

NITROCELLULOSE FROM FRANCE

**Determination of the Commission in
Investigation No. 731-TA-96 (Final)
Under the Tariff Act of 1930,
Together With the Information
Obtained in the Investigation**

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United States International Trade Commission / Washington, D.C. 20436



UNITED STATES INTERNATIONAL TRADE COMMISSION

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C O N T E N T S

	<u>Page</u>
Determination-----	1
Views of the Commission-----	3
Information obtained in the investigation:	
Introduction-----	A-1
Background-----	A-1
Other Commission investigation concerning industrial nitrocellulose-----	A-2
Nature and extent of sales at LTFV-----	A-2
The product:	
Description and uses-----	A-2
U.S. tariff treatment-----	A-4
U.S. market and channels of distribution-----	A-5
U.S. producers-----	A-6
U.S. importers and foreign producers-----	A-7
Consideration of material injury:	
U.S. production, capacity, and capacity utilization-----	A-8
Domestic and export shipments-----	A-10
U.S. imports-----	A-11
U.S. inventories-----	A-12
Apparent U.S. consumption-----	A-13
Employment and wages-----	A-14
Financial experience of Hercules, Inc-----	A-17
Consideration of the threat of material injury:	
Foreign capacity and production-----	A-21
French domestic shipments and exports-----	A-21
Consideration of the causal relationship between LTFV imports from France and the alleged injury:	
Market penetration of LTFV imports-----	A-22
Purchasing patterns-----	A-23
Prices-----	A-24
Trends in prices-----	A-24
Margins of underselling-----	A-27
Prices of imports from Japan-----	A-27
Purchasers' prices-----	A-28
Lost sales-----	A-29
Lost Revenues-----	A-35
Appendix A. Notice of investigation by the International Trade Commission and list of witnesses appearing at the Commission's hearing-----	A-37
Appendix B. Commerce's final determination-----	A-43
Appendix C. Du Pont's announcement to leave the nitrocellulose business-----	A-49
Appendix D. SNPE's production process-----	A-51

Figure

Nitrocellulose: Hercules' production process-----	A-3
---	-----

CONTENTS

	<u>Page</u>
Tables	
1. Cellulosic plastics materials other than cellulose acetate: Pre-MTN rate of duty and staged rate-of-duty modifications, 1980-87-----	A-5
2. Nitrocellulose: U.S. production, capacity, and capacity utilization, 1979-82, January-March 1982, and January-March 1983-----	A-8
3. Nitrocellulose: U.S. production, by grades, 1979-82 and January-March 1983-----	A-10
4. Nitrocellulose: U.S. producer's domestic shipments, 1979-82, January-March 1982, and January-March 1983-----	A-10
5. Nitrocellulose: Domestic shipments, export shipments, and total commercial shipments, 1979-82, January-March 1982, and January-March 1983-----	A-11
6. Nitrocellulose: U.S. imports for consumption, by sources and by types, 1979-82, January-March 1982, and January-March 1983-----	A-13
7. Nitrocellulose: U.S. producer's domestic shipments, imports for consumption, and apparent U.S. consumption, 1979-82, January-March 1982, and January-March 1983-----	A-14
8. Nitrocellulose: Average number of employees, total and production and related workers, and hours worked by the latter, 1979-82, January-March 1982, and January-March 1983-----	A-15
9. Nitrocellulose: Labor productivity, hourly compensation, and unit labor costs, 1979-82-----	A-16
10. Selected financial data for Hercules, Inc., on its nitrocellulose operations, 1979-82, January-March 1982, and January-March 1983---	A-18
11. Estimates of selected financial data for Hercules, Inc., on its nitrocellulose operations, assuming that the 1979-80 capacity expansion had not occurred, 1979-82, January-March 1982, and January-March 1983-----	A-19
12. Nitrocellulose: SNPE's production, by types, 1978-82, January-March 1982, and January-March 1983-----	A-21
13. Nitrocellulose: SNPE's domestic shipments in France and export shipments, 1979-82, January-March 1982, and January-March 1983-----	A-22
14. Nitrocellulose: U.S. producers domestic shipments, imports for consumption from France and from all countries, and apparent consumption, 1979-82, January-March 1982, and January-March 1983-----	A-23
15. Nitrocellulose: Domestic producer's and importer's weighted- average prices, f.o.b. U.S. point of shipment, and margins of underselling, by quarters, January 1980-March 1983-----	A-25
16. Indexes of exchange rates of the French franc relative to the U.S. dollar, by quarters, January 1980-March 1983-----	A-26
17. Nitrocellulose: Prices of imports from Japan, by quarters, January 1980-March 1983-----	A-27

CONTENTS

	<u>Page</u>
Tables--continued	
18. Nitrocellulose: Purchasers' weighted-average delivered prices for the domestic and imported products, by quarters, January 1981-March 1983-----	A-29
19. Nitrocellulose: Purchases by firms to which Hercules has allegedly lost sales, 1980-82, January-March 1982, and January-March 1983-----	A-30
20. Nitrocellulose: Alleged lost sales, January 1982 through March 1983, and purchases, 1980-82, January-March 1982, and January- March 1983, by firms-----	A-30

Note.--Information which would disclose confidential operations of individual firms many not be published and therefore has been deleted from this report. These deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 731-TA-96 (Final)

NITROCELLULOSE FROM FRANCE

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, 2/ pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)(1)), that an industry in the United States is materially injured by reason of imports of nitrocellulose 3/ which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective May 10, 1983, following a final determination by the Department of Commerce that imports of nitrocellulose from France are being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation 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, D.C., and by publishing the notice in the Federal Register on May 25, 1983 (48 F.R. 23490). The hearing was held in Washington, D.C., on June 27, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

2/ Commissioner Stern dissenting.

3/ For purposes of this investigation, nitrocellulose is provided for in item 445.25 of the Tariff Schedules of the United States.

VIEWS OF CHAIRMAN ALFRED E. ECKES AND
COMMISSIONER VERONICA A. HAGGART

We determine that an industry in the United States is materially injured by reason of imports of nitrocellulose from France which are being sold at less than fair value (LTFV).

Two petitions were filed by petitioner, Hercules, Incorporated (Hercules), one alleging less than fair value sales of the imported product, 1/ and one alleging subsidization of the imported product. 2/ A final affirmative countervailing duty determination was made by the Commission on June 6, 1983. 3/ 4/ The record in the countervailing duty investigation has been incorporated into the record in the instant investigation. 5/ The only new information before the Commission in this investigation is information for the first quarter of 1983 supplied by petitioner for employment and wages 6/ and financial data regarding its operations. 7/ To

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- 1/ Petition filed July 2, 1982, under section 733 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1673b.
 - 2/ Petition filed September 14, 1982, under section 703 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1671b.
 - 3/ Nitrocellulose from France, Inv. No. 701-TA-190 (Final), USITC Pub. No. 1390 (1982).
 - 4/ Chairman Eckes notes that the antidumping and countervailing duty laws of the United States provide a mechanism to address the situation in which the same imports are subject to separate investigations involving allegations of less than fair value sales and subsidization. Therefore, in accordance with the statutory system of bifurcated jurisdiction, the Department of Commerce as the administering authority has responsibility for the administration of any offset mechanism provided in the statute. See section 772(d)(1)(D), 19 U.S.C. § 1677a(d)(1)(D).
 - 5/ Memorandum to the file from Office of Investigations (June 17, 1983).
 - 6/ Report at A-14-15, Table 8.
 - 7/ Id. at A-17-19, Tables 10 and 11.

the extent that our analysis in this antidumping investigation is the same as that in the earlier countervailing duty investigation, it will not be repeated herein.

Domestic industry

We have previously determined that the like product in this investigation is soluble industrial nitrocellulose, and that the domestic industry consists of Hercules, the sole domestic producer of nitrocellulose. As no additional information has been developed which would warrant a revision in the definition of either like product or domestic industry, we adopt those definitions as fully discussed in the prior determinations. 8/

Condition of the domestic industry 9/

As noted in the preceding countervailing duty investigation, decreased domestic production, shipments, and employment data, increased inventories, and the declining trend in the relevant profit and loss data demonstrate the existence of material injury to this industry. 10/ Additional data supplied

8/ In the final countervailing duty determination, we adopted the conclusions regarding the appropriate like product and domestic industry from the preliminary countervailing duty and antidumping investigations. Inv. No. 701-TA-190, supra note 3, at 3. For a full discussion of our conclusions regarding this issue see Inv. No. 731-TA-96 (Preliminary), USITC Pub. No. 1280 (1982) and Inv. No. 701-TA-190 (Preliminary), USITC Pub. No. 1304 (1982).

9/ As in the countervailing duty case, because there is only one domestic producer and only one exporter of French nitrocellulose, industry data have been designated confidential and the discussion necessarily focuses on generalized trends.

10/ Report at A-8-12 and tables included therein; Inv. No. 701-TA-190, supra note 3, at 4-6.

in this investigation on employment and wages through the first quarter of 1983 show continued declining trends. 11/ Financial data updated through the first quarter of 1983 show a continued decline in net sales, ratio of operating profit to net sales, original cost, book value and replacement cost of fixed assets, as well as a dramatic decrease in operating profit. 12/

As noted in the previous determination, increases in capacity do not account for the declining utilization trends. 13/ Moreover, the financial data reveal a decreasing trend in profit and loss indicators which persists even when the costs related to Hercules' capacity expansion are factored out. 14/

Material injury by reason of LTFV imports

Section 771(7)(B) of the Tariff Act of 1930 directs the Commission to consider, among other factors, (1) the volume of imports of merchandise under

11/ Report at A-14-17 & Table 8; Inv. No. 701-TA-190, supra note 3, at A-15-17.

12/ Report at A-17-18 & Table 10.

13/ See id. at A-8-9 & Table 2; Inv. No. 701-TA-190, supra note 3, at A-9-10 & Table 2.

14/ Report at A-19, Table 11. In the final antidumping investigation Hercules provided estimates of financial data assuming that the 1979-80 capacity expansion had not taken place. Based on this assumption, the data suggest a somewhat improved financial picture for the petitioner; however, the declining trend in profitability throughout the period under investigation would remain unchanged.

investigation, (2) the effect of such imports on domestic prices, and (3) the impact of such imports on the domestic industry. 15/ 16/

In making our affirmative determination, we have found a sufficient causal nexus between material injury to the domestic industry and the less than fair value imports. As noted in the countervailing duty investigation, 17/ trends in volume of imports, domestic prices, margins of underselling, and lost sales reveal material injury to the domestic industry by reason of the subject imports. Information regarding price suppression indicates that Hercules has lowered prices to meet the French competition. 18/ As no new information on these factors has been presented, we adopt our position on the question of causation as stated previously in the countervailing duty determination.

Respondent argues that it sold nitrocellulose in the U.S. market to meet the competition and that therefore any LTFV sales constitute technical dumping. 19/ Specifically, SNPE cites price leadership, first by Hercules and

15/ 19 U.S.C. § 1677(7)(B).

16/ Commissioner Haggart notes that SNPE has again raised the issue of exchange rates in the context of the causation question. Prehearing Brief of SNPE at 14. The fact that a favorable exchange rate may translate into lower prices for the imports does not alter the fact that these imports are sold at less than fair value and may be a cause of material injury to the domestic industry. It is the intent of Congress that the Commission focus on the impact of the imports sold at less than fair value once they are in the U.S. market and determine whether these imports are the cause of material injury.

17/ For a complete discussion of the issue of material injury by reason of subsidized imports see Inv. No. 701-TA-190, supra note 3, at 6-8.

18/ See Report at A-25, Table 15 and A-29, Table 18.

19/ Posthearing Brief of SNPE at 4-5, 8.

most recently by the Japanese, as indications of technical dumping. 20/ If there is in fact underselling by respondent, SNPE argues that any such underselling is commercially insignificant and should be considered technical dumping. 21/

In the past, the Commission has determined that technical dumping exists where there was either no underselling by the subject imports 22/ or only commercially insignificant margins of underselling. 23/ We do not accept respondent's claim that the instant investigation is an example of technical dumping in view of the consistent pattern of underselling during the period of this investigation. Given the demonstrated price sensitivity of this product, 24/ we find that the margins of underselling reported in this investigation are commercially significant. 25/ Additionally, confirmed information regarding price suppression coupled with information concerning lost sales, indicates that margins of underselling are understated. 26/

For the foregoing reasons, we determine that the domestic industry is materially injured by reason of imports of nitrocellulose from France which are sold at less than fair value.

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- 20/ Id. Based upon information developed in the course of this investigation, we find no support for allegations of price leadership by the Japanese. Report at A-27-28 & Table 17; Confidential Supplemental Competitive Price Information (July 1, 1983).
- 21/ Posthearing Brief of SNPE at 4-5, 8.
- 22/ See, e.g., Melamine from Brazil, Inv. No. 731-TA-107 (Preliminary), USITC Pub. No. 1303 (1982).
- 23/ See Asphalt Roofing Shingles from Canada, Inv. No. 731-TA-29 (Preliminary), USITC Pub. No. 1100 (1980).
- 24/ See Inv. No. 701-TA-190, supra note 3, at 8.
- 25/ See Report at A-24-27 & Table 15; A-28-29 & Table 18.
- 26/ Id. at A-29-35.

Views of Commissioner Paula Stern

I find that the domestic nitrocellulose industry is not being materially injured or threatened with material injury by reason of imports from France sold at less than fair value ("LTFV"), pursuant to Title VII, Section 731(a) of the Tariff Act of 1930. 1/

I. Summary

These imports have also been the subject of a recent countervailing duty investigation. 2/ While I evaluated the facts in this case de novo, I drew many similar conclusions upon a second look at the industry. Specifically, the margins of underselling are not significant; there is no convincing evidence of price suppression; the volume and market share of French imports are small; and there is no causal nexus between the subject LTFV imports and the alleged material injury of the industry.

1/ 19 U.S.C. section 1673 et seq.

2/ Nitrocellulose from France, 701-TA-190 (Final), June 1983, USITC Pub. 1390. My dissenting views are found on pp. 11-25.

The conclusion that imports from France did not cause material injury to the domestic industry was reinforced by the following two points:

First data requested but not received in the last investigation, has become available which documents how the recent capacity expansion of the domestic industry, Hercules, Inc. ("Hercules") diminished the firm's competitive standing by forcing it to raise its prices.

Second, it is clear that the modest dumping margins found by the Department of Commerce have had no material role in enabling the French importer, Societe Nationale Des Poudres Et Explosifs ("SNPE"), to meet the domestic competition of Hercules. The small 3/ and in some cases miniscule 4/ margins of underselling on the part of the French have not contributed in any material fashion to the problems experienced

3/ See Staff Report at A-25, Table 15.

4/ See Respondent's Confidential Appendix to Mr. Reilly's testimony, June 19, 1983, especially pp. A-4 5 and A-4-6.

by the domestic industry. This is apparent because effective July 1, 1983, SNPE lowered its prices just enough to meet the domestic competition, despite the imposition of a 3.604 percent ad valorem duty which followed the recent countervailing duty decision. This could occur because the exchange rate differential is so much greater than the subsidy margin. 5/ Because almost all of the competitive cost advantage stemming from the depreciation of the franc has been absorbed as profit rather than passed through to consumers, 6/ the relatively small dumping duty has had no material effect. It has been the depreciation of the franc, not the sales of imports at less than fair value, which has accorded SNPE a competitive

5/ Staff estimates of exchange rate differential range between 15-40 percent over the period of investigation. See Report at A-25 and Table 16 at A-26. Also, Nitrocellulose from France (June 1983), CVD opinion at 22, and Transcript of May 31, 1983, Commission vote in the CVD investigation. Since the period which Commerce used to determine the margins (January-June 1982), the franc has declined more than ten percent against the dollar. The overall weighted-average margin on all industrial nitrocellulose sales was found by the Department of Commerce to be 1.38 percent. See Report at A-45.

6/ See Final Antidumping Hearing Transcript ("Transcript"), 6/17/83 at 107-09.

advantage; Title VII cannot be construed to protect U.S. industries from foreign currency devaluations. With or without any duties in addition to the previously imposed countervailing duties, the French importers will continue to be able to meet both domestic and foreign competition in the U.S. market. The less-than-fair-value sales have not caused and do not threaten to cause material injury.

II. The Condition of the Domestic Industry

For the sake of brevity, I incorporate by reference my analysis of the condition of the domestic industry in the recent countervailing duty case, Inv. No. 701-TA-190 (Final), June, 1983. The relevant indicators point to definite problems in the domestic industry's economic performance. However, several points deserve reiteration in light of new information presented to the Commission in the current case.

Prior to the period under investigation, Hercules shared the nitrocellulose market with another domestic producer, E.I. DuPont de Nemours and Co. ("DuPont"). At that time, each producer held approximately one-half of the nitrocellulose market.

After several years of losses and considerable, but unsuccessful efforts to restore its profit margins, DuPont phased out nitrocellulose operations in 1977. Prior to leaving the market, DuPont completed a study indicating that demand for nitrocellulose had been declining and would continue to decline, and that current world capacity to meet demand was adequate. These assessments were cited by DuPont to its customers to explain the phaseout. 7/

Hercules considered the reasons behind DuPont's decision, but questions were limited to whether or not DuPont had been mistaken, given its shrinking market share. 8/

7/ July 19, 1977 Mailgram from DuPont to customer, reprinted in Staff Report, Appendix D.

8/ Hercules' testimony in Transcript at 38-40. That Hercules was operating under different demand assumptions than DuPont is also indicated by Hercules' acknowledgement in its 3/13/83 Post-Conference Submission at 3 that capacity was expanded in part to meet possible future surges in domestic demand.

According to Hercules, its prices and DuPont's prices were basically similar when the two firms shared the nitrocellulose market. 9/ Neither was a price leader, although technical services, more attractive shipping arrangements and other nonprice factors influenced customer preference.

According to DuPont, 10/ there were reportedly periods when a two- or three-cent price differential existed between DuPont and Hercules, and when Hercules would undersell DuPont for "lag period."

In either case, the pricing pattern between Hercules and DuPont appears to have been analogous to that between Hercules and SNPE. Margins of underselling may not have been substantially different than is the case now between the domestic and French producer.

9/ Phone conversation between Staff investigator and Hercules' representative, 7/15/83.

10/ Phone conversation between Staff Investigator and DuPont Representative, 7/15/83.

What is different is that Hercules expanded its capacity in the face of declining demand, a decline which was compounded by a recession. Hercules' position in the marketplace has also changed. Rather than an oligopolist meeting the competition of another domestic competitor, Hercules has become the single domestic producer competing against imports from a number of sources. 11/

The Effect of the Capacity Expansion
on Hercules Competitive Standing 12/

It has been clear throughout the investigation that the costs of Hercules' capacity expansion were substantial and had

11/ Confidential submissions to the Commission for 1979 through the first quarter of 1983 indicate a very substantial market share for the domestic producer. In the March 9, 1983 issue of Chemicals Week Hercules stated it holds as much as 85 percent of the nitrocellulose market.

12/ Views in the countervailing duty investigation discussed the reasons behind the conclusion that the impact of Hercules' capacity expansion on the company's economic condition was paramount.

While the statute instructs us not to weigh factors which may contribute to an industry's injury, we are also admonished to determine that there is a causal nexus between the imports and the material injury being suffered by the industry. We cannot weigh factors, but we can take into account facts demonstrating that the harm is attributable to other factors. See Melamine from Brazil, 731-TA-107, USITC Pub. No. 1393, 1982. Here the Commission noted that:

(Footnote 12/ continued on page 16)

a heavy impact on Hercules' profitability. 13/ But the effect

Footnote 12/ continued:

While (t)he law does not . . .
 contemplate that injury from such
 imports be weighed against other
 factors . . . , 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 petition to the
(alleged) dumped imports is
attributable to such other factors.
 H.R. Rept. No. 317, 96th Cong., 1st
 Sess. 47 (1979) (Emphasis supplied.)

See also, Chlorine from Canada (P), Inv. No. 731-TA-90,
 USITC Pub. No. 1249, 1982, where the Commission's negative
 determination was based on several factors analogous to the
 instant case: the ratio of imports did not reach a level high
 enough to cause an adverse impact on the domestic industry; no
 substantiation of price suppression was found; lost sales were
 not sufficient to establish a causal link between the imports
 and the domestic industry's problems, and finally, a recession
 and decline in demand for chlorine had a substantial effect.

13/ See Report at A-18, Table 10, A-19 and A-20. Also, my
 analysis in the CVD opinion, pp. 14-15.

of these additional costs on Hercules' competitiveness had remained uncertain. With the present final investigation, much of that uncertainty has been removed.

The difficulty in ascertaining an exact cost per-pound figure which reflects the expansion costs comes when estimating interest, since Hercules did not borrow the money on the open market. While internal financing has an opportunity cost, that cost was not as high as it would have been had Hercules financed the expansion externally. Hercules has provided the Commission with a range of high figures which include interest expenses for working capital and capital investments at prime rates for the relevant year, and a range of low figures which exclude interest altogether. 14/ The additional costs and expenses related to Hercules' capacity expansion, on a per-pound basis, lies somewhere between those two ranges. A look at the two ranges suggests that the total effect of the expansion on the cost per-pound of nitrocellulose, averaged over the four-year period, when interest is included, is more than the margins of underselling.

14/ See Report, table on A-28, lines 7 and 8.

III. No Material Injury by Reason of
Less-than-fair-value Imports

A. Margins of Underselling and Lost Sales 15/

In a determination of material injury, the statute states in regard to price effects on the domestic industry, that we must evaluate "whether there has been significant price

15/ LTFV Margins: While the methodology of determining LTFV margins is solely within the jurisdiction of the Department of Commerce, a close examination of the weighted average LTFV margins provided by Commerce is warranted insofar as it is germane to the causation of injury allegedly suffered by the domestic industry.

The Department of Commerce found that the foreign market value of nitrocellulose exceeded the United States' price on 31.13 percent of the merchandise sold, and that the margins ranged from zero to 12.26 percent, with a resulting weighted average margin on all industrial nitrocellulose sales of 1.38 percent. (Report at A-45.)

(Footnote 15/ continued on page 11)

undercutting by the imported merchandise." (Emphasis supplied.) 16/

In the instant case, determining whether or not margins of underselling are significant is complicated by several factors. First, despite the fact that the period under review was one of declining consumption and oversupply, prices of both the domestic supplier and the importer, overall, increased substantially. 17/ Second, imports from France were priced

Footnote 15/ continued:

Margins of underselling were calculated for fourteen nitrocellulose product groupings. However, this investigation primarily concerns the RS-type of nitrocellulose, which accounts for the majority of domestic production and the vast majority of imports from France. (Report at A-7.) Three product groups, RS 1/2, RS 1/4 and RS 5/6 make up the bulk of RS sales. Of the 36 sales making up the RS 1/4 product group, 26 sales or 72 percent had no margin or were not sold at less than fair value in this country. Of the 53 sales constituting the RS 1/2 grouping, 29 or 55 percent had no margin, ten of which had significantly negative margins. And of the RS 5/6 product group, eleven out of 22 or 50 percent of sales had no margin.

Thus, a close examination of the range of margins found by Commerce indicate that more often than not in the product groups that make up the bulk of this investigation, sales were not made at less than fair value.

16/ U.S.C. 19 1677(7)(C)(ii).

17/ See Report at Tables 15 and 18.

higher than the domestic product in several quarters during the period under review. 18/

Third, it appears from testimony presented throughout the investigation that most competition between Hercules and SNPE took place on a transaction-by-transaction basis. Typically, Hercules would meet competition from both French and Japanese imports selectively, 19/ charging lower prices where competitive pressure and customer resistance were strongest. 20/ According to SNPE, as an importer with a strategy of becoming a reliable second source of supply, there was no choice but to set prices according to Hercules' most competitive prices. 21/

18/ Id., see especially, Table 15. Large margins of overselling occurred particularly in early-1980 and late-1982 to early-1983.

19/ Transcript at 20, 24.

20/ SNPE Post-Hearing Submission. Confidential Appendix to Mr. Reilly's testimony, 6/29/83.

21/ Supra, p. 3.

If prices of nitrocellulose from SNPE and Hercules are compared on an average basis, the margins of underselling, where they exist, are tiny. 22/ If, on the other hand, a comparison is made on the basis of lowest prices offered consumers on a transaction-by-transaction basis, the margins of underselling become miniscule. 23/ The margins actually disappear in three out of four quarters in 1982 when Hercules claims the most injury. And in the remaining quarter, the margin almost disappears. 24/ It is difficult to imagine how prices of two competing companies could be any closer with the imperfect knowledge of the marketplace. The prices of Hercules and SNPE were, in effect, functionally equivalent during the period when Hercules claims the most harm. In sum, the margins of underselling in this case are not significant. They do, however, document a policy on the part of SNPE of meeting the domestic competition.

22/ See Report at A-25. Also see my analysis of this point in the CVD investigation at pp. 3, 19, 20 and 21.

23/ SNPE Post-Hearing Submission. Confidential Appendix to Mr. Reilly's testimony at pp. 3, 4.

24/ Supra.

The conclusion that the margins of underselling in this case are insignificant is supported by an analysis of lost sales data gathered by the Commission's staff, petitioner's analysis of the effects of price on lost sales, and petitioner's testimony.

Lost sales data gathered by the Commission demonstrate that a primary rationale for purchasers of French nitrocellulose was to assure a secondary source of supply. 25/ Purchases of French nitrocellulose by at least half of the customers in the sample were due to secondary sourcing or other non-price reasons. Otherwise, purchases of imports from France were insignificant in comparison to purchases from Hercules. 26/

Petitioner has provided the Commission with its own analysis of the competitive situation between itself and SNPE. 27/

25/ See Report at A-29-35.

26/ See my analysis in the CVD investigation, pp. 23-24, also n.51.

27/ Transcript at 10-11.

According to a survey of 205 competitive price information reports (which do not include competition from other sources in Japan or elsewhere), 28/ a two-cent difference in price (more than the average price spread between Hercules and SNPE throughout the period under review) only resulted in a lost sale half of the time. 29/ While price may be a factor, clearly it is not the dominant one.

Moreover, it is still the case that for several quarters, on both an f.o.b. and delivered basis, the margins of underselling are less than what petitioner has represented to cause a lost sale. 30/

28/ Transcript at 23.

29/ Transcript at 11.

30/ Transcript at 30-34, CVD Transcript at 41. Compare to Report, tables 15 and 18. The price differential critical to losing a sale was discussed during the hearing (Transcript at 30-34). Testimony in the previous investigation had referred to a two- to ten-cent range (CVD transcript at 41). New testimony cited a one- to two-cent range. Petitioner's representative argued that this new range did not contradict his previous testimony. In any event, he cited only one hypothetical case where a one-cent price difference might result in a loss of two-thirds of a purchaser's business. (Transcript at 10.)

B. Price Suppression

The seminal argument of petitioner is that French prices during some periods covered by this investigation did not increase as much as Hercules' prices. Petitioner also argues that margins of underselling would be larger and presumably more significant but for the suppressing effect of French prices.

Material injury, according to the statutory language regarding price suppression, 31/ is said to exist when

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. (Emphasis supplied.)

31/ U.S.C. 19 1677(7)(C)(ii)(II).

The instant case presents us with a situation where the domestic producer successfully implemented two major price increases. 32/ The first was followed by a French increase which was not as high as Hercules' increase. 33/ The second was not followed by a French increase, although SNPE claims it tried to raise prices but resistance by Fayette Chemical Corporation, distributor of the French imports ("Fayette") and its customers prevented its implementation until September 1982. 34/

SNPE argues that customer resistance and market forces are responsible for any price suppression experienced by Hercules. 35/ Customer resistance is substantiated as having affected the

32/ See Report at A-25, Table 15.

33/ See Report at A-25, Table 15.

34/ Final Countervailing Duty Transcript, 5/9/83 at 100-103.

35/ Specific market conditions cited by SNPE which were responsible for its pricing policies were: (1) a sharp decline in nitrocellulose consumption, and resulting nitrocellulose overcapacity; (2) financial constraints on purchasers of nitrocellulose; and (3) competition from third parties, especially the Japanese. See SNPE Post-Hearing Brief at 4.

pricing policies of both Hercules and SNPE. Both companies were unsuccessful in implementing price increases in early-1982. 36/

Besides customer resistance, Fayette also cites increasing competition from Japanese importers of nitrocellulose as a reason why price increases were resisted. 37/ It appears that

36/ Respondent's Post-Hearing brief at 4; customer letters, respondents' Pre-Conference brief, Appendix 2.

37/ Final CVD Transcript at 101-103. Petitioner rejects competition from Japanese sources as a valid argument as to why SNPE lowered its prices (Post-Hearing brief at 3). Hercules argues that the Japanese were only a factor on the West Coast, and that most competition between Hercules and French imports took place on the East Coast and the Midwest. However, the Commission has information documenting that the Japanese have been and will continue to be an important source of competition throughout the U.S. See Petitioner's Post-Hearing Submission of July 1, 1983, showing eight instances of Hercules meeting Japanese competition in locations other than the West Coast. Also see Transcript at 21 where Hercules admits that Japanese West Coast distributors have outlets in the East, and that Hercules has lowered their prices as a result of that competition. And see SNPE Post-Hearing Brief, 7/1/83, Appendix 4, where SNPE states in June 10, 1983 letter that new price cut is the consequence of Hercules low prices in response to Japan. Also, Staff investigations reveal that Japanese importers are planning distribution centers in the Midwest and are currently transporting nitrocellulose to the East Coast and Southern U.S. at no extra cost.

import volume from Japan is in fact increasing 38/ and that these prices have been lower than the domestic product during several quarters. 39/

Material injury due to price suppression can exist when price increases are prevented which otherwise would have occurred, and when prices are depressed by a significant amount. In this situation: (a) both the domestic industry and the importer increased prices by substantial margins, 40/ (b) the domestic industry appears at least on occasion to have been the price leader, (c) the

38/ Report at A-13, Table 6, especially January-March 1982 compared to January-March 1983, and customer reports to Staff investigator.

39/ Report at A-27, Table 17.

40/ See Report at A-25. The Commission has previously found, even when there were much more significant margins of underselling by the importer, that when there was no evidence that such underselling adversely affected prices of the domestic product, and when domestic prices increased at a higher rate than the price of imports, no price suppression exists. See Textiles and Textile Products of Cotton from Pakistan, 701-TA-62 and 63 (Final), USITC Pub. No. 1086, July 1980.

domestic industry achieved substantial increase in sales revenue as a result of price increases during much of the period under review, and (d) to the extent that the importer did not raise prices as much as Hercules, there is a strong likelihood that this was the result of competition from other foreign sources, a decline in nitrocellulose demand generally and the resulting increase in pricing leverage on the part of consumers.

Moreover, there appears to be a direct relationship between Hercules' capacity expansion and its pricing policies. On one occasion, Hercules did lower its price. 41/ However, this occurred several quarters after French imports had been priced slightly below those of Hercules. Specifically, French imports undersold Hercules' product from the last quarter of 1980 and throughout every quarter in 1981. 42/ Hercules did not lower its price until 1982, which was when Hercules began to feel the effects of its capacity expansion. In 1982,

41/ See Report at A-25 and A-29, Tables 15 and 18.

42/ Supra.

capacity utilization dropped significantly, 43/ production and total shipments declined, 44/ inventories increased, 45/ employment dropped 46/ and operating profits plummeted 47/ as a result of increased costs. 48/

C. Volume and Market Share of French Imports

The statute calls for an evaluation of both the price and volume effects of imports in a determination of material injury. The statute explicitly states, regarding volume, that material injury can exist when

the volume of imports, either in absolute terms or relative to production or consumption in the U.S. is significant. 49/ (Emphasis added.)

While the absolute volume of French imports has increased, it is not by a significant amount. More importantly, the recent trend is one of decline. Volume of French imports fell in 1982

43/ See Report at Table 2.

44/ See Report at Tables 3 and 4.

45/ See Report at A-12.

46/ See Report at Table 8.

47/ See Report at A-17 through A-20.

48/ See note 13, also supra.

49/ U.S.C. 19 1677(7)(C)(ii)(I).

when compared to 1981, and first-quarter 1983 imports are less than half of their amount in the first quarter of 1982. 50/

While it is true that imports of nitrocellulose from France captured an increasing share of a declining U.S. market during the 1979-1982 period, market share increased as a percent of U.S. consumption by less than 3 percentage points. First-quarter 1983 data show a decrease of more than 50 percent in market penetration from the corresponding period in 1982. 51/ Significantly, the SNPE market share is small when compared to the petitioner's market share of as much as 85 percent. Thus, the influence on Hercules of a temporary loss of a couple percentage points of market share to SNPE has much less significance than it would have, were the industry's share not so dominant.

D. Effect of LTFV Margins

Another way to examine the impact of the LTFV goods is to look at what might have occurred if the dumping duty had been in place. One might argue that if French market share declined as French prices went up, then the imposition of a dumping duty, in addition to the countervailing duty already in place

50/ See A-23, Table 14.

51/ See A-23 and market penetration figures on A-22.

would reduce the injury suffered by petitioner by enabling it to compete on a more equal footing.

The facts are, however, that since June 22, a CVD duty has been in place. SNPE has clearly been able to absorb this 3.604 percent duty and still meet the competition of Hercules and Japanese producers, as evidenced by its recent price cut to an amount competitive with Hercules. 52/ The exchange rate differential, which has been estimated to be between 15 and 40 percent over recent years 53/ clearly has had an impact on SNPE's competitive cost structure relative to Hercules. 54/ SNPE has passed little of this advantage through to consumers

52/ See Appendix 4 at A-42 of Respondent's Post-Hearing Brief, June 7, 1983 letter from SNPE to Fayette. SNPE states that the current strength of the U.S. dollar against the franc "provides an excellent opportunity" to meet the increased competition from Hercules and the Japanese.

53/ Report at A-26, A-27.

54/ Obviously, the exchange rate has no direct effect on costs denominated in francs. The exchange rate does, however, directly affect SNPE's costs when they are measured in U.S. dollars. It is, therefore, critical to any assessment of the relative competitive standing of SNPE and Hercules.

and distributors, and instead, absorbed it as profit. 55/
 Imposing an additional dumping duty of 1.38 percent ad valorem,
 on top of the 3.604 percent countervailing duty will have
 negligible or no impact on SNPE's pricing policies, given
 SNPE's remaining ability to absorb that amount.

IV. No Threat of Material Injury

Petitioner points to the recent price cut by SNPE as
 evidence of a real and imminent threat of future material
 injury to the industry. 56/

Economic Trends -- The legislative intent behind the
 Trade Agreements Act of 1979 57/ and Commission precedent 58/
 is clear regarding the standard by which the Commission
 evaluates threat of future material injury.

55/ Transcript at 107-09.

56/ Petitioners' Post-Hearing Brief at 10, Transcript at 12.

57/ The Trade Agreements Act of 1979 revoked the Antidumping
 Act of 1921 and replaced it with the statute under which this
 action is brought, Subtitle b, Title VII of the Tariff Act of
 1930.

58/ Steel Wire Strand for Processed Concrete from India, Inv.
 No. AA1921-182, USITC Pub. No. 906, 5 (1978) and other cases.
See General Counsel Memo GC-F-249, 7/30/82.

The Senate Committee on Finance described the standard in the following terms:

In determining whether an industry in the United States is threatened with material injury, the ITC will consider the likelihood of actual material injury occurring. It will consider any economic factors it deems relevant, and consider the existing and potential situation with respect to such factors. An ITC affirmative determination with respect to threat of injury must be based on information showing that the threat is real and injury is imminent, not a mere supposition or conjecture. 59/
(Emphasis added.)

Demonstrable trends related to the importer indicate there is no threat to the domestic industry: SNPE does not have the capacity to threaten Hercules. Capacity utilization is currently at a very high rate, and inventories are down in 1982. 60/ No expansion plans exist to the knowledge of the Commission. Production is similarly in decline. 61/ Market

59/ Senate Report No. 96-249, 96th Cong., 1st Sess., 1 (1979) at 88-89. See also *Alberta Gas Chemicals, Inc. v. United States*, 515 F. Supp. 780, May 28, 1981, where the Court of International Trade reversed a Commission finding of threatened injury when this standard was not met.

60/ See Report at A-12, A-8.

61/ *Supra*.

penetration is in decline. 62/ Volume of French imports of nitrocellulose fell in 1982 compared to 1981. First quarter 1983 imports are less than half as much as first quarter 1982 imports. 63/ Margins of underselling have disappeared and have been replaced by large margins of overselling in the last two quarters. 64/ Marketing plans and confidential SNPE figures show that the U.S. market as a percent of total sales is in decline. Exports to four out of seven of SNPE's foreign markets besides the U.S. have increased when first quarter 1983 data is compared to the first quarter of 1982. 65/ These markets enjoy an exchange rate advantage similar to the U.S market. 66/ Additional exports to the U.S. are also unlikely in the imminent future because the vast majority of SNPE production for export is committed under contractual agreements to existing customers. 67/

62/ See Report at A-23.

63/ Report at A-23.

64/ See Report at A-25.

65/ Respondents' Confidential Post-Hearing Submission, 7/13/83.

66/ See CVD Transcript at 125.

67/ Conversation between staff investigators and respondent, 7/19/83.

Basic economic trends, such as an upturn in economic activity generally and signs of recovery in the furniture and paint industries would suggest that the future market for nitroceullulose may be larger. Hercules' capacity expansion could in fact be strategically advantageous in the long term. Petitioner's expanded capacity, coupled with its already very substantial market share, do not denote a vulnerable industry.

The New French Price -- A close examination of the price cut shows that (a) in some geographic areas, last quarter's prices of the domestic product are still higher than that of the French, (b) in the remaining geographic areas the French price is extremely close to that of Hercules, and may in fact be the same or higher. ^{68/} The Commission has no information before it regarding Hercules' second quarter, 1983, prices. The Commission does not know whether Hercules' prices in the next quarter will be the same, lower, or higher than the French price. Moreover, should Hercules' prices remain the same, this first quarter 1983 price is rounded to the nearest cent in the Commission Report, and could conceivably be the same price as the French, with no resulting margin of underselling or injury. The margins, if any, are still insignificant: hence for all three reasons injury to the domestic industry is not imminent.

^{68/} See Respondent's Post-Hearing brief at Appendix 4, especially A-4-5 and A-4-6. Compare to Table 15 in Report at A-25.

E. Conclusion

My analysis of the price and volume effects of French imports on the domestic industry, including margins of underselling, price suppression, lost sales and market share of French imports establishes that: French imports have been marketed to meet Hercules' competition; French imports have not significantly depressed or suppressed U.S. prices; U.S. customers have significant non-price reasons for purchasing abroad; and the LTFV margins have played no material role in creating any problems faced by the U.S. industry. Additionally, a depreciation of the franc relative to the U.S. dollar has allowed the importer great flexibility in meeting domestic competition. Finally, the costs of the Hercules expansion limited the U.S. industry's price flexibility. These facts -- not sales at less than fair value -- have enabled the French to meet Hercules' competition. Title VII does not provide remedies for injury unrelated to unfair trade practices.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

Following a final determination by the U.S. Department of Commerce that imports from France of industrial nitrocellulose 1/ are being sold in the United States at less than fair value (LTFV) within the meaning of the antidumping law, the U.S. International Trade Commission instituted investigation No. 731-TA-96 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether 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. Notice of the institution of the Commission's final investigation and of the 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, D.C., and by publishing the notice in the Federal Register on May 25, 1983 (48 F.R. 23490). 2/ The hearing was held in Washington, D.C., on June 27, 1983.

The Department of Commerce notified the Commission of its final determination as to the question of LTFV sales in this investigation on May 10, 1983. 3/ The applicable statute directs that the Commission make its final injury determination within 75 days after notification by Commerce, or by July 25, 1983.

Background

On July 2, 1982, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of Hercules, Inc., Wilmington, Del., alleging that industrial nitrocellulose from France is being sold in the United States at LTFV. The Commission therefore instituted a preliminary antidumping duty investigation to determine whether there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of such imports. On August 16, 1982, the Commission determined, on the basis of the record 4/ developed during the course of that preliminary investigation, that there was such a reasonable indication of material injury (47 F.R. 37314, Aug. 25, 1982).

On December 23, 1982, Commerce made a negative preliminary dumping determination concerning industrial nitrocellulose from France (47 F.R. 57308, Dec. 23, 1982). After further investigation, however, Commerce issued an affirmative final determination in the case on May 10, 1983. Most final

1/ Industrial nitrocellulose is provided for in item 445.25 of the Tariff Schedules of the United States (TSUS).

2/ A copy of the Commission's notice is presented in app. A.

3/ A copy of Commerce's final determination, as published in the Federal Register on May, 13, 1983 (48 F.R. 21615), is presented in app. B.

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

antidumping duty investigations conducted by the Commission begin at the time of an affirmative preliminary determination by Commerce, and last 120 days. Because Commerce's preliminary determination was negative in this case, the Commission did not institute its final investigation until Commerce made its affirmative final determination, and the length of the case will be 75 days rather than 120 (see 19 U.S.C. §§ 1673d(b)(3) and 1573d(b)(3)).

Other Commission Investigation Concerning Industrial Nitrocellulose

The Commission has conducted one prior investigation concerning industrial nitrocellulose from France. On September 14, 1982, another petition was filed on behalf of Hercules, Inc., this one alleging that firms in France receive, directly or indirectly, bounties or grants on the production and/or exportation of industrial nitrocellulose within the meaning of the U.S. countervailing duty laws. On October 29, 1982, the Commission made an affirmative preliminary determination in that investigation (No. 701-TA-190 (Preliminary)) (47 F.R. 51024, Nov. 10, 1982).

On December 22, 1982, the Department of Commerce made a negative preliminary subsidy determination concerning industrial nitrocellulose from France (47 F.R. 58330, Dec. 30, 1982). In its final determination, however, Commerce found that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to Societe Nationale des Poudres et Explosifs (SNPE), 1/ a producer and exporter in France of industrial nitrocellulose (48 F.R. 11971, Mar. 22, 1983). 2/ Therefore, the Commission conducted a final injury investigation and, on June 6, 1983, transmitted its determination to the Secretary of Commerce that, on the basis of the record developed in investigation No. 701-TA-190 (Final), an industry in the United States is materially injured by reason of subsidized imports of industrial nitrocellulose from France.

Nature and Extent of Sales at LTFV

On the basis of comparisons between the U.S. price and the foreign market value of industrial nitrocellulose imported from France, Commerce found an overall weighted-average LTFV margin of 1.38 percent (see app. B).

The Product

Description and uses

The imported product which is the subject of this investigation is soluble industrial nitrocellulose (also known as cellulose nitrate). SNPE is the only producer of such nitrocellulose in France, and Hercules is the only U.S. producer.

^{1/} SNPE is a Government-owned company, created by the French Government in 1971.

^{2/} The estimated net subsidy was found to be 3.60 percent ad valorem.

Soluble industrial nitrocellulose (hereinafter referred to as nitrocellulose) is a white, amorphous, plastics material prepared commercially by reacting cellulose, from cotton linters or wood pulp, with an aqueous mixture of nitric acid and sulfuric acid. ^{1/} In the Hercules process, the cellulose and mixed nitrating acids are fed continuously and simultaneously into a vessel, where nitration of the cellulose takes place. After nitration, the slurry of nitrocellulose and spent acid is passed into a centrifuge, which removes the spent acids and water. After removal from the centrifuge, the product is boiled for stability and fed into a continuous digester for proper molecular weight control. Upon completion of the boiling and digesting procedure, the water-wet nitrocellulose is charged into hydraulic presses that compress it into a cylindrical block and remove the water (dehydration) and replace it with alcohol (ethyl, isopropyl, or n-butyl alcohol). The cylindrical alcohol-wet nitrocellulose block is then granulated and packaged into steel drums for shipment. A flow chart of Hercules' production process is presented in the following figure.

Nitrocellulose: Hercules' production process

* * * * * * *

Since it is hazardous to ship or store nitrocellulose in the dry form because of its flammable and even explosive nature, it is usually shipped or stored wet with 30 percent or more alcohol, as required by the U.S. Department of Transportation. The specific alcohol used to wet the nitrocellulose may vary, and, depending on customers' requirements, water, plastic, or other wetting agents may be used instead of alcohol.

Nitrocellulose is used principally in the manufacture of fast-drying, durable, lacquer coatings. These nitrocellulose lacquers provide a high-

^{1/} There is another, quite different type of nitrocellulose known as smokeless nitrocellulose, or guncotton. Smokeless nitrocellulose is used in explosives and is generally more viscous and higher in nitrogen content (12.6 to 13.4 percent compared with 10.8 to 12.2 percent) than is industrial nitrocellulose. Both the industrial and explosive nitrocellulose are produced in similar equipment up through the nitration step. Beyond nitration, however, the facilities for industrial and explosive nitrocellulose are distinct. Smokeless nitrocellulose is not included within the scope of this investigation.

There is installed explosive nitrocellulose production capacity at five U.S. facilities, located in Holstein, Tenn.; Indiana Army Ammunition plant, Ind.; Parlin, N.J.; Radford, Va.; and Sun Flower, Kans. The facility at Radford, Va., is one of only two now operational. It is a Government-owned facility which is operated under contract by Hercules. Hercules produces explosive nitrocellulose for civilian and commercial use at its plant in Parlin, N.J.

luster shine to the coated articles. For over 60 years, nitrocellulose lacquers have been used by the furniture industry because of their ease of application, fast drying, and ease of repairability.

Both imported and domestic nitrocellulose are available in the following commercial grades:

<u>Product</u>	<u>Nitrogen content</u> (percent)
SS-type -----	10.8-11.2
AS-type -----	11.3-11.7
RS-type -----	11.8-12.2

The RS-type nitrocellulose accounts for approximately *** percent of domestic production of nitrocellulose and the vast majority of the imports of nitrocellulose from France. 1/ The compatibility of RS-type nitrocellulose with many synthetic resins accounts for its widespread use in the production of lacquer coatings. According to both Hercules and SNPE's exclusive U.S. agent, Fayette Chemical Corp., the domestic and imported RS-type nitrocellulose are commercially interchangeable with each other.

AS-type nitrocellulose is soluble in the same solvents as RS-type nitrocellulose, but tolerates higher proportions of alcohols in the solvent blend. SS-type nitrocellulose is preferred in rotogravure and flexographic inks due to its solubility in solvent systems with high alcohol contents.

U.S. tariff treatment

Nitrocellulose of the type subject to this investigation is classified in the TSUS under the residual or "basket" category for synthetic cellulosic plastics materials other than cellulose acetate, TSUS item 445.25. 2/ The rates of duty applicable to nitrocellulose entered under TSUS item 445.25 are 6.8 percent ad valorem (col. 1) 3/ and 34.5 percent ad valorem (col. 2). 4/ The current column 1 rate became effective on January 1, 1983, and is the fourth of eight stages of annual rate reductions resulting from concessions granted by the United States in the Tokyo round of the Multilateral Trade

1/ RS-type nitrocellulose accounted for *** percent of total imports from France in 1982.

2/ The smokeless type of nitrocellulose is classified under TSUS item 485.30, smokeless powders.

3/ The rates of duty in col. 1 are most-favored-nation rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" column.

4/ The rates of duty in col. 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. _{A-4}

Negotiations (MTN) under the General Agreement on Tariffs and Trade (GATT). The final (eighth) stage will result in a duty of 5.2 percent ad valorem in 1987. Imports of nitrocellulose under TSUS item 445.25, if entered from least developing countries (LDDC's), 1/ are dutiable at 5.2 percent ad valorem; however, there have been no known imports of nitrocellulose from developing LDDC's in recent years. Imports of nitrocellulose under TSUS item 445.25 from all designated beneficiary countries are eligible for duty-free entry under the Generalized System of Preferences (GSP). 2/

The following table shows the pre-MTN rate and staged-rate modifications for item 445.25.

Table 1.--Cellulosic plastics materials other than cellulose acetate: Pre-MTN rate of duty and staged rate-of-duty modifications, 1980-87

TSUS item No.	Pre-MTN col. 1 rate of duty <u>1/</u>	Rates of duty <u>2/</u> effective with respect to articles entered on and after Jan. 1--								
		1980 <u>3/</u>	1981	1982	1983	1984	1985	1986	1987	
445.25	9.7¢ per lb	7.9%	7.5%	7.1%	6.8%	6.4%	6.0%	5.6%	5.2%	
	(8.3% ad									
	valorem <u>4/</u>)									

1/ Rate effective prior to July 1, 1980.

2/ The symbol "%" indicates "percent ad valorem."

3/ The first rate reduction became effective July 1, 1980.

4/ Represents the ad valorem equivalent rate of duty of the specific pre-MTN col. 1 rate. Staged reductions were based on this figure.

U.S. Market and Channels of Distribution

As mentioned earlier, nitrocellulose is used principally in the manufacture of lacquer coatings. Industry sources report the following end uses and approximate 1982 market shares for nitrocellulose lacquers:

1/ 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 least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for an item, the rate of duty in col. 1 applies.

2/ 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 by 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>End use</u>	<u>Percentage distribution of market share</u>
Furniture and wood products-----	35
Flexographic inks-----	10
Rotogravure inks-----	10
Automotive refinishing-----	10
Cellophane coating-----	5
Fingernail polish-----	5
Leather coating-----	5
Miscellaneous applications-----	20
Total-----	100

In the past few years the demand for nitrocellulose by the furniture industry has been shrinking due to the increased use of molded plastic components instead of natural wood in furniture manufacturing. Such components do not use nitrocellulose lacquer finishes. In addition, other market changes have affected the demand for nitrocellulose by the furniture industry. Homebuilders have reduced new home square footage in order to provide more affordable housing. Consequently, household furniture is gradually being downsized to accommodate this trend toward dwellings with decreased living space. The escalated cost of housing, automobiles, and other major items has forced consumers to allocate a smaller share of their discretionary income to purchases of new furniture and to hold on to what they've got longer.

According to Hercules, all of its nitrocellulose sales go to end-use customers. Similarly, Fayette, the primary importer of French nitrocellulose, reports sales to end users only.

All nitrocellulose is shipped wet, usually in a mixture containing 70 percent dry weight nitrocellulose and 30 percent alcohol/water. U.S.-produced nitrocellulose is packed in 55-gallon open-head steel drums. These zinc-coated steel drums are returnable and, upon reconditioning, can be reused for 5 to 20 trips. The cost of packaging the nitrocellulose in this method is estimated to be *** to *** cents per wet pound.

French-produced nitrocellulose is packed in a polyethylene conductive bag placed inside a 217-liter (57-gallon) fiber drum, with a weatherproof plastic outer layer. Fayette did not estimate the cost of packaging in this manner, but indicated that the fiber container is cheaper than a steel container, even when the steel container is used on a returnable basis.

U.S. Producers

Since 1978, Hercules has been the only U.S. producer of nitrocellulose. It has produced nitrocellulose at a plant in Parlin, N.J., for over 60 years. The firm is a multinational corporation with 80 production plants in the United States and various parts of the world. In 1981, the company had approximately 23,000 employees and sales of approximately \$2.7 billion.

Hercules has historically specialized in the production of chemicals, but in recent years has increasingly diversified its product line into other areas.

Prior to 1978, E.I. du Pont de Nemours & Co., of Wilmington, Del., produced nitrocellulose at a plant in Carney's Point, N.J. On July 19, 1977, Du Pont announced to its customers that it was phasing out the sale of industrial nitrocellulose by December 30, 1977. The reason Du Pont discontinued producing nitrocellulose was the company's view that capital expenditures to modernize its production plant and meet environmental regulations were not justified because the nitrocellulose market would continue to shrink in future years. ^{1/} According to industry sources, Du Pont held approximately *** percent of the U.S. nitrocellulose market in 1977. Hercules controlled the other *** percent, as imports were nonexistent in the U.S. market at the time.

U.S. Importers and Foreign Producers

After Du Pont left the U.S. market in 1977, there was a shortage of nitrocellulose. Purchasers were put on allocation by Hercules, and many started to use imported nitrocellulose to replace the Du Pont product. Hercules, to alleviate the nitrocellulose shortage, joined with several purchasers of the product and requested that Congress temporarily suspend the duties on imported nitrocellulose until Hercules' nitrocellulose production facilities could be expanded to meet the increase in demand. The duty, however, was never suspended.

In 1978 and 1979, imported nitrocellulose began to appear in the U.S. market. SNPE, the French producer, was the first large foreign supplier of nitrocellulose to the U.S. market, but German and Japanese producers soon followed.

In 1978, SNPE contracted with Fayette Chemical Corp., Woodridge, N.J., to be its exclusive agent in the United States. ^{2/} Fayette, along with Cellofilm of New Jersey, Cellofilm of Illinois, and Cellomer Corp., Newark, N.J., compose the chemical group of Polychrome Corp., Yonkers, N.Y. All of the companies composing the Polychrome chemical group are wholly owned subsidiaries of Polychrome. Polychrome is, in turn, a wholly owned subsidiary of DaiNippon Ink & Chemical Co. of America, New York, N.Y., which is owned by DaiNippon Ink of Japan. Fayette acts as an importer and broker for the other companies within the Polychrome chemical group.

The Cellofilm divisions of Polychrome are some of the largest users of nitrocellulose in the United States. To service them and other nitrocellulose customers, Fayette has warehouses in New Jersey and Chicago, Ill. Other large importers of nitrocellulose are as follows:

^{1/} A copy of Du Pont's announcement is set forth in app. C.

^{2/} *** other U.S. companies had previously signed contracts with SNPE in 1977, and SNPE reserved the right to continue to sell directly to these companies. However, only *** of these companies, ***, *** still supplied directly by SNPE.

<u>Importer</u>	<u>Source</u>
E.T. Horn Co., LaMirada, Calif.	Japan
Toyomenka America, Inc., San Francisco, Calif.	Japan
Scholle Chemical Co., Chicago, Ill.	France, West Germany

The industrial nitrocellulose imported from Japan is produced primarily by Asahi Chemical Industry, Ltd., Tokyo, Japan, ***. West Germany's largest exporter of industrial nitrocellulose to the United States is ***.

Consideration of Material Injury

U.S. production, capacity, and capacity utilization

Hercules' total nitrocellulose production declined by *** percent between 1979 and 1982, from *** pounds to *** pounds. Total production remained unchanged at *** pounds in January-March 1983, when compared with that in the corresponding period of 1982 (table 2). During the period under investigation, Hercules, in response to the nitrocellulose shortage created by Du Pont's exit, increased its capacity from *** pounds in 1979 1/ to *** pounds. This expansion of capacity was completed in 1980 and represents a ***-percent increase from the capacity Hercules maintained in 1979. Hercules' annual nitrocellulose capacity remains at *** pounds in 1983. Its capacity

Table 2.--Nitrocellulose: U.S. production, capacity, and capacity utilization, 1979-82, January-March 1982, and January-March 1983

Period	Production	Capacity	Capacity utilization
	-----1,000 wet pounds-----		Percent
1979-----	***	***	***
1980-----	***	***	***
1981-----	***	***	***
1982-----	***	***	***
January-March <u>1/</u> -----			
1982-----	***	***	***
1983-----	***	***	***

1/ Quarterly production data represent estimates provided by Hercules.

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

1/ Hercules' capacity was also *** pounds in 1977 and 1978.

utilization rate, however, declined each year during 1979-82, from the high of *** percent in 1979 to *** percent in 1982. In January-March 1983, Hercules' capacity utilization rate remained unchanged at *** percent, when compared with its utilization rate in January-March 1982.

At the public hearing held in connection with the countervailing duty investigation on May 9, 1983, and in their posthearing brief in that investigation, 1/ counsel for SNPE argued that Hercules made a strategic error in increasing its nitrocellulose capacity during a recession and at a time when excess capacity already existed worldwide. SNPE contends that this overexpansion has caused underutilization of Hercules' production facilities and the subsequent profit erosion.

The following tabulation shows the capacity utilization rate Hercules would have attained during January 1979-March 1983 had they not undertaken the expansion:

<u>Period</u>	<u>Production</u> <u>(1,000 wet</u> <u>pounds)</u>	<u>Capacity</u> <u>(1,000 wet</u> <u>pounds)</u>	<u>Capacity</u> <u>utilization</u> <u>(percent)</u>
1979-----	***	***	***
1980-----	***	***	***
1981-----	***	***	***
1982-----	***	***	***
January-March--			
1982-----	***	***	***
1983-----	***	***	***

Hercules, however, defended its decision to expand capacity at the hearing and in a posthearing submission. 2/ Testimony was heard from Coopers & Lybrand characterizing Hercules' decision to expand in 1978 as reasonable and based upon conservative market assumptions. In addition, Hercules presented an analysis it undertook in 1978 which examined the projected effect on cost of goods sold of the proposed capacity expansion. In this analysis they estimated the additional costs per pound that would be incurred from this capital investment if none of the added capacity was utilized as being *** cents per wet pound (total cost of production in January-March 1983 was estimated to be *** cents per wet pound).

Hercules' industrial nitrocellulose operation consists of the production of RS-, AS-, and SS-type nitrocellulose. However, as shown in table 3, the RS-type has accounted for about *** percent of Hercules' nitrocellulose production during the period under investigation.

1/ Transcript of the proceedings of the Commission's hearing in investigation No. 701-TA-190 (Final), pp. 80, 83-87; and posthearing brief filed in connection with that investigation on behalf of SNPE, p. 1.

2/ Transcript of the proceedings of the Commission's hearing in investigation No. 701-TA-190 (Final), pp. 22-29; and posthearing submission filed in connection with that investigation on behalf of Hercules, dated May 13, 1983.

Table 3.--Nitrocellulose: U.S. production, by grades,
1979-82 and January-March 1983

(In thousands of wet pounds)				
Period	RS	AS	SS	
1979-----	***	***	***	***
1980-----	***	***	***	***
1981-----	***	***	***	***
1982-----	***	***	***	***
1983 (January-March)-----	***	***	***	***

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

Domestic and export shipments

In terms of quantity, Hercules' domestic nitrocellulose shipments declined each year during the period under investigation, except for 1981. Such shipments fell from *** pounds in 1979 to *** pounds in 1980, or by *** percent. Domestic shipments increased by *** percent to *** pounds in 1981, before declining in 1982 to *** pounds, or by *** percent. In January-March 1983, domestic shipments declined by *** percent to *** pounds, compared with the *** pounds shipped in January-March 1982 (table 4).

Table 4.--Nitrocellulose: U.S. producer's domestic shipments, 1979-82,
January-March 1982, and January-March 1983

Period	Quantity	Value	Average unit value
	(1,000 wet pounds)	(1,000 dollars)	(Per wet pound)
1979-----	***	***	***
1980-----	***	***	***
1981-----	***	***	***
1982-----	***	***	***
January-March--			
1982-----	***	***	***
1983-----	***	***	***

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

The value of Hercules' domestic shipments of nitrocellulose rose by *** percent during 1979-81, from *** to ***, then declined by *** percent to *** in 1982. In January-March 1983, Hercules' domestic shipments were valued at ***.

The average unit value of Hercules' domestic shipments increased each year during the period under investigation, from *** per wet pound in 1979 to *** per wet pound in 1982.

Hercules' nitrocellulose exports increased sharply during 1979-81, rising by *** percent. However, export shipments by Hercules declined by *** percent in 1982, and by another *** percent in January-March 1983 compared with those reported in the corresponding period of 1982 (table 5). *** and *** are the largest foreign markets for U.S.-produced nitrocellulose.

Table 5.--Nitrocellulose: Domestic shipments, export shipments, and total commercial shipments, 1979-82, January-March 1982, and January-March 1983

(In thousands of wet pounds)					
Period	Domestic shipments	Export shipments	Total commercial shipments	Ratio of exports to commercial shipments	
					Percent
1979-----	***	***	***		***
1980-----	***	***	***		***
1981-----	***	***	***		***
1982-----	***	***	***		***
January-March--					
1982-----	***	***	***		***
1983-----	***	***	***		***

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

U.S. imports

Total U.S. imports of nitrocellulose increased from the 11.9 million wet pounds reported in 1979 and 1980 to 13.0 million wet pounds in 1981. In 1982, imports declined by 6 percent from the level reported in 1981; and then declined by another 26 percent in January-March 1983 compared with those in the corresponding period of 1982, as shown in the following tabulation (in millions of wet pounds):

<u>Period</u>	<u>Imports</u>
1979-----	11.9
1980-----	11.9
1981-----	13.0
1982-----	12.2
January-March--	
1982-----	3.5
1983-----	2.6

The two main sources of U.S. imports of nitrocellulose are France and Japan. Such imports from France declined from *** wet pounds in 1979 to *** wet pounds in 1980, but then increased by *** percent to *** wet pounds in 1981. Imports of nitrocellulose from France declined slightly to *** wet pounds in 1982, and continued to decline in January-March 1983 compared with those in the corresponding period of 1982 (table 6).

Imports from Japan increased from *** wet pounds in 1979 to *** wet pounds in 1980, but then declined to *** wet pounds in 1981 and *** wet pounds in 1982.

As shown in table 6, RS-type nitrocellulose accounted for approximately *** percent of all nitrocellulose imports in 1982. The AS-type has been imported only from West Germany.

U.S. inventories

Hercules' yearend inventories of nitrocellulose increased dramatically, from *** wet pounds in 1979 to *** wet pounds in 1980, and then nearly doubled to *** wet pounds in 1981. End-of-period inventories declined to *** wet pounds in 1982, and, as of March 31, 1983, inventories had fallen to *** wet pounds. The ratio of Hercules' inventories to sales followed a similar trend, increasing from *** percent in 1979 to *** percent in 1981, and then falling to *** percent in 1982, as shown in the following tabulation:

<u>Period</u>	<u>Inventories</u> <u>(1,000 wet pounds)</u>	<u>Ratio of inventories</u>
		<u>to sales</u> <u>(percent)</u>
1979-----	***	***
1980-----	***	***
1981-----	***	***
1982-----	***	***
January-March--		
1982-----	***	1/ ***
1983-----	***	<u>1</u> / ***

1/ Based on annualized total commercial shipments.

Table 6.--Nitrocellulose: U.S. imports for consumption, by sources and by types, 1979-82, January-March 1982, and January-March 1983

(In thousands of wet pounds)							
Source and type	1979	1980	1981	1982	January-March--		
					1982	1983	
France:							
RS-type-----	***	***	***	***	***	***	***
AS-type-----	***	***	***	***	***	***	***
SS-type-----	***	***	***	***	***	***	***
Subtotal-----	***	***	***	***	***	***	***
Japan:							
RS-type-----	***	***	***	***	***	***	***
AS-type-----	***	***	***	***	***	***	***
SS-type-----	***	***	***	***	***	***	***
Subtotal-----	***	***	***	***	***	***	***
West Germany:							
RS-type-----	***	***	***	***	***	***	***
AS-type-----	***	***	***	***	***	***	***
SS-type-----	***	***	***	***	***	***	***
Subtotal-----	***	***	***	***	***	***	***
Other countries:							
RS-type-----	***	***	***	***	***	***	***
AS-type-----	***	***	***	***	***	***	***
SS-type-----	***	***	***	***	***	***	***
Subtotal-----	***	***	***	***	***	***	***
Total, all sources:							
RS-type-----	***	***	***	***	***	***	***
AS-type-----	***	***	***	***	***	***	***
SS-type-----	***	***	***	***	***	***	***
Total-----	11,855	11,852	12,999	12,243	3,512	2,598	

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

Apparent U.S. consumption

Apparent U.S. consumption of nitrocellulose declined by *** percent from *** wet pounds in 1979 to *** wet pounds in 1980. In 1981, apparent consumption rebounded to *** wet pounds, but was still *** percent below the 1979 level. However, in 1982, apparent consumption fell by *** percent from that reported in 1981, as shown in table 7.

As mentioned earlier, the largest single end use for industrial nitrocellulose is in the manufacture of lacquers used in the furniture and wood-products industry. Expenditures on furniture are closely related to home sales and new residential construction activity. The general decline in the housing market during 1980-82, with fewer starts and decreased sales coupled with a record decline in the number of households changing residence, has

Table 7.--Nitrocellulose: U.S. producer's domestic shipments, imports for consumption, and apparent U.S. consumption, 1979-82, January-March 1982, and January-March 1983

Period	Domestic shipments	Total imports	Apparent U.S. consumption
-----1,000 wet pounds-----			
1979-----	***	11,855	***
1980-----	***	11,852	***
1981-----	***	12,999	***
1982-----	***	12,243	***
January-March--			
1982-----	***	3,512	***
1983-----	***	2,598	***

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

adversely impacted sales of household furniture. 1/ Household-furniture shipments declined in 1980 and 1981, and continued downward in 1982 as the residential housing sector experienced its third year of decline. 2/ Furniture is a postponable expenditure which has been negatively affected by the high cost of borrowed money and a lack of consumer confidence due to the lingering recession.

Other end-use products manufactured with nitrocellulose are broadly used throughout the economy and, consequently, the recession that plagued the U.S. economy adversely affected the demand for nitrocellulose.

In 1976, the last full year of production by Du Pont, apparent U.S. consumption of nitrocellulose was estimated at *** wet pounds. Hercules supplied *** wet pounds in that year, and Du Pont supplied an estimated *** wet pounds. 3/

Employment and wages

Table 8 shows that the average total employment at Hercules' reporting U.S. establishment in which nitrocellulose is produced increased by *** percent during 1979-82, to a high of *** employees, and that the average number of production and related workers engaged in the production of all products increased by *** percent to *** workers. Conversely, the average number of production and related workers engaged in the production of nitrocellulose declined by *** percent during that same period. In January-

1/ See Supplement to Summary of Trade and Tariff Information on furniture, USITC Publication 841, Control No. 7-4-9 (Supp.), November 1982.

2/ U.S. Department of Commerce, U.S. Industrial Outlook 1983, pp. 42-48. A-14

3/ These data were supplied by Hercules and Du Pont.

Table 8.--Nitrocellulose: Average number of employees, total and production and related workers, and hours worked by the latter, 1979-82, January-March 1982, and January-March 1983

Item	1979	1980	1981	1982	January-March--	
					1982	1983
Average number of employees						
All persons-----	***	***	***	***	***	***
Production and related workers producing--						
All products-----	***	***	***	***	***	***
Nitrocellulose-----	***	***	***	***	***	***
Hours worked						
Production and related workers producing--						
All products----1,000 hours--	***	***	***	***	***	***
Nitrocellulose-----do----	***	***	***	***	***	***

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

March 1983, average total employment at Hercules' reporting establishment increased by *** percent when compared with that in the corresponding period of 1982, and the average number of workers engaged in the production of nitrocellulose declined slightly.

The number of hours worked by production and related workers engaged in the production of all products increased by *** percent between 1979 and 1981, then fell by *** percent in 1982. Hours worked by production and related workers producing nitrocellulose increased by *** percent between 1979 and 1981, before declining by *** percent in 1982. In January-March 1983, hours worked by all production and related workers increased by *** percent; hours worked by those workers producing nitrocellulose declined by *** percent, compared with data for the corresponding period of 1982.

Wages paid to production and related workers making nitrocellulose increased from *** in 1979 to *** in 1981. Wages paid during 1982 were ***, which represented a ***-percent decline from those paid during 1981.

The following tabulation, which is based on data submitted in response to the Commission's questionnaire, shows average hourly wages paid to production and related workers employed at Hercules' reporting establishment:

Average hourly wages paid to production
and related workers engaged in the
production of--

	<u>All products</u>	<u>Nitrocellulose</u>
1980-----	***	***
1981-----	***	***
1982-----	***	***

The tabulation shows that in all periods the average hourly wages paid to production and related workers producing nitrocellulose were lower than the average hourly wages paid to production and related workers engaged in the production of all products. Average hourly wages paid to the former workers increased by *** percent in 1981 and by *** percent in 1982.

Labor productivity, measured in wet pounds per hour worked, declined by *** percent from 1979 to 1981, and then increased by *** percent in 1982 (table 9). The decline in hourly compensation in 1980 was reportedly due to a greater number of hours paid at overtime rates in 1979. For 1979-82, hourly compensation increased a total of *** percent. Unit labor costs increased continuously throughout the period, from *** cents per wet pound in 1979 to *** cents in 1982, or by *** percent.

Table 9.--Nitrocellulose: Labor productivity, hourly compensation,
and unit labor costs, 1979-82

Item	:	1979	:	1980	:	1981	:	1982
Labor productivity:	:	:	:	:	:	:	:	:
Quantity-----wet pounds per hour--:	:	***	:	***	:	***	:	***
Percentage change-----:	:	***	:	***	:	***	:	***
Hourly compensation:	:	:	:	:	:	:	:	:
Value-----dollars per hour--:	:	***	:	***	:	***	:	***
Percentage change-----:	:	***	:	***	:	***	:	***
Unit labor costs:	:	:	:	:	:	:	:	:
Value-----cents per wet pound--:	:	***	:	***	:	***	:	***
Percentage change-----:	:	***	:	***	:	***	:	***

1/ Not available.

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

All the production workers at the Parlin, N.J., facility are covered by collective bargaining agreements, with the majority represented by the International Chemical Workers Union (ICW). Labor and management have maintained a relatively harmonious relationship over the years, with no

workstoppages since the early sixties. The ICW advised the Commission 1/ of its concern about the decline in employment, noting that it supports the Hercules petition in this investigation.

Financial experience of Hercules, Inc.

Financial data received from Hercules on its nitrocellulose operations are presented in table 10. Hercules' net sales of nitrocellulose ***. The quantity of sales ***. In 1982, net sales ***. ***.

* * * * *

Hercules *** reported interest expenses shown in the following tabulation ***.

Hercules' reported interest expenses	:	1979	:	1980	:	1981	:	1982
For working capital----1,000 dollars--:	:	***	:	***	:	***	:	***
For capital investment-----do-----:	:	***	:	***	:	***	:	***
Total-----do-----:	:	***	:	***	:	***	:	***

* * * * *

Investment in productive facilities employed in the manufacture of all nitrocellulose (i.e., including smokeless nitrocellulose), valued at original cost, ***. ***.

According to Hercules, its expansion of capacity for nitrocellulose production was authorized in August of 1978 for an original estimated cost of ***. The actual cost for the expansion was ***, incurred mainly during 1979 and 1980.

The ratios of operating profit to original cost, book value, and replacement cost of fixed assets are also presented in table 10. The return on fixed assets based on each of these three methods of valuation followed the same trend as did the ratio of operating profit to net sales.

In response to a request from the Commission, Hercules also provided estimates of financial data for its nitrocellulose operations on the assumption that its 1979-80 capacity expansion had not occurred (table 11). These data show ***. ***.

The tabulation on page A-20 presents a calculation of the additional costs and expenses related to Hercules' capacity expansion on a per pound basis during 1980-82, January-March 1982, and January-March 1983.

1/ Letter dated July 22, 1982, from the International Chemical Workers Union.

Table 10.--Selected financial data for Hercules, Inc., on its nitrocellulose operations, 1979-82, January-March 1982, and January-March 1983

Item	1979	1980	1981	1982	January-March--	
					1982	1983
Net sales-----1,000 dollars--:	***	***	***	***	***	***
Cost of goods sold-----do-----:	***	***	***	***	***	***
Gross profit or (loss)--do-----:	***	***	***	***	***	***
General, selling, and admin- istrative expenses	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Operating profit or (loss)	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Depreciation and amortization	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Cash flow from operations <u>1/</u>	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Ratio of operating profit or (loss) to net sales	:	:	:	:	:	:
percent--:	***	***	***	***	***	***
Fixed assets employed in the production of nitrocel- lulose: <u>2/</u>	:	:	:	:	:	:
Original cost	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Book value-----do-----:	***	***	***	***	***	***
Replacement cost-----do-----:	***	***	***	***	***	***
Ratio of operating profit or (loss) to--	:	:	:	:	:	:
Original cost of fixed assets-----percent--:	***	***	***	***	***	***
Book value of fixed assets percent--:	***	***	***	***	***	***
Replacement cost of fixed assets-----percent--:	***	***	***	***	***	***

1/ Defined as operating profit plus depreciation and amortization expense.

2/ Hercules reported that *** to *** percent of its total fixed assets employed in the production of nitrocellulose were used principally in the production of smokeless nitrocellulose for use in military applications.

3/ Not available.

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

Table 11.--Estimates of selected financial data for Hercules, Inc., on its nitrocellulose operations, assuming that the 1979-80 capacity expansion had not occurred, 1979-82, January-March 1982, and January-March, 1983

Item	1979	1980	1981	1982	January-March--	
					1982	1983
Net sales-----1,000 dollars--:	***	***	***	***	***	***
Cost of goods sold-----do-----:	***	***	***	***	***	***
Gross profit or (loss)--do-----:	***	***	***	***	***	***
General, selling, and administrative expenses	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Operating profit or (loss)	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Depreciation and amortization	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Cash flow from operations ^{1/}	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Ratio of operating profit or (loss) to net sales	:	:	:	:	:	:
percent--:	***	***	***	***	***	***
Fixed assets employed in the production of nitrocellulose: ^{2/}	:	:	:	:	:	:
Original cost	:	:	:	:	:	:
1,000 dollars--:	***	***	***	***	***	***
Book value-----do-----:	***	***	***	***	***	***
Replacement cost-----do-----:	***	***	***	***	***	***
Ratio of operating profit or (loss) to--	:	:	:	:	:	:
Original cost of fixed assets-----percent--:	***	***	***	***	***	***
Book value of fixed assets	:	:	:	:	:	:
percent--:	***	***	***	***	***	***
Replacement cost of fixed assets-----percent--:	***	***	***	***	***	***

^{1/} Defined as operating profit plus depreciation and amortization expense.

^{2/} Hercules reported that *** to *** percent of its total fixed assets employed in the production of nitrocellulose were used principally in the production of smokeless nitrocellulose for use in military applications.

^{3/} Not available.

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

Line No.	Item	1980	1981	1982	January-March--	
					1982	1983
1	Depreciation expense					
	1,000 dollars--	***	***	***	***	***
2	Administrative expense					
	1,000 dollars--	***	***	***	***	***
3	Subtotal-----do-----	***	***	***	***	***
4	Interest expense-----do-----	***	***	***	***	***
5	Total costs-----do-----	***	***	***	***	***
6	Total shipments					
	1,000 wet pounds--	***	***	***	***	***
7	Total costs per wet pound					
	(line 5 divided by					
	line 6)-----cents--	***	***	***	***	***
8	Costs excluding interest					
	expense per wet pound					
	(line 3 divided by line					
	6)-----cents--	***	***	***	***	***

Hercules also provided separate financial data on its sales and operating profits for its domestic and export operations on nitrocellulose. Such data are presented in the following tabulation:

Item	1979	1980	1981	1982
Domestic operations:				
Net sales-----1,000 dollars--	***	***	***	***
Operating profit or (loss)-----do-----	***	***	***	***
Ratio of operating profit or (loss)				
to net sales-----percent--	***	***	***	***
Export operations:				
Net sales-----1,000 dollars--	***	***	***	***
Operating profit or (loss)-----do-----	***	***	***	***
Ratio of operating profit or (loss)				
to net sales-----percent--	***	***	***	***

***. Exports of nitrocellulose by Hercules increased, in terms of quantity, by *** percent from 1979 to 1981. In 1982, export sales declined by *** percent ***.

Consideration of the Threat of Material Injury

Foreign capacity and production

SNPE's current maximum annual capacity to produce nitrocellulose is reported to be *** wet pounds (*** dry pounds). ^{1/} Details of SNPE's production process at their Bergerac plant are set forth in appendix D. SNPE's production of nitrocellulose increased from *** wet pounds in 1978 to *** wet pounds in 1979, and then declined to around *** wet pounds in 1980 and 1981. French production of nitrocellulose continued to decline in 1982, falling another *** percent from the previous year's level. In January-March 1983, SNPE's production decreased by *** percent from that in the corresponding period of 1982 (table 12). RS-type nitrocellulose accounted for *** percent of SNPE's production in 1981 (***).

Table 12.--Nitrocellulose: SNPE's production, by types,
1978-82, January-March 1982, and January-March 1983

(In thousands of wet pounds)								
Period	:	RS	:	AS	:	SS	:	Total
1978-----	:	***	:	***	:	***	:	***
1979-----	:	***	:	***	:	***	:	***
1980-----	:	***	:	***	:	***	:	***
1981-----	:	***	:	***	:	***	:	***
1982-----	:	***	:	***	:	***	:	***
January-March--	:		:		:		:	
1982-----	:	***	:	***	:	***	:	***
1983-----	:	***	:	***	:	***	:	***
	:		:		:		:	

Source: Confidential submission of SNPE.

Based on SNPE's maximum production capacity, the French producer experienced *** percent capacity utilization level in 1980 and 1981, and a *** percent level in 1982. In January-March 1983, SNPE operated its nitrocellulose production facility at *** percent capacity utilization level.

French domestic shipments and exports

As shown in table 13, SNPE's domestic shipments of nitrocellulose in France declined from *** wet pounds in 1979 to *** wet pounds in 1980, but then rebounded to *** wet pounds in 1981. In 1982, SNPE's domestic shipments declined once again, falling to the lowest level reported during the period under investigation. In January-March 1983, SNPE's domestic shipments decreased by *** percent from the level of its shipments in the corresponding period of 1982.

^{1/} Statement of Philippe Le Roy on behalf of SNPE at the conference held in connection with investigation No. 731-TA-96 (Preliminary) on July 27, 1982.

Table 13.--Nitrocellulose: SNPE's domestic shipments in France and export shipments, 1979-82, January-March 1982, and January-March 1983

(In thousands of wet pounds)						
Period	:	Domestic	:	Export	:	Total
	:	shipments	:	shipments	:	
	:		:		:	
1979-----	:	***	:	***	:	***
1980-----	:	***	:	***	:	***
1981-----	:	***	:	***	:	***
1982-----	:	***	:	***	:	***
January-March--	:		:		:	
1982-----	:	***	:	***	:	***
1983-----	:	***	:	***	:	***
	:		:		:	

Source: Confidential submission of SNPE.

During 1979-82, exports of nitrocellulose accounted for *** to *** percent of SNPE's total shipments. Besides the United States, SNPE's largest export markets for nitrocellulose were *** in 1982.

SNPE's yearend inventories of nitrocellulose declined irregularly from *** wet pounds in 1978 to *** wet pounds in 1981, and to *** wet pounds in 1982, as shown in the following tabulation:

		Quantity
		(1,000 wet pounds)
As of Dec. 31--		
1978-----		***
1979-----		***
1980-----		***
1981-----		***
1982-----		***

Consideration of the Causal Relationship Between LTFV Imports from France and the Alleged Injury

Market penetration of LTFV imports

U.S. imports of nitrocellulose from France captured an increasing share of a declining U.S. market during 1979-82. Such imports increased as a share of apparent U.S. consumption from *** percent in 1979 to *** percent in 1981, and to *** percent in 1982. In January-March 1983, French imports as a share of the U.S. market declined to *** percent, which represented a ***-percent decrease from the level reported in the corresponding period of 1982 (table 14). During the same period, total imports of nitrocellulose increased their share of the U.S. market from *** percent in 1979 to *** percent in 1982, and then fell to *** percent in January-March 1983.

Table 14.--Nitrocellulose: U.S. producer's domestic shipments, imports for consumption from France and from all countries, and apparent consumption, 1979-82, January-March 1982, and January-March 1983

Period	: Domestic : : shipments:	: Imports : : from : : France :	: All : : other : : imports :	: Total : : imports:	: Apparent : : consumption:	: Ratio of imports : : to consumption	: Total : : imports
	-----1,000 wet pounds-----					---Percent---	
1979-----	***	***	***	11,855	***	***	***
1980-----	***	***	***	11,852	***	***	***
1981-----	***	***	***	12,999	***	***	***
1982-----	***	***	***	12,243	***	***	***
Jan.-Mar--							
1982-----	***	***	***	3,512	***	***	***
1983-----	***	***	***	2,598	***	***	***

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

Purchasing patterns

Questionnaires were sent to 32 firms that were identified by Hercules and/or Fayette as purchasers of nitrocellulose during the period of January 1, 1980, to March 31, 1983. Responses were received from 26 of these firms, all of which were end users utilizing nitrocellulose in their manufacturing process. Each was asked to rate factors, on a scale of 1 (low) to 5 (high), that were important in its decision to purchase nitrocellulose from a particular supplier. Those factors rated as most important (rating of 5) are presented in the following tabulation:

<u>Factor</u>	<u>Number of times the factor was rated high</u>
Quality of product-----	20
Price-----	15
Delivery time-----	14
Availability of service-----	10
Alternative source of supply-----	5
Credit terms or limits-----	5
Packaging-----	4
Proximity of vendor firm-----	4

Twenty-two firms reported some purchases of French nitrocellulose. Each of these was asked to list, in order of importance, the factors that led to the decision to buy French nitrocellulose. The factors listed as most important are presented in the following tabulation:

<u>Factor</u>	<u>Number of times the factor was mentioned</u>
Alternative source of supply-----	8
Price-----	6
Availability of service-----	5
Credit terms or limits-----	2
Delivery time-----	2
Quality of product-----	2
French nitrocellulose specified by customer-----	1

Each firm was asked to identify any products it considered substitutable for nitrocellulose. Of the 26 firms responding, only 3 reported using any substitute. One of these firms used cellulose acetate propionate to replace nitrocellulose in certain ink processing. The other two firms mentioned cellulose acetate butyrate. The reported advantage to using this material was that it provided improved color retention and a decreased sensitivity with vinyl fabrics. This material reportedly faces a cost disadvantage with nitrocellulose and appears to be limited to specified applications.

Prices

Prices charged by the domestic producer and importers/distributors of RS-type nitrocellulose on sales to their largest customers were requested on an f.o.b. and delivered basis, by quarters, for the period from January 1980 through March 1983. RS-type nitrocellulose was selected for price comparisons since it accounts for at least *** percent of domestic production and imports from France.

Hercules provided both f.o.b. and delivered prices, but Fayette, which imports and distributes the French product, and Toyomenka, Inc., Mitsui, Inc., and Horn, Inc., which import and distribute the Japanese product, provided prices on an f.o.b. U.S. point-of-shipment basis only. Therefore, only f.o.b. prices of domestic and imported nitrocellulose (as provided by Hercules and Fayette) could be compared. Delivered price data, as provided by U.S. purchasers of nitrocellulose, are discussed in a subsequent section.

Trends in prices.-- Weighted-average domestic prices of nitrocellulose increased from *** cents to *** cents per wet pound during January 1980-March 1983, or by *** percent (table 15). These prices rose from *** cents per wet pound in January-March 1980 to *** cents per wet pound in April-June 1980, and then remained stable for four additional quarters before increasing to *** cents per wet pound during July-December 1981. Prices then declined to *** cents in January-March 1982, and remained at that level through January-March 1983.

The overall increase of *** percent in domestic prices during the period of investigation was larger than the increase in prices of related products. During this timespan, the Bureau of Labor Statistics' Index of prices of all paint material increased by an average of 15 percent.

Table 15.--Nitrocellulose: Domestic producer's and importer's weighted-average prices, f.o.b. U.S. point of shipment, and margins of underselling, by quarters, January 1980-March 1983

Period	Hercules' product	Imports from France	Imports margins of underselling
	---Cents per wet pound---		Percent
1980:			
January-March-----	***	***	***
April-June-----	***	***	***
July-September-----	***	***	***
October-December-----	***	***	***
1981:			
January-March-----	***	***	***
April-June-----	***	***	***
July-September-----	***	***	***
October-December-----	***	***	***
1982:			
January-March-----	***	***	***
April-June-----	***	***	***
July-September-----	***	***	***
October-December-----	***	***	***
1983:			
January-March-----	***	***	***

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

Note.--Prices were rounded to the nearest cent.

Prices of imported nitrocellulose from France increased less than prices of the domestic product during the period of investigation, rising from *** cents per wet pound in January-March 1980 to *** cents per wet pound in January-March 1983, or by *** percent. ^{1/} The smaller increase of *** percent in the prices of French-produced nitrocellulose relative to an increase of *** percent in prices of the domestic product between January 1980 and March 1983 may be partly a result of the continuing depreciation of the French franc during that period. The franc declined in nominal terms by 40 percent, in terms of the U.S. dollar, from January-March 1980 to January-March 1983. In real terms the franc decreased in value by 35 percent over the 1980-82 period, as French industrial prices increased by 28 percent relative to an increase in U.S. wholesale prices of 16 percent (table 16).

^{1/} Fayette has announced a price decrease effective July 1, 1983. SNPE and Fayette reportedly concluded that a price reduction was necessary at this time in order to remain competitive with nitrocellulose supplied by both Hercules and Japanese producers (see transcript of the hearing, pp. 104-105).

Table 16.--Indexes 1/ of exchange rates of the French franc relative to the U.S. dollar, by quarters, January 1980-March 1983

Period	Indexes of exchange rates of the French franc relative to the U.S. dollar 1/	
	Nominal	Real
1980:		
January-March-----	100.0	100.0
April-June-----	98.5	97.2
July-September-----	100.6	96.7
October-December-----	93.8	91.4
1981:		
January-March-----	85.4	82.0
April-June-----	76.7	75.1
July-September-----	71.4	72.4
October-December-----	73.4	76.0
1982:		
January-March-----	69.2	73.1
April-June-----	66.1	71.4
July-September-----	59.7	65.4
October-December-----	58.7	64.9
1983:		
January-March-----	60.2	2/
1/ January-March 1980=100.0.		
2/ Not available.		

Source: Compiled from official statistics of the International Monetary Fund.

Note.--The exchange-rate indexes are based on the value of the franc relative to the dollar. The real exchange rate was constructed by deflating changes in the nominal exchange rates by changes in industrial goods prices in France and wholesale prices in the United States.

The large decline in the value of the French franc in terms of the U.S. dollar may have given SNPE a comparative price advantage in the U.S. market, enabling it to reduce its dollar prices or keep these prices from rising as high as they might otherwise have done. It is possible, however, that the French producer did not pass through all, or even most, of the percentage depreciation because of an inability to increase its production appreciably in the short run. Both SNPE and Fayette reported to the Commission on several occasions that the French productive capacity for nitrocellulose is limited and cannot be expanded immediately. 1/ As a result, decreases in the dollar prices of French nitrocellulose sold in the United States would have probably decreased SNPE's total revenue in the U.S. market since it would not have been able to increase sales volume sufficiently to offset the drop in price.

1/ Transcript of the hearing, p. 103.

Fayette stated during the hearing that the weakness of the French franc did not affect its profit margins as much as it benefited SNPE because SNPE sets and controls the dollar prices of its nitrocellulose. Fayette reported that it charges a commission on its sales of nitrocellulose or adds a markup to SNPE's prices. Such commissions and markups have reportedly remained relatively constant, so that any increasing profits resulting from the franc depreciation accrued to SNPE. 1/

Margins of underselling.--A comparison of prices for domestic and imported (French) nitrocellulose indicates that underselling by imports occurred in 7 of 13 quarters compared. Margins of underselling ranged from *** to *** percent. Imports undersold the domestic product by *** percent in October-December 1980, by *** to *** percent during 1981, and by *** percent in April-September 1982. Domestic prices were lower than import prices by *** to *** percent during January-September 1980, by *** percent in October-December 1982, and by *** percent in January-March 1983.

Prices of imports from Japan.--Prices of imported nitrocellulose from Japan are shown in table 17. Prices charged by the three importers increased steadily from January-March 1980 through April-June 1982, then declined during the remainder of the period.

Table 17.--Nitrocellulose: Prices of imports from Japan, by quarters, January 1980-March 1983

Period	Mitsui, Inc.	Horn, Inc.	Toyomenka, Inc.
	Cents per pound		
1980:			
January-March-----	<u>1/</u>	***	***
April-June-----	<u>1/</u>	***	***
July-September-----	***	***	***
October-December-----	***	***	***
1981:			
January-March-----	***	***	***
April-June-----	<u>1/</u>	***	***
July-September-----	***	***	***
October-December-----	<u>1/</u>	***	***
1982:			
January-March-----	***	***	***
April-June-----	<u>1/</u>	***	***
July-September-----	<u>1/</u>	***	***
October-December-----	<u>1/</u>	***	***
1983:			
January-March-----	<u>1/</u>	***	***

1/ No data reported for this time period.

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

Mitsui's prices rose from *** cents per wet pound in July-September 1980 to *** cents in January-March 1982, or by *** percent. Horn's prices rose steadily from *** cents per wet pound in January-March 1980 to *** cents in April-June 1982, or by *** percent, then declined to around *** cents in October-December 1982. Toyomenka's prices rose steadily from *** cents per wet pound in January-March 1980 to *** cents in April-June 1982, then declined to *** cents per wet pound in July-September 1982.

Mitsui's prices were higher than domestic prices in the five periods in which prices were reported, by *** to *** cents per wet pound. Horn's prices were lower than domestic prices in one period only, July-September 1981, by *** cents per wet pound. Toyomenka's prices were consistently higher than domestic prices throughout the period of investigation, by *** to *** cents per wet pound. Prices of imports from Japan were lower than prices of imports from France during January-September 1980, by *** to *** cents. Prices of the Japanese products then increased and remained generally higher than prices of imports from France with the exception of October-December 1982 and January-March 1983, when prices of the French product were higher by *** to *** cents per wet pound.

Purchasers' prices.--In response to Commission questionnaires, 16 purchasers submitted comparable data on their "delivered" prices paid for their purchases of nitrocellulose from the domestic producer and Fayette (table 18). Their prices for the domestic product increased irregularly from *** cents per wet pound in January-March 1981 to *** cents per wet pound in January-March 1983, or by *** percent. In 1981, domestic prices increased from *** cents in January-March to *** cents per wet pound in July-December. In 1982, prices declined by *** cents in January-March to *** cents per wet pound, rose in July-September by *** cents to *** cents, but then declined to *** cents per wet pound in October-December. Prices rose slightly to *** cents in January-March 1983.

Import prices increased irregularly, from *** cents per wet pound in January-March 1981 to *** cents per wet pound in January-March 1983, or by *** percent. In 1981, import prices dropped from *** cents per wet pound in January-March to *** cents in April-June. Prices then rose during the remainder of the year, reaching *** cents per wet pound in October-December. In 1982, prices dropped during the first three quarters to *** cents per wet pound in July-September, and then rose to *** cents per wet pound in October-December 1982. In 1983, prices rose to *** cents per wet pound, or by *** cents. Purchasers' prices for imports were lower than domestic prices from April-June 1981 to October-December 1982, by margins ranging from *** to *** percent. In two periods--January-March 1981 and January-March 1983--import prices were higher than domestic prices, by *** and *** percent, respectively.

Three purchasers reported very limited price data on their purchases of nitrocellulose from Japan and West Germany. Two purchasers reported prices on imports from Japan. One reported a price of *** cents per wet pound for January-June 1981 and the other reported prices in January-March 1983 of *** cents per wet pound. One purchaser reported delivered annual average price data on imports from West Germany of *** cents per wet pound in 1981, *** cents per wet pound in 1982, and *** cents per wet pound in 1983.

Table 18.--Nitrocellulose: Purchasers' weighted-average delivered prices for the domestic and imported products, by quarters, January 1981-March 1983

Period	Hercules' product	Imports from France	Imports margins of underselling
	----Cents per wet pound----		Percent
1981:			
January-March-----	***	***	***
April-June-----	***	***	***
July-September-----	***	***	***
October-December-----	***	***	***
1982:			
January-March-----	***	***	***
April-June-----	***	***	***
July-September-----	***	***	***
October-December-----	***	***	***
1983:			
January-March-----	***	***	***

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

Lost sales

In response to the Commission's questionnaire, Hercules reported 31 instances during January 1982 through March 1983 where it allegedly lost sales to French nitrocellulose. These allegations involved 19 customers and a total of over *** wet pounds (valued at over ***) of nitrocellulose.

All 19 firms were contacted, and responses were received from 16. These 16 accounted for over 95 percent of the total lost sales alleged by the petitioner. Purchases by these firms of nitrocellulose produced by SNPE and by Hercules increased 16 percent in 1981, then declined 4 percent in 1982 (table 19). During 1980-82, SNPE's share of these sales increased each year, from 19 percent in 1980, to 23 percent in 1981, and to 28 percent in 1982. Consequently, Hercules saw its share decline repeatedly during this period.

A summary of the responses of each of these 16 firms is presented in the following sections. In addition, table 20 details the actual quantity bought by each firm and can be referred to as an aid in assessing the petitioner's lost sales allegations.

.--. 1/ Its purchases of nitrocellulose fluctuated slightly during 1980-82, but averaged *** wet pounds annually. During this period only Hercules and SNPE supplied nitrocellulose to ***. The petitioner alleged lost sales totaling *** wet pounds during January 1982-March 1983. Hercules's share of total nitrocellulose purchased by *** declined each year, from a high of 56 percent in 1980 to a low of 5 percent in 1982. Developing dual sources

1/ ***.

Table 19.--Nitrocellulose: Purchases by firms to which Hercules has allegedly lost sales, 1980-82, January-March 1982, and January-March 1983

Item	Purchases		
	French product	U.S. product	French and U.S. product
Quantity:			
1980-----1,000 wet pounds--	***	***	***
1981-----do-----	***	***	***
1982-----do-----	***	***	***
January-March--			
1982-----do-----	***	***	***
1983-----do-----	***	***	***
Share of purchases of French and U.S. products:			
1980-----percent--	18.7	81.3	100.0
1981-----do-----	22.9	77.1	100.0
1982-----do-----	28.1	71.9	100.0
January-March--			
1982-----do-----	35.2	64.8	100.0
1983-----do-----	21.7	78.3	100.0
Change in quantity:			
1980 to 1981--1,000 wet pounds--	***	***	***
1981 to 1982-----do-----	***	***	***
January-March 1982 to January-March 1983--1,000 wet pounds--	***	***	***

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

Table 20: Nitrocellulose: Alleged lost sales, January 1982 through March 1983, and purchases, 1980-82, January-March 1982, and January-March 1983, by firms

* * * * *

of supply was stated as the most important factor leading to sourcing from the French. Price, packaging, and quality of the French material were reported as additional factors influencing the decision to source from SNPE.

.--. This firm's purchases of nitrocellulose increased each year during 1980-82, averaging *** wet pounds per year. The petitioner alleged lost sales to the French totaling *** wet pounds during January 1982 through March 1983.

*** purchased nitrocellulose from four countries during January 1980-March 1983. The following tabulation shows the share of total purchases accounted for by each source (in percent).

<u>Source</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>January-March 1983</u>
U.S. produced-----	51	81	79	84
France-----	26	14	9	-
Japan-----	23	-	-	-
West Germany-----	-	5	12	16

SNPE's share of nitrocellulose purchased by *** declined throughout the period examined. ***.

.--. ***'s purchases of nitrocellulose fluctuated during 1980-82, but averaged *** wet pounds per year. The petitioner alleged lost sales totaling *** wet pounds during January 1982-March 1983.

*** sourced nitrocellulose from four countries during January 1980-March 1983. The following tabulation shows the share of total purchases accounted for by each source (in percent):

<u>Source</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>January-March 1983</u>
U.S. produced-----	73	79	79	88
France-----	13	8	5	2
Japan-----	14	12	10	6
Yugoslavia-----	0	1	6	4

*** stated that during the period after Du Pont's exit, Hercules could not supply all of its nitrocellulose requirements. Consequently, in order to secure material from other sources, long-term contracts had to be entered into. Even though these contracts ended in the third quarter of 1981, these suppliers were retained as secondary sources.

.--. This firm has reduced its purchases of nitrocellulose annually since 1980 to satisfy customer demand for water-type ink systems instead of solvent/nitrocellulose-type systems. ***'s total purchases of nitrocellulose declined *** percent during 1980-82, but averaged *** wet pounds per year. The petitioner alleged lost sales to this firm totaling *** wet pounds during January 1982-March 1983.

During 1980-82, Hercules' share of ***'s total purchases declined from 77 percent in 1980 to 16 percent in 1981. In 1982, as Hercules' price became more competitive as a result of discounting, its share rose to 42 percent. Fayette was the only other supplier of nitrocellulose to *** during this period. *** and *** were the primary reasons given for making the French the principal source of supply. Price, followed by quality, were stated as additional factors in this decision.

.--. Its purchases of nitrocellulose fluctuated sharply during 1980-82, but averaged *** wet pounds per year. The petitioner alleged lost sales to the French totaling *** wet pounds during January-September 1982.

*** purchased nitrocellulose from three sources during January 1980-March 1983, as shown below (in percent of ***'s total purchases):

<u>Source</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>January-March 1983</u>
U.S. produced-----	67	64	68	100
France-----	33	28	26	0
West Germany-----	0	8	6	0

Availability of material and price were stated as the most important factors influencing ***'s decision to buy French nitrocellulose.

.--. Its purchases of nitrocellulose increased each year during 1980-82, and on an annual basis averaged *** wet pounds.

The petitioner alleged lost sales of *** wet pounds to *** during January-September 1982. Hercules supplied all the nitrocellulose *** purchased in 1980. In 1981, Hercules' share dropped to 93 percent, and it fell further to 91 percent in 1982. Fayette supplied the remainder of this firm's nitrocellulose requirements in 1981 and 1982. The purchaser's primary motivation in sourcing from Fayette was to develop an alternative source of supply. Quality and price of the French nitrocellulose were mentioned as secondary factors in this decision.

.--. Its total purchases of nitrocellulose fluctuated during 1980-82, but averaged *** wet pounds per year. Alleged lost sales by the petitioner totaled *** wet pounds during January 1982 through March 1983.

*** purchased nitrocellulose from three sources during January 1980-March 1983. The following tabulation shows the share of total purchases each accounted for in the periods specified (in percent):

<u>Source</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>January-March 1983</u>
U.S. produced-----	50	23	17	37
France-----	5	34	44	34
Japan-----	46	43	39	29

Price was stated as the most important factor influencing ***'s decision to buy French nitrocellulose. Quality of the material and the French offer of extended price protection were also mentioned as influencing factors in its decision.

.--. Its nitrocellulose purchases fluctuated during 1980-82, but averaged *** wet pounds per year. The petitioner alleged lost sales equal to *** wet pounds during October 1982-March 1983.

During 1980-82, *** sourced exclusively from Hercules. In January-March 1983, *** reported that it had purchased *** wet pounds of French

nitrocellulose, representing 8 percent of its total requirements. Developing an alternative source of supply was stated as the most important factor leading to the decision to source from Fayette. The quality of the French nitrocellulose and its price were secondary considerations according to ***. *** also purchased nitrocellulose from West Germany, equal to 9 percent of its total purchases of nitrocellulose, in January-March 1983.

.--. ***'s purchases of nitrocellulose fluctuated during 1980-82, and averaged *** wet pounds annually. The petitioner alleged lost sales totaling *** wet pounds during January-September 1982.

Hercules' share of the total nitrocellulose purchased by *** fluctuated during the period covered in this investigation, rising from 72 percent in 1980 to 86 percent in 1981, and then falling to 70 percent in 1982. The French were the only other supplier of nitrocellulose to *** during this period. Listed in order of importance, the following four factors were stated as influencing its decision to source from Fayette: alternate source of supply, price, quality, and proximity of the vendor firm.

.--. This firm's need for nitrocellulose declined each year during 1980-82, but averaged *** wet pounds annually. The petitioner alleged lost sales equal to *** wet pounds during January-September 1982.

Hercules' share of ***'s total nitrocellulose purchases declined each year during 1980-82, from 100 percent in 1980, to 91 percent in 1981, and 83 percent in 1982. French nitrocellulose from Fayette once again was the only other source of this material. Developing an alternative source of supply was stated as the most important factor encouraging sourcing from Fayette. More favorable credit limits and price were stated as secondary considerations.

.--. This firm's purchases of nitrocellulose almost tripled during 1980-82. From the *** wet pounds purchased in 1980, *** increased purchases to *** pounds in 1982. The petitioner alleged lost sales totaling *** wet pounds during January 1982-March 1983.

Hercules' share of this firm's total nitrocellulose purchases remained steady at 92 percent for both 1980 and 1981, but fell to 76 percent in 1982. Since SNPE was the only other supplier, its share increased from 8 percent in 1980 and 1981 to 24 percent in 1982. Maintaining an alternative source of supply was listed as the most important factor influencing the decision to source from the French, followed by price and availability of service. In January-March 1983, Hercules' share rose to 85 percent and Fayette supplied the remainder.

.--. This firm's purchases of nitrocellulose fluctuated sharply during 1980-82, but averaged *** wet pounds annually. The petitioner alleged lost sales to the French totaling *** wet pounds during January 1982-March 1983.

Hercules supplied a decreasing share of ***'s total nitrocellulose purchases during January 1980-March 1983, as shown in the following tabulation (in percent of total purchases):

<u>Source</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>January-March 1983</u>
U.S. produced-----	93	80	63	83
France-----	5	18	28	8
West Germany-----	2	2	9	.9

Price was listed as the most important factor influencing ***'s decision to buy French nitrocellulose, with quality and packaging indicated as additional factors. *** also purchased nitrocellulose from West Germany. This material is composed of 82 percent nitrocellulose/18 percent plasticizer. Neither Hercules nor Fayette offers this alcohol-free nitrocellulose for sale in the United States at the present time.

.--. ***'s purchases of nitrocellulose increased each year during 1980-82, but averaged *** wet pounds per year. The petitioner alleged lost sales totaling *** pounds during January-September 1982.

Hercules supplied an increasing share of the nitrocellulose purchased by *** during 1980-82. From 67 percent in 1980, Hercules increased its share to 73 percent of the total in 1981 and 92 percent in 1982. The remaining shares were supplied by the French. In January-March 1983, *** sourced 100 percent of its nitrocellulose from Hercules. Price, followed by maintaining an alternate source of supply, were listed as the most important reasons for sourcing from Fayette.

.--. This firm's purchases of nitrocellulose fluctuated, but averaged *** wet pounds annually during 1980-82. The petitioner alleged lost sales to the French totaling *** wet pounds during January 1982-March 1983.

In 1980, *** sourced 89 percent of its nitrocellulose from Hercules. Hercules' share dropped sharply in 1981, falling to 32 percent, and by 1982 U.S.-produced nitrocellulose accounted for less than 2 percent of total purchases. During this same period, Fayette supplied an increasing share of ***'s nitrocellulose requirements. French-produced material accounted for 11 percent of this firm's nitrocellulose purchases in 1980, 68 percent in 1981, and over 98 percent in 1982. In January-March 1983, *** sourced solely from Fayette. In 1980, Hercules put this firm on a cash-on-delivery basis. Fayette offered more favorable credit terms, which led to an increasing share of this firm's business. Quality of product, alternative source of supply, and packaging method were also mentioned as factors influencing sourcing from Fayette.

.--. Total purchases of nitrocellulose by this company fluctuated sharply during 1980-82, but averaged *** wet pounds per year. The petitioner alleged lost sales to the French totaling *** wet pounds during January 1982-March 1983. Hercules and SNPE were ***'s only suppliers of nitrocellulose during January 1980-March 1983. From a high of 83 percent in 1980, Hercules' share declined to 57 percent in 1981, and 22 percent in 1982. Consequently, SNPE's share rose from 17 percent in 1980 to 78 percent in 1982. *** listed five factors, all equal in importance, which influenced its decision to purchase from SNPE. They were availability of service, delivery

time, quality of product, price, and credit terms. In January-March 1983, Hercules accounted for 39 percent of this firm's nitrocellulose requirements, and SNPE supplied 61 percent.

.--. This firm's purchases of nitrocellulose fluctuated during 1980-82, but averaged *** wet pounds annually. The petitioner alleged lost sales totaling *** wet pounds during January 1982-March 1983.

Hercules supplied 100 percent of the nitrocellulose *** purchased in 1980 and 1981. In 1982, Hercules' share dropped to 73 percent, with Fayette supplying the remaining 27 percent. Price was mentioned as the primary inducement to buying French nitrocellulose from Fayette. Quality of product, alternative source of supply, and delivery time were also cited as additional factors. In January-March 1983, ***'s only purchase of nitrocellulose was from ***.

Lost Revenues

The Commission asked Hercules to provide information citing instances where it had to reduce prices or rollback announced price increases so as to avoid losing sales to competitors selling nitrocellulose.

The petitioner provided 33 instances of alleged price suppression involving *** wet pounds of nitrocellulose during 1982 and January-March 1983. The effect of this price suppression, according to Hercules, translated into lost revenues of over ***. The Commission's staff was able to examine 28 of these allegations. While poundage and price figures detailed by Hercules did not always match, it was apparent from purchaser's questionnaires that Hercules did reduce delivered prices in 18 of these instances during the period under investigation.

Hercules increased its list price three times during May 1980-June 1982, for a combined increase of *** percent. Hercules did not announce any rollbacks of announced list prices as a response to French competition, instead choosing to confront any lower priced competition on a firm-to-firm basis.

APPENDIX A

NOTICE OF INVESTIGATION BY THE INTERNATIONAL TRADE COMMISSION
AND LIST OF WITNESSES APPEARING AT THE
COMMISSION'S HEARING

course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly less-than-fair-value imports of nitrocellulose from France. The preliminary investigation was instituted in response to a petition filed on July 2, 1982, by counsel for Hercules, Inc., Wilmington, Del.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 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 entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and address of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on June 10, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 24, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 9, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on June 13, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 21, 1983. Testimony at the public hearing is governed by § 207.23 of the

Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual material relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 30, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 21, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). 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 to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

[Investigation No. 731-TA-96; Final]

Nitrocellulose From France

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection therewith.

EFFECTIVE DATE: May 10, 1983.

SUMMARY: On May 10, 1983, the U.S. Department of Commerce made an affirmative final determination that imports from France of nitrocellulose; provided for in item 445.25 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). Accordingly, the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-96 (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 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. The Commission will make its final injury determination by July 25, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Rausch (202-523-0286), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On August 16, 1982, the Commission determined, on the basis of the information developed during the

Issued: May 19, 1983.

Kenneth R. Mason.

Secretary.

[FR Doc. 83-14080 Filed 5-24-83; 8:45 am]

BILLING CODE 7020-05-M

[Investigation No. 731-TA-96 (Final)]

Nitrocellulose From France

AGENCY: International Trade Commission.

ACTION: Change in the date for the hearing to be held in connection with the subject investigation.

EFFECTIVE DATE: June 15, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice that the date of the public hearing to be held in connection with the subject investigation is changed from June 24, 1983, to June 27, 1983. The hearing will begin at 10:00 a.m. on that date and will be held in the Commission's Hearing Room, located at 701 E Street, NW., Washington, D.C. Information concerning participation in the hearing is contained in the Commission's original notice of investigation (48 FR 23490, May 25, 1983).

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Supervisory Investigator (202-523-0242), Office of Investigations, U.S. International Trade Commission.

Issued: June 16, 1983.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 83-16771 Filed 6-21-83; 8:45 am]

BILLING CODE 7020-02-M

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Nitrocellulose from France

Inv. No. : 731-TA-96 (Final)

Date and time: June 27, 1983 - 10:00 a.m.

Sessions were held in connection with the investigation in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

In support of the imposition of antidumping duties:

Dow, Lohnes & Albertson--Counsel
Washington, D.C.
on behalf of

Hercules Incorporated

Edwin S. Moler, Director

Dr. Lucinda Lewis, Ph.D., Coopers & Lybrand

William Silverman)
Edward M. Lebow)--OF COUNSEL

In opposition to the imposition of antidumping duties:

Busby, Rehm and Leonard, P.C.--Counsel
Washington, D.C.
on behalf of

Société Nationale des Poudres et Explosifs (SNPE)

John G. Reilly, Principal, ICF Incorporated

Stanley P. Eysmann, President, Fayette
Chemical Corporation

Will E. Leonard)
Ruth H. Bale)--OF COUNSEL

APPENDIX B
COMMERCE'S FINAL DETERMINATION

Final Determination of Sales at Less Than Fair Value; Industrial Nitrocellulose From France

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: We have determined that industrial nitrocellulose from France is being sold in the United States at less than fair value. The U.S. International Trade Commission (ITC) will determine within 75 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. Industry.

EFFECTIVE DATE: May 13, 1983

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Stuart Keitz, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-3601/0171).

SUPPLEMENTARY INFORMATION:

Case History

On July 2, 1982, we received a petition from Hercules Incorporated (Hercules) of Wilmington, Delaware, the only domestic producer of industrial nitrocellulose. The petition alleged that industrial nitrocellulose from France is being, or is likely to be, sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry. The petitioner also alleged sales in the home market at prices below the cost of production. After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on July 28, 1982 (47 FR 32557). On August 16, 1982, the ITC subsequently found that there was a reasonable indication that imports of industrial nitrocellulose from France were materially injuring or were threatening to materially injure a

United States industry (47 FR 37314). On November 26, 1982, we published a notice determining that this case was "extraordinarily complicated," as defined in section 733(c)(1)(B) of the Act (47 FR 53441). Therefore, we extended the period for making the preliminary determination by 14 days until, December 23, 1982.

A questionnaire was presented to Societe Nationale des Poudres et Explosifs (SNPE), the respondent in this case, and to its attorney, on August 5, 1982. Responses were received on September 10 and 16, 1982. A verification was conducted at SNPE's plant in Bergerac, France from October 18-20, 1982, and at the headquarters of SNPE in Paris, France, on October 21 and 22, 1982. The home market cost of production section of the response was verified for a second time from February 18 through 24, 1983. On December 23, 1983, we preliminarily determined that industrial nitrocellulose from France is not being sold, or is not likely to be sold, in the United States at less than fair value (47 FR 57308).

Our notice of preliminary determination provided interested parties with an opportunity to submit views orally and in writing. On March 30, 1983, we held a public hearing.

On March 1, 1983, we published a notice extending the period for making the final determination until May 9, 1983; at the request of the petitioner in accordance with section 735(a)(2)(E) of the Act (48 FR 1529).

Scope of the Investigation

The product covered by this investigation is industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen. It should not be confused with explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. It is currently classified as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the Tariff Schedules of the United States Annotated.

Approximately three percent of total sales to the U.S. were of butyl nitrocellulose. Since this was such a small quantity and since the cost for producing this product is different from the remaining 97 percent of sales, we disregarded these sales for purposes of the fair value investigation.

The period of investigation for French industrial nitrocellulose sold in the United States is from January 1 to June 30, 1982.

Methodology of Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of industrial nitrocellulose, because SNPE sold all of its merchandise to unrelated parties in the U.S. prior to the date of importation.

We calculated purchase price based on the c.i.f., delivered, packed price to unrelated purchasers. We made deductions for ocean freight, insurance, foreign inland freight, and U.S. inland freight.

Foreign Market Value

In calculating foreign market value we used home market sales prices or constructed value in accordance with section 773 of the Act.

The petitioner alleged that sales in the home market were at prices below the cost of producing industrial nitrocellulose. We examined production costs which included all appropriate costs for materials, labor and general expenses. Sales below the cost of production were found to be made for each of the grades of industrial nitrocellulose examined. Where sales of any grade of the merchandise under investigation were made over an extended period of time in substantial quantities, and at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, the Department disregarded these sales in its analysis in accordance with section 773(b) of the Act. For certain grades, we found that sufficient sales of industrial nitrocellulose were made at or above the cost of production and, therefore, those sales were used in making price-to-price comparisons with sales in the U.S. market. For certain other grades of industrial nitrocellulose, we found that sales which were made above the cost of production were inadequate as a basis for the determination of foreign market value and consequently, we used the constructed value of the merchandise for these grades of industrial nitrocellulose to determine their foreign market value.

Where we used constructed value as a basis for foreign market value, we calculated it to include the costs of materials, fabrication, general expenses,

profit and the cost of packing. The amount added for general expenses was the statutory minimum of 10 percent of the sum of material and fabrication costs, because the statutory minimum was higher than the actual general expenses. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses because the actual profit was less than 8 percent.

Home market prices were based on the f.o.b. or delivered, packed price to unrelated purchasers. We made deductions, where appropriate, for inland freight, and rebates. Adjustments were made, where appropriate, for differences in warranty expense, credit expense, the cost of the merchandise being compared, and the cost of packing. Adjustments for differences in physical characteristics were based on differences in the cost of materials, labor, and directly-related factory overhead. An adjustment was also made, where appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions in accordance with § 353.15(c) of the Commerce Regulations.

Adjustments were claimed for institutional advertising expenses and quality control costs. We did not allow these adjustments since they were not directly related to the sales under consideration as required by section 353.15 of the Commerce Regulations.

Technical assistance expense was allowed as part of the offset for U.S. commission sales as an indirect selling expense and not as a circumstance of sale adjustment for all home market sales as claimed by the respondent.

Verification

In accordance with section 776(a) of the Act, we verified the information from SNPE which was used in this determination. We verified the information received on cost of production, sales, and the adjustments claimed. We were granted access to the books and records of SNPE. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information. The home market cost of production section of the response was verified for a second time by Alexander Grant & Co.

Results of Investigation

We made fair value comparisons on all U.S. sales reported by SNPE. We have found that the foreign market value exceeded the United States price on

31.13 percent of the merchandise sold. These margins ranged from 0 to 12.28 percent. The overall weighted-average margin on all industrial nitrocellulose sales is 1.38 percent.

Petitioner's Comments

Comment 1

The Department of Commerce (DOC) has failed to allocate sufficient financing expenses to SNPE's cost of producing industrial nitrocellulose. The DOC's cost of production analysis should include all sales financing expenses that are directly related to home market sales of industrial nitrocellulose. An alternative would be to allocate all SNPE sales financing expenses in such a way as to take account of the fact that there are likely to be no financing expenses in selling to the Government of France and to related customers.

DOC position

When the DOC computes a cost of production, all costs, including finance expenses, are included. The DOC accepts the accounting practices of a respondent in making allocations for general, administrative and selling expenses as long as those allocations are the usual accounting practices of the respondent and are acceptable to the DOC. Since financing expenses have been allocated to the cost of production of industrial nitrocellulose by SNPE in accordance with their normal allocation methods, the amounts of these expenses have been accepted by the DOC.

Comment 2

SNPE has allocated indirect selling expenses over all products including those sold to the Government of France and related customers. The DOC should allocate SNPE's indirect selling expenses solely over sales to unrelated customers.

DOC position

The DOC verification established that SNPE inaccurately allocated indirect selling expenses over the value of all nitrocellulose including sales of the military grade to related parties. Based on our findings, SNPE has reallocated these expenses solely to industrial nitrocellulose based on relative sale value of the products sold by the Bergerac plant sales department. (The Bergerac plant is the only SNPE facility which produces industrial nitrocellulose). This reallocated amount is included in the cost of production.

Comment 3

SNPE has understated its research and development (R & D) costs for

industrial nitrocellulose. The DOC should reallocate SNPE's R & D costs over all of the products produced by the company.

DOC position

In their response, SNPE deviated from their normal accounting practice by adjusting the R & D allocations to industrial nitrocellulose to exclude R & D they believe to have been associated with other product groups. The DOC accepts the accounting allocations of the responding firm for general, administrative and selling expenses as long as those allocations are the usual accounting practices of the respondent and are acceptable to the DOC. Consequently, we have recomputed the allocation for R & D in accordance with SNPE's normal accounting practices by spreading the R & D expenses over all products and have used this figure in calculating the cost of production for our final determination.

Comment 4

The DOC should permit adjustments only for differences in circumstances of sale directly related to the sales under consideration.

DOC position

In accordance with § 353.15 of the Commerce Regulations, the DOC has not allowed adjustments for differences in circumstances of sale which are not directly related to the sales of industrial nitrocellulose under consideration.

Comment 5

NSPE is selling industrial nitrocellulose in France at prices which do not permit it to recover all of its fully allocated costs of production. The DOC should use the best available information in determining the cost of production, because SNPE failed to give the DOC its profit and loss statement for industrial nitrocellulose as requested in the questionnaire.

DOC position

The DOC's antidumping questionnaire requested financial statements, if they are prepared for the merchandise under investigation. SNPE has stated that it maintains profit and loss statements on a plant basis, not by product, and, therefore, one is not available for the merchandise under consideration. However, the detailed cost of production data and profit figures submitted by SNPE were verified twice by the DOC. Consequently, we are satisfied in using the data provided by SNPE, modified in accordance with DOC standards.

Comment 6

SNPE has deviated from its normal accounting practices in reporting to the DOC its depreciation costs on a straight-line basis rather than by an accelerated methodology.

DOC position

In their response, SNPE deviated from their normal accounting practice by calculating depreciation on a straight-line basis. The DOC accepts the usual accounting practices of a respondent as long as those practices are acceptable under the Generally Acceptable Accounting Principles in the country of production. A respondent may not deviate from its normal accounting practices unless DOC determines that their standard methodology is inappropriate. Since this is not the case, DOC has used the accelerated method in calculating depreciation costs as reflected in SNPE's financial statement.

Respondent's Comments

Comment 1

An adjustment should be made for the differences in the commercial levels of trade between the United States and France.

DOC position

To date, SNPE has not produced information which establishes that a price differential exists in the home market for industrial nitrocellulose or other merchandise of the same class or kind sold at different levels of trade. Such information, if provided, must establish that the differences in the prices are the result of differences in cost of selling at one level of trade as compared to the other. Since no evidence has been received by the DOC which would satisfy the standards of § 353.19 of the Commerce Regulations in this regard, we have not made a level of trade adjustment in making our final determination.

Comment 2

Expenses for technical services should be allowed as an adjustment to the foreign market value as part of the indirect selling expense offset where comparisons are made with U.S. sales involving commissions.

DOC position

The DOC has allowed this offset in accordance with section 353.15 of the Commerce Regulations.

Comment 3

R & D expenses unrelated to industrial nitrocellulose, but related solely to other products or product lines should not be

imputed to the cost of production of industrial nitrocellulose. Therefore, the DOC should use R & D expenses reallocated to the products to which they actually apply.

DOC position

See DOC position in petitioner's comment 3.

Comment 4

The straight-line method of calculating depreciation costs more accurately reflects actual production costs than an accelerated method. Therefore, the DOC should use depreciation costs developed through a straight-line methodology.

DOC position

See DOC position in petitioner's comment 6.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that industrial nitrocellulose from France is being sold in the United States at less than fair value within the meaning of section 731 of the Act.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) and section 733(d)(1) and (2) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial nitrocellulose from France. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margin is 1.38 percent.

ITC Notification

We are notifying the ITC and making available to it all non-privileged and non-confidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that 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. If the ITC determines that material injury

or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on industrial nitrocellulose from France entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 9, 1983.

[FR Doc. 83-12929 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

APPENDIX C

DU PONT'S ANNOUNCEMENT TO LEAVE THE NITROCELLULOSE BUSINESS

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* * * *

WE REGRET TO NOTIFY YOU THAT DU PONT PLANS TO PHASE OUT THE MANUFACTURE AND SALE OF INDUSTRIAL NITROCELLULOSE BY DECEMBER 30, 1977.

OUR NITROCELLULOSE BUSINESS HAS BEEN OPERATING AT A LOSS FOR SEVERAL YEARS. DURING THIS PERIOD, WE HAVE APPLIED CONSIDERABLE EFFORT AND RESOURCES TO DEAL WITH THE INCREASING COST BURDENS OF RAW MATERIALS, ENVIRONMENTAL CONTROLS AND ENERGY AND TO HELP RESTORE PROFIT MARGINS. HOWEVER, THE CONTINUED LARGE INFUSION OF NEW CAPITAL REQUIRED TO UPGRADE OUR AGING PLANT AND MEET PROJECTED ENVIRONMENTAL REGULATIONS IS NOT ECONOMICALLY JUSTIFIED IN THE FACE OF CURRENT AND FORECAST DEMAND FOR INDUSTRIAL NITROCELLULOSE.

MARKET DEMAND FOR NITROCELLULOSE HAS GROWN LITTLE IN THE PAST DECADE. BOTH DU PONT AND INDEPENDENT STUDIES INDICATE THIS TREND WILL CONTINUE FOR A FEW YEARS, AND LONGER-RANGE, DEMAND WILL SOFTEN AS A RESULT OF ENVIRONMENTAL REGULATIONS FOSTERING WIDER USE OF NONSOLVENT SYSTEMS.

THE CURRENT WORLD CAPACITY FOR INDUSTRIAL NITROCELLULOSE IS CONSIDERED ADEQUATE TO MEET DEMAND, AND NO SHORTAGES RESULTING FROM OUR WITHDRAWAL FROM THIS MARKET ARE FORESEEN.

BASED ON CURRENT PLANNING, WE WILL CEASE ALL SHIPMENTS ON OR BEFORE DECEMBER 30, 1977. ORDERS WILL BE ACCEPTED THROUGH OCTOBER 1. THE PURPOSE OF THIS EARLY NOTICE IS TO GIVE YOU TIME TO PLAN AN ORDERLY TRANSITION TO OTHER SOURCES OF SUPPLY.

WE REGRET ANY INCONVENIENCE THIS MAY CAUSE AND WILL GLADLY WORK WITH YOU TO SMOOTH YOUR CHANGEOVER PERIOD. OUR REPRESENTATIVE WILL BE IN CONTACT WITH YOU SOON TO ANSWER ANY QUESTIONS YOU MIGHT HAVE REGARDING THE PHASEOUT.

DUPONT CO R S ARMSTRONG, MANAGER

APPENDIX D
SNPE'S PRODUCTION PROCESS

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