production, by firms, 1980-82

(In thousands of pounds)

Firm	1980	1981	1982
Niklor	***	***	***
LCP	1/	1/	***
IMC	***	***	***
Dow	***	1/	1/

1/ No production in this year.

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

1/ Petition, p. 6.

Niklor's production during 1980-82 * * * by nearly * * * million pounds, but production at the LCP and IMC plants * * * by nearly * * * million pounds (although combined production by LCP and IMC * * * by * * * million pounds in 1982). Dow ceased its chloropicrin production in October 1980.

U.S. capacity and capacity utilization

U.S. producers' capacity to produce chloropicrin decreased from * * * million pounds in 1980 to * * * million pounds in both 1981 and 1982. The reason for the decrease is Dow's termination of production in October 1980, thereby decreasing the industry's capacity by * * * million pounds. Niklor's reported capacity (based on a 72-hour week) is * * * million pounds, and LCP's reported capacity (based on a 168-hour week) is * * * million pounds. U.S. producers' capacity and capacity utilization are shown in table 3.

Table 3.--Chloropicrin: U.S. production, producers' capacity, and capacity utilization, 1980-82

Item	1980	1981	1982
Production-------million pounds--:	***	***	***
Capacity-------------------do----:	***	***	***
Capacity utilization----percent--:	***	***	***

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

Capacity utilization increased from * * * percent in 1980 to * * * percent in 1981 and then decreased to * * * percent in 1982. The reason for the increase in 1981 was * * * increase in production in 1981 (mainly in order to sell to * * * the reason for the decrease in 1982 was the * * * Niklor's production and * * * LCP's and IMC's production in that year.

U.S. producers' shipments

U.S. producers' shipments of chloropicrin during the period under consideration decreased from * * * million pounds, valued at * * * million, in 1980 to * * * million pounds, valued at * * * million, in 1982, as shown in table 4.

Table 4.--Chloropicrin: U.S. producers' shipments, 1/ 1980-82

* * * * * * *

U.S. exports

U.S. exports of chloropicrin during 1980-82 were generally negligible, averaging * * * percent of U.S. production. However, exports reached * * * percent of production in 1982, as shown in table 5.

Table 5.--Chloropicrin: U.S. exports of domestically produced merchandise, 1980-82

* * * * * * *

The principal U.S. exporter of chloropicrin in 1982 was * * * which exported * * * pounds to * * *. * * * exported * * * pounds to * * * in 1982 and * * * pounds to * * * in 1981.

U.S. producers' inventories

U.S. producers' yearend inventories of chloropicrin increased from * * * pounds in 1979 to * * * pounds in 1980 and to * * * pounds in 1981 but then decreased to * * * pounds in 1982. * * * had far larger yearend inventories than * * *. As a share of shipments, U.S. producers' inventories increased from * * * percent in 1980 to * * * percent in 1981 and * * * percent in 1982, as shown in table 6.

Table 6.--Chloropicrin: U.S. producers' yearend inventories and shipments, 1979-82

Year	Yearend inventories	Shipments 1/	Ratio of inventories to shipments
	Million pounds		Percent
1979	***	2/	2/
1980	***	***	***
1981	***	***	***
1982	***	***	***

1/ Includes intracompany shipments.
2/ Not available.

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

U.S. employment, wages, and productivity

The number of production and related workers engaged in the production of chloropicrin decreased from * * * in 1980 to * * * in 1982 (table 7) owing to Dow's termination of its chloropicrin production in October 1980.

Table 7.--Average number of production and related workers engaged in the production of chloropicrin, hours worked by such workers, and output per hour, 1980-82

Year	Number of workers	Hours worked	Output per hour
		1,000 hours	Pounds
1980	***	***	***
1981	***	***	***
1982	***	***	***

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

The number of hours worked decreased from * * * in 1980 to * * * in 1982. Output per hour increased from * * * pounds in 1980 to * * * pounds in 1981 and then decreased to * * * pounds in 1982.

Total compensation and wages paid to production and related workers producing chloropicrin are shown in table 8.

Table 8.--Total compensation of production and related worked engaged in the production of chloropicrin, wages paid to such workers excluding fringe benefits, and average hourly wages, 1980-82

Year	Total compensation	Wages paid	Average hourly wage 1/
	1,000 dollars	1,000 dollars	
1980	***	***	***
1981	***	***	***
1982	***	***	***

1/ Based on wages paid, excluding fringe benefits.

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

Total compensation and wages paid to production and related workers producing chloropicrin decreased from * * * in 1980 to * * * in 1981 and then increased to * * * in 1982.

Financial experience of U.S. producers

Profit-and-loss data, on an overall establishment basis and for chloropicrin alone, were received from Niklor and LCP, which together accounted for * * * percent of the value of total U.S. producers' shipments of chloropicrin in 1982. IMC sold its plants in which chloropicrin was produced to LCP on April 30, 1982. * * *. The data on chloropicrin operations, by firm, are presented in table 9.

Table 9 .--Profit-and-loss experience of U.S. producers on their chloropicrin operations, by firms, 1980-82 1/

Year and firm	Net sales	Cost of goods sold	Gross profit or (loss)	General, selling, and administrative expenses	Operating profit or (loss)	Interest expense	All other income or (expense)	Net profit or (loss) before income taxes	Cash flow (deficit) from operations	Ratio of operating profit or (loss) to net sales	Ratio of net profit or (loss) before income taxes to net sales
	1,000 dollars									Percent	
1980:											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1981:											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1982:											
IMC 2/	***	***	***	***	***	***	***	***	***	***	***
LCP 2/	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***

1/ Niklor's and IMC's accounting years end on June 30, but both producers provided data on a calendar-year basis.

2/ IMC reported data for 1982 for 4 months ending Apr. 30 as it sold the plants on that date to LCP. LCP reported data for 1982 for 8 months from May 1 to Dec. 31.

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

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Aggregate net sales of chloropicrin increased by * * * percent from * * * million in 1980 to * * * million in 1981 and then dropped by * * * percent to * * * million in 1982. The decline in net sales in 1982 was primarily due to a drop of * * * percent in sales volume.

Aggregate operating profit increased from * * * or * * * percent of net sales, in 1980 to * * * or * * * percent of net sales, in 1981. Operating profit then fell sharply to * * * or * * * percent of net sales, in 1982, representing a drop of * * * percent compared with operating profit in 1981. Net profit margins before income taxes followed the same trend as did the operating profit margins.

* * * * * * * *

Niklor and LCP provided data on their chloropicrin operations for the first quarter of 1983, as follows:

Item	LCP	Niklor	Total
Net sales-------1,000 dollars--	***	***	***
Gross profit or (loss)---do----	***	***	***
Operating profit or (loss) do----	***	***	***
Ratio of operating profit or (loss) to net sales-percent--	***	***	***

* * * * * * *

Cash flow generated from U.S. producers' chloropicrin operations increased from * * * in 1980 to * * * in 1981 and then declined to * * * in 1982.

The profit-and-loss data for U.S. producers' establishments in which chloropicrin is produced are presented in table 10. During 1980-82, * * *'s chloropicrin sales accounted for more than * * * percent of overall establishment sales, and IMC's and LCP's chloropicrin sales accounted for less than * * * percent. The trends for overall establishment aggregate net sales and operating profit ratios are * * * chloropicrin operations during the period.

Table 10.--Profit-and-loss experience of U.S. producers on the overall operations of the establishments in which chloropicrin is produced, by firms, 1980-82 1/

Year and firm	Net sales	Cost of goods sold	Gross profit or (loss)	General, selling, and administrative expense	Operating profit or (loss)	Interest expense	All other income or (expense)	Net profit or (loss) before income taxes	Cash flow or (deficit) from operations	Ratio of operating profit or (loss) to net sales	Ratio of net profit or (loss) before income taxes to net sales
	1,000 dollars									Percent	
1980:											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1981:											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1982:											
IMC 2/	***	***	***	***	***	***	***	***	***	***	***
LCP 2/	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***

1/ Niklor's and IMC's accounting years end on June 30, but both producers provided data on a calendar-year basis.
2/ IMC reported data for 1982 for 4 months ending Apr. 30 as it sold the plants on that date to LCP. LCP reported data for 1982 for 8 months from May 1 to Dec. 31.

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

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Investment in productive facilities.--To provide an additional measure of profitability, the ratios of operating profit or loss to original cost and book value of fixed assets employed in production of chloropicrin and to total assets are presented in table 11. These ratios followed the same trend as the ratios of operating profit or loss to net sales.

Capital expenditures and research and development.--Niklor and IMC reported capital expenditures, but * * * research and development expenses for its chloropicrin operations, which are shown in the following tabulation:

Period	Capital expenditures			Research and development expenses
	Total	IMC	Niklor	
	1,000 dollars			
1980	***	***	***	***
1981	***	***	***	***
1982	***	***	***	***
1983 (Jan.-Mar.)	***	***	***	***

Total capital expenditures declined from * * * in 1980 to * * * in 1982 and amounted to * * * in the first quarter of 1983. The * * * total capital expenditures were incurred by * * * for machinery, equipment, and fixtures. * * * expenses for capital expenditures or research and development during its * * * operations on chloropicrin in 1982. * * * its research and development expenses in 1982 compared with such expenses during 1980 and 1981.

Table 11.--Investment in productive facilities and total assets by U.S. producers of chloropicrin, by firms, 1980-82

Item	Fixed assets		Total assets 1/	Operating profit or (loss)	Ratio of operating profit or (loss) to--		
					Fixed assets		Total assets
	Original cost	Book value			Original cost	book value	
Overall establishment operations:	1,000 dollars				Percent		
1980:							
IMC	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***
1981:							
IMC	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***
1982:							
IMC 2/	***	***	***	***	***	***	***
LCP 2/	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***
Operations on chloropicrin:							
1980:							
IMC	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***
1981:							
IMC	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***
1982:							
IMC 2/	***	***	***	***	***	***	***
LCP 2/	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***

1/ Includes book value of fixed assets, inventories, and all other operating assets.
2/ IMC reported data for 1982 as of Apr. 30 because it sold the plants on that date to LCP. LCP reported data for 1982 as of Dec. 31.

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

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Consideration of the Threat of Material Injury to an Industry in the United States

There are various factors which may contribute to the threat of injury to the domestic industry. These factors include the ability of the foreign producers to increase the level of their exports to the United States and the likelihood that they will do so, any increase in U.S. importers' inventories of chloropicrin, and any increasing trends in the quantity of imports and U.S. market penetration.

The available data concerning the Chinese industry's capacity to produce chloropicrin and its ability to increase the level of exports to the United States are presented in the section of this report on foreign producers.

Great Lakes is the only one of the * * * U.S. importers of chloropicrin to have maintained yearend inventories during 1980-82. Great Lakes' inventories were * * * at the end of 1980, * * * pounds at the end of 1981, and * * * pounds at the end of 1982. 1/ The chloropicrin imported by Great Lakes continues to be mainly for its own use, although * * * pounds was sold to Trical in 1982. Toyomenka does not keep any inventories (all its chloropicrin imports are immediately forwarded to Great Lakes) * * *.

Trical, a major purchaser of domestically produced chloropicrin, attempted to purchase the chemical in China in 1982, but was told that supplies were not available. * * *.

A discussion of the rate of increase of imports and their market penetration is presented in the following section of this report.

Consideration of the Causal Relationship Between Imports Allegedly Sold at LTFV and the Alleged Material Injury

U.S. imports

U.S. imports of chloropicrin from China increased from a trial shipment of * * * pounds in 1980 to * * * pounds in 1981 and more than * * * million pounds in 1982 (table 12). There were no known imports of chloropicrin prior to the small trial shipment in 1980.

Table 12.--Chloropicrin: U.S. imports from China, 1980-82, January-March 1982, and January-March 1983

* * * * * * *

* * * the chloropicrin from China was imported either by Great Lakes or for Great Lakes through Toyomenka. * * *.

China is * * * source of U.S. imports of chloropicrin. * * *.

1/ The inventory data reported by Great Lakes consisted of inventories of both actual chlorpicrin and chloropicrin that had been blended in formulations.

Market penetration of imports

Imports of chloropicrin as a share of apparent U.S. consumption increased from much less than * * * percent in 1980 to * * * percent in 1981 and * * * percent in 1982, as shown in the following tabulation:

Year	U.S. imports	Apparent U.S. consumption	Ratio of imports to apparent consumption
	1,000 pounds		Percent
1980	***	***	1/
1981	***	***	***
1982	***	***	***

1/ Less than 0.5 percent.

All imports of chloropicrin from China during 1980-82 were imported either by Great Lakes or by Toyomenka for the use of Great Lakes. Great Lakes reported significant quality and supply problems with IMC, its principal domestic source of chloropicrin through 1981. 1/ These problems, coupled with increasing prices for domestic chloropicrin, prompted Great Lakes to search for an alternate source of the chemical. Although Great Lakes purchased * * * pounds from Niklor in 1981, Niklor was not able to supply additional chloropicrin to Great Lakes at that time (although it would have done so later in the year). Great Lakes had imported a trial sample of chloropicrin from China in 1980, and began importing significant amounts in * * * 1981. Great Lakes has apparently been pleased with its imports, owing to relatively low prices and the quality of the Chinese chloropicrin, which has assayed at a higher purity level than that of IMC. 2/ In 1982, Great Lakes purchased * * * domestically produced chloropicrin while substantially increasing its purchases of the imported product. Great Lakes also sold * * * pounds of its imported chloropicrin in 1982 to Trical, * * *.

In addition to the increased quantities of chloropicrin imported by Great Lakes from China, * * *.

1/ Great Lakes submitted documentation on these problems (see conference exhibits of Kirkland & Ellis).

2/ The Chinese chloropicrin is of a higher purity (assay) than that of LCP, IMC, and Niklor. More important, the Chinese chloropicrin is relatively contaminant free, compared with that of IMC. A conversation with a major purchaser of chloropicrin from Niklor indicated that Niklor's product, * * * is of very high quality and is as good as the Chinese chloropicrin for blending and fumigation end uses.

Prices of chloropicrin

The sale of chloropicrin is very seasonal; the bulk is sold during the period July through October to be blended with other chemicals for use in fumigating fields in the fall.

The domestic producers stated in Commission questionnaires that during 1982 * * * all their sales were made to blenders. One domestic producer sold * * * output of chloropicrin to blenders; the other sold * * * to blenders but also sold * * * to distributors and to end users. The same pattern of distribution was reported by the representatives of Great Lakes, which advised the staff that about * * * percent of its chloropicrin was sold in formulations (chemical mixtures) rather than in an unmixed state. This major importer of chloropicrin buys directly from China as well as through Toyomenka, 1/ and sells the imported product, after it has been made into formulations, directly to farmers (end users), sometimes as part of a fumigating service. Great Lakes uses its own tractors and spraying equipment for accomplishing this task. Great Lakes also sells * * * of the imported product to distributors and fumigators. Since chloropicrin is a seasonal product, the equipment used for spreading it over the fields sits idle most of the year, with the peak period of the fumigation taking place between August and October. Great Lakes charges the farmers about * * * per acre (with the materials costing about * * *) for treatment of fields with chloropicrin. 2/

Chloropicrin is the most effective chemical used for fumigation of certain fields, with its use substantially increasing the output of strawberry crops, for example. Although some other chemicals can be substituted for chloropicrin, they are not as effective. Chloropicrin can also be applied by itself, but it is usually mixed with other chemicals designed to provide additional soil treatment.

Prices for chloropicrin are very competitive and, although price lists do exist, prices are negotiable and discounts of 5 to 10 percent are usually given from list prices. The prices quoted are usually delivered prices, with the purchasers providing their own containers and cylinders for shipment of chloropicrin, which can be either by truck or by rail.

Both the domestic producers and the principal importer are in agreement that price is a very important factor affecting the sale of chloropicrin, but that the quality and availability of the product are also important. The importer testified during the conference that the main reason it began purchasing the imported product was the poor quality of the domestic product provided by IMC. The poor quality was mainly a result of impurities contained in IMC's chloropicrin. The domestic producers have denied this allegation, however, testifying that there was no marked difference in quality between the domestic and imported product. 3/

1/ During the period * * * through * * * 1983, Great Lakes purchased * * * million pounds of Chinese chloropicrin through Toyomenka, at a price of * * * per pound.

2/ Niklor testified during the conference that the cost for field fumigation was $900 per acre.

3/ Transcript of the conference, p. 39.

Counsel for the domestic producers alleged that the 1983 decline in the price of chloropicrin was a result of competition from Great Lakes. Counsel claimed that a major blender, * * * requested that LCP lower its prices so that * * * could compete in the blended-products market with Great Lakes. Counsel also claimed that Niklor reduced its prices upon the urgent request of its customers, which needed price concessions to compete. 1/

On the other hand, counsel for the importers claimed that the 1983 decline in the domestic price of chloropicrin was in part a result of the declining price of the principal raw material, nitromethane, and not a result of any competition from Great Lakes (which, it is reported, has not significantly reduced its end-product prices). 2/

The Commission requested price data for chloropicrin from four U.S. producers, * * * importers, and five purchasers. All responded to the Commission's questionnaires and provided information for use in this investigation. Price data were requested, by quarters, for the period January 1980 through March 1983. The price data requested from domestic producers and importers were to be net delivered prices for the largest quantities sold to each respondent's two principal customers during a given quarter.

The net delivered prices for chloropicrin sold by domestic producers are presented in table 13. Niklor was the only domestic producer that sold chloropicrin during the entire 13-quarter period under consideration in this investigation. Niklor's price during * * * 1980 was * * * per pound. It increased to * * * in * * * 1980 and remained at this level through * * *. In * * * 1981 the price rose to * * * per pound; it remained at this level through * * *. A decline to * * * per pound occurred during * * *.

The second domestic producer, IMC, manufactured chloropicrin until April 30, 1982, at which time the company was acquired by LCP. The price for chloropicrin received by IMC for sales to * * * increased irregularly from * * * per pound in * * * 1980 to * * * per pound in * * * 1982, for an overall increase of * * * percent during the 10-quarter period. Its sales to * * * showed * * *. There were no sales to * * * in 1982.

Subsequent to its purchase of IMC, LCP's price declined * * * and by January-March 1983 it had fallen to approximately * * * per pound.

It is of interest to note that during the entire 13-quarter period, the IMC- and LCP-produced chloropicrin * * * Niklor's product by * * *.

The net delivered prices paid by purchasers of domestic and imported chloropicrin are presented in table 14. The price paid for the domestic product by a large west coast purchaser/blender (Trical) increased steadily from * * * per pound in * * * 1980 to * * * per pound beginning in * * * 1981. A price quotation of * * * per pound was received in January-March 1983 by the purchaser, but no sale was made at that time.

1/ Postconference brief of Sidley & Austin, p. 9.
2/ Postconference brief of Kirkland & Ellis, pp. 10 and 15.

Table 13.--Chloropicrin: Largest quantities sold and net delivered prices received by domestic producers from their 2 largest customers, by quarters, January 1980-March 1983

Period	Niklor Chemical Corp.				IMC				LCP 1/			
	***		***		***		***		***		***	
	Quantity	Price per pound	Quantity	Price per pound	Quantity	Price per pound	Quantity	Price per pound	Quantity	Price per pound	Quantity	Price per pound
	1,000 pounds		1,000 pounds		1,000 pounds		1,000 pounds		1,000 pounds		1,000 pounds	
1980:												
Jan.-Mar--	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June-	***	***	***	***	***	***	***	***	***	***	***	***
July-Sep--	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec--	***	***	***	***	***	***	***	***	***	***	***	***
1981:												
Jan.-Mar--	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June-	***	***	***	***	***	***	***	***	***	***	***	***
July-Sep--	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec--	***	***	***	***	***	***	***	***	***	***	***	***
1982:												
Jan.-Mar--	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June-	***	***	***	***	***	***	***	***	***	2/ ***	***	***
July-Sep--	***	***	***	***	***	***	***	***	***	2/ ***	***	2/ ***
Oct.-Dec--	***	***	***	***	***	***	***	***	***	2/ ***	***	***
1983:												
Jan.-Mar--	***	***	***	***	***	***	***	***	***	2/ ***	***	***

1/ Acquired IMC on Apr. 30, 1982.
2/ * * * cents per pound was added to convert f.o.b. prices to delivered prices.

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

Table 14.--Chloropicrin: Net delivered prices paid by purchasers for domestic and imported products, by quarters, January 1980-March 1983

* * * * * * *

An east coast company * * * purchased chloropicrin from the same domestic producer, but generally paid higher prices for the product than did the west coast purchaser, in large part because of the additional freight costs for east coast delivery. In the majority of cases, the east coast purchaser bought * * * quantities than did the west coast purchaser.

Margins of underselling for the Chinese product are presented in table 15. The table shows only two * * * for which price comparisons for domestic and imported products can be made. During * * * 1982, * * *'s purchase price for domestic chloropicrin remained unchanged at * * * per pound, and the price for the Chinese product, as sold by Great Lakes, * * * per pound, resulting in a margin of underselling of * * * percent. Another purchaser, * * *, bought * * * product at * * * per pound. Thus the margin of underselling for the * * * was * * * percent. In addition to the data shown in table 15, data submitted in response to Commission questionnaires indicated that during October-December 1981, Great Lakes' purchase price for domestic chloropicrin was * * * per pound and its purchase price for Chinese chloropicrin (through Toyomenka) was * * * per pound. Accordingly, the margin of underselling during October-December 1981 was * * * percent.

Table 15.--Chloropicrin: Margins of underselling, by quarters, January 1980-March 1983

* * * * * * *

Exchange-rate changes

China's currency appreciated in terms of the U.S. dollar in 1979 and 1980 and then depreciated considerably during the following 2 years. The tabulation below shows the exchange-rate indexes for 1979-82 (January-March 1979=100):

	Yuan per U.S. dollar	Index
1979:		
January-March	1.5759	100
April-June	1.5834	101
July-September	1.5411	98
October-December	1.5193	96
1980:		
January-March	1.5151	96
April-June	1.5009	95
July-September	1.4644	93
October-December	1.5132	96
1981:		
January-March	1.5958	101
April-June	1.7150	109
July-September	1.7684	112
October-December	1.7410	110
1982:		
January-March	1.8077	115
April-June	1.8374	117
July-September	1.9376	123
October-December	1.9722	125

The decline of the yuan relative to the dollar between January-March 1979 and October-December 1982 was 25 percent.

Prices of nitromethane

A substantial portion of the price of domestically produced chloropicrin consists of the cost of nitromethane, the principal raw material. The price of nitromethane increased significantly during 1978-82, as shown in the following tabulation:

* * * * * * *

The price of nitromethane increased between July 1978 and January 1982 in part because of increasing prices of natural gas, propane, and other components of the nitromethane production process, but also allegedly because the price was deliberately increased by the only U.S. producer of nitromethane, i.e., IMC, during the period. 1/

1/ Transcript of the conference, pp. 78 and 79.

IMC purchased the Sterlington, La., facility of Commercial Solvents Co., the only U.S. producer of nitromethane, in 1975. IMC thereby became owner of the only nitromethane production facility in the United States and an integrated producer of chloropicrin. In 1982, IMC sold its chloropicrin operations to LCP and its nitromethane-producing facility to Angus Chemical Co. Therefore, Angus became the only producer of nitromethane in the United States. Angus supports the petitioners in the current investigation on chloropicrin. At the urging of Niklor and LCP, Angus decreased the price of nitromethane to * * * in August 1982 and * * * in December 1982.

Approximately 0.41 pounds of nitromethane are used in a pound of chloropicrin. Accordingly, 0.41 times the price of nitromethane yields the value of nitromethane per pound of chloropicrin. This value and the price ranges (approximate f.o.b. prices based on quarterly data) at which domestically produced chloropicrin was sold during 1977-83 are shown in the following tabulation:

* * * * * * *

The tabulation indicates that the value of nitromethane in a pound of chloropicrin increased from * * * cents in July 1978 to * * * cents in January 1982, or by * * * percent. During the same period, the price of chloropicrin increased from * * * cents per pound to * * * per pound, or by * * * to * * * percent. The value of nitromethane in a pound of chloropicrin increased by * * * cents, and the price of chloropicrin increased by * * * cents.

During January 1982-February 1983, the value of nitromethane in a pound of chloropicrin decreased from * * * cents to * * * cents, or by * * * cents. During the same period, the price of chloropicrin decreased from * * * per pound to * * * per pound.

Lost sales

The petition claims that injury is evident in the domestic industry's sales data, stating that domestic sales declined from * * * million pounds in 1981 to * * * million pounds in 1982. 1/ It claims that this decline in sales occurred during the same period as the arrival of large volumes of low-priced imports, indicating that the imports are displacing the domestic industry's sales, especially in the last three quarters of 1982. 2/

The principal lost sales allegation investigated by the Commission staff involved Great Lakes, a major purchaser of domestically produced chloropicrin in 1980 and 1981, which ceased all purchases from domestic producers in 1982. Great Lakes' purchases from domestic and foreign sources are shown in the tabulation below (in thousands of pounds):

1/ Petition, p. 18. Data submitted in response to Commission questionnaires indicate that domestic sales declined from * * * million pounds in 1981 to * * * million pounds in 1982.

2/ Petition, p. 19.

	1980	1981	1982
From China	***	***	***
From the United States	***	***	***
Total	***	***	***

Great Lakes' purchases from domestic producers declined by * * * pounds between 1981 and 1982; its purchase of imported chloropicrin increased by * * * million pounds in 1982. Great Lakes reportedly had long experienced quality and supply problems with IMC, its domestic source of chloropicrin. Great Lakes claims that these problems, as well as substantially rising prices of domestic chloropicrin, were affecting its sales and competitiveness in the blended-fumigants markets to such extent that in 1980 it purchased only * * * pounds of chloropicrin, almost all from domestic sources. 1/ In 1980 and 1981, Great Lakes began searching for an alternate source of supply. Great Lakes purchased * * * pounds of chloropicrin from Niklor in 1981, but claims that Niklor could not provide it with enough chloropicrin to meet its needs. Niklor has indicated that this is correct, since Niklor's production during the peak period of early spring and summer 1981 was largely accounted for by Niklor's regular customers. 2/ Indeed, Niklor ceased shipping to Great Lakes in * * *. Niklor would have been able to produce for Great Lakes * * * on such production and sales. It was during 1981 that Great Lakes began significant imports of chloropicrin from China. Great Lakes subsequently increased its purchases of imported chloropicrin from China in 1982, and no longer purchased from domestic sources in that year. Its use of chloropicrin for chemical blends used in fumigation increased from * * * pounds in 1980 to * * * million pounds in 1981 and * * * million pounds in 1982.

A second possible lost sale investigated by the Commission concerns the * * * pounds of Chinese chloropicrin sold by Great Lakes to Trical in 1982. Trical has long been Niklor's * * * customer for chloropicrin, accounting for * * * pounds (* * * percent of domestic production) in 1980, * * * pounds (* * * percent of domestic production) in 1981, and * * * (* * * percent of domestic production) in 1982. However, Trical was concerned about rising prices of domestic chloropicrin and, in 1982, the president of Trical went to China to discuss the possible purchase of chloropicrin; he was told that none was available at the time. Trical was able to obtain * * * pounds of Chinese chloropicrin from Great Lakes in 1982. 3/ It is unclear whether this sale was a lost sale in its entirety because * * *. Trical's purchases from domestic and foreign sources are shown in the following tabulation (in thousands of pounds):

1/ Great Lakes' purchases from domestic sources were approximately * * * million pounds in 1979 and averaged * * * million pounds during 1975-78.

2/ In testimony at the Commission conference, Mr. Andrew Barbera of Great Lakes claimed that Niklor limited Great Lakes to restricted quantities on a number of occasions and at premium prices (transcript of the conference, p. 77).

3/ The president of Trical explained to the president of Niklor that the reason for purchasing the imported chloropicrin was to take advantage of the lower price (postconference brief of Sidley & Austin, p. 10, and transcript of the conference, p. 36--confirmed by the Commission staff * * *).

	1980	1981	1982
From China----------	***	***	***
From the United States--	***	***	***
Total----------	***	***	***

Great Lakes claims that the sale of * * * pounds to Trical was a one-time sale which was only part of a larger sale of other products such as methyl bromide and ethylene dibromide. Trical has long been a customer of Great Lakes for these other products.

A third possible lost sale investigated by the Commission staff concerns the purchase of imported chloropicrin for use by * * *. In 1982, * * * imported * * * pounds of chloropicrin * * *. * * * has also purchased from domestic sources for * * *, i.e., * * * pounds in 1980, * * * pounds in 1981, * * * pounds in 1982, and * * * pounds in the first quarter of 1983. * * * has indicated that the reasons for importing chloropicrin for use * * *.

Lost revenue

In its response to the Commission's questionnaire, Niklor provided data indicating that it had to lower its prices in 1982 on specific sales to * * * its major customers. The aggregate lost revenue on sales to these customers was * * *. 1/ Only two of the four customers cited by Niklor actually purchased * * * in 1982. Niklor claims lost revenue of * * * on a sale of * * * pounds to Trical, which purchased * * *.

LCP provided data indicating that it lowered its initial prices on some sales by * * * cents per pound to its major customer in 1982, by * * * cents per pound to a second customer in 1982, and by * * * cents per pound to * * *. Quantities involved were not provided, so no calculation of lost revenues could be made from questionnaire data. Only one of LCP's * * *. LCP testified at the Commission conference that its * * * Dow, has * * * price cuts in order to compete in blended-product markets with * * *; LCP testified that it has lowered its price to Dow by over 20 percent, thus reducing revenue by $0.5 million per year. 2/

1/ This lost revenue was on sales totaling * * * million pounds, or * * * percent of Niklor's total sales in 1982.

2/ Transcript of the conference, pp. 23 and 24.

APPENDIX A

NOTICE OF THE COMMISSION'S INSTITUTION OF A PRELIMINARY ANTIDUMPING INVESTIGATION

[Investigation No. 731-TA-130 (Preliminary)]

Chloropicrin From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: April 6, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of chloropicrin, provided for in items 408.16, 408.29, or 425.52 of the Tariff Schedules of the United States, which is alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. George Deyman, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0481.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on April 6, 1983, on behalf of LCP Chemicals and Plastics, Inc. and Niklor Chemical Co., Inc., U.S. producers of chloropicrin. The Commission must make its determination in the investigation within 45 days after the date of the filing of the petition, or by May 23, 1983 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents

The Secretary will compile a service list from the entries of appearance filed in the investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of the nonconfidential version of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certification of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before May 2, 1983, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6) All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on April 28, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. George Deyman (202-523-0481), not later than April 26, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E. Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure , part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201 subparts A thorugh E (19 CFR part 201, as amended by 47 FR 33682, AugA430 1982). Further information concerning the conduct of the conference will be provided by Mr. Deyman.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: April 8, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-9771 Filed 4-12-83: 8:45 am]

BILLING CODE 7020-02-M

APPENDIX B

NOTICE OF THE DEPARTMENT OF COMMERCE'S INSTITUTION OF AN ANTIDUMPING INVESTIGATION

Initiation of Antidumping Investigation; Chloropicrin From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping investigation to determine whether chloropicrin from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of chloropicrin are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before May 23, 1983, and we will make ours on or before September 13, 1983.

EFFECTIVE DATE: May 2, 1983.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Loc Nguyen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-2613 or 377-0167.

Petition

On April 6, 1983, we received a petition filed by counsel on behalf of LCP Chemicals & Plastics, Inc. and Niklor Chemical Company, Inc. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioners allege that imports from the People's Republic of China of chloropicrin are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 732 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act) and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

The petitioners further allege that the People's Republic of China is a state-controlled economy country within the meaning of the Act. They allege that sales of chloropicrin in the People's Republic of China do not permit a determination of foreign market value and that the Department of Commerce must choose a non-state-controlled economy country to be used as a surrogate for the purpose of determining the foreign market value of this product. The petition suggests Japan as a possible surrogate country.

The allegation of sales at less than fair value is supported by information on foreign market value and United States price obtained by the petitioners from a trading company in Japan. The petition also includes United States price information obtained from an American firm which unsuccessfully sought to purchase the product from the PRC.

Critical circumstances have also been alleged under section 773(e) of the Act (19 U.S.C. 1673b(e)). We will make a determination regarding this issue on the date of our preliminary determination.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on chloropicrin and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether chloropicrin from the People's Republic of China is being, or is likely to be, sold in the Unites States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by September 13, 1983.

Scope of the Investigation

The merchandise covered by this investigation is chloropicrin, also known as trichloronitromethane. Chloropicrin is currently classified under item number 408.1600, 408.2900 and 425.5290 of the Tariff Schedules of the United States Annotated.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination By ITC

The ITC will determine by May 23, 1983, whether there is a reasonable indication that imports of chloropicrin from the People's Republic of China are materially injuring, or are threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

April 26, 1983.

[FR Doc. 83-11648 Filed 4-29-83; 8:45 am]

BILLING CODE 3510-25-M

APPENDIX C

LIST OF WITNESSES APPEARING AT THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigation No. 731-TA-130 (Preliminary)

CHLOROPICRIN FROM THE PEOPLES'S REPUBLIC OF CHINA

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigation on April 28, 1983 in the Sunshine Room of the USITC Building, 701 E Street, NW, Washington, D.C.

In support of the imposition of antidumping duties

Sidley & Austin--Counsel
Chicago, Ill. and Washington, D.C.
on behalf of
LCP Chemicals & Plastics, Inc.
Niklor Chemical Co., Inc.

Stephen Walter, Director, Business Development, LCP Chemicals & Plastics, Inc.
John Wilhelm, President, Niklor Chemical Co., Inc.
Peter DeAngelis, CEP Associates, Inc. and General Manager, New England Ethanol Products
Gregory P. Jorjorian, Director of Marketing, Angus Chemical Company
C. Joseph Fette, Senior Products Group Manager, Angus Chemical Company

Thomas F. Bush, Jr.)
William D. DeGrandis)--OF COUNSEL
Charles W. Douglas)

In opposition to the imposition of antidumping duties

Kirkland & Ellis--Counsel
Washington, D.C.
on behalf of
Great Lakes Chemical Corporation

Andrew J. Barbera, Director of Purchasing, Great Lakes Chemical Corporation

David G. Norrell)
Bert W. Rein)--OF COUNSEL

Graham & James--Counsel
Washington, D.C.
on behalf of
Toyomenka (America), Inc.

Michael A. Hertzberg)
Stuart E. Benson)--OF COUNSEL

Haight, Gardner, Poor & Havens--Counsel
New York, N.Y. and Washington, D.C.
on behalf of
China National Chemicals Import and Export Corporation

Edward Y. Ma)
Sanford C. Miller) --OF COUNSEL