CYANURIC ACID AND ITS CHLORINATED DERIVATIVES FROM JAPAN

Determination of the Commission in Investigation No. 731-TA-136 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 731-TA-136 (Final)

CYANURIC ACID AND ITS CHLORINATED DERIVATIVES FROM JAPAN

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, 2/ pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), that an industry in the United States is materially injured by reason of imports from Japan of cyanuric acid and its chlorinated derivatives, provided for in item 425.10 of the Tariff Schedules of the United States (TSUS), 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 November 18, 1983, following a preliminary determination by the Department of Commerce that imports of the subject products from Japan were being sold in the United States at LTFV within the meaning of section 731 of the act (19 U.S.C. § 1673). 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 notices in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing them in the Federal Register on December 29, 1983 (48 F.R. 57386) and January 25, 1984 (49 F.R. 3146).

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 and Commissioner Rohr not participating.

Commerce was scheduled to make its final determination in this case by January 24, 1984. However, Commerce extended its investigation and published its final affirmative determination in the Federal Register on February 29, 1984 (49 F.R. 7425). The Commission's hearing was held in Washington, D.C. on March 14, 1984. All persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF CHAIRMAN ECKES, COMMISSIONER HAGGART, AND COMMISSIONER LODWICK

On the basis of the record in investigation No. 731-TA-136 (Final), we determine, pursuant to section 735(b) of the Tariff Act of 1930, 1/ that an industry in the United States is materially injured by reason of imports from Japan of cyanuric acid and its chlorinated derivatives that are being sold at less than fair value (LTFV).

Domestic industry

The term "industry" is defined in section 771(4)(A) of the Act as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 2/ The term "like product" is defined in section 771(10) of the Act as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to [the investigation]." 3/

The products being imported are cyanuric acid and its chlorinated derivatives. 4/ Cyanuric acid and its chlorinated derivatives are white, crystalline, solid, synthetic, organic chemicals containing a triazine ring. They can be divided into three categories according to their chlorine content: (1) cyanuric acid, which contains no chlorine, (2) dichloro isocyanurates (dichloro), which contain 60 percent available chlorine, and (3) trichloro isocyanuric acid (trichloro), which contains 90 percent available

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1/ 19 U.S.C. § 1673d(b) (1980).
2/ 19 U.S.C. § 1677(4)(A) (1980).
3/ 19 U.S.C. § 1677(10) (1980).
4/ Commission Report (Report) at A-1--A-2.

chlorine. 5/ The domestically produced isocyanurates are essentially identical to the corresponding imported products. 6/

The Commission must first determine whether to treat the isocyanurates as a single like product or as multiple like products. For the reasons discussed below, we determine that cyanuric acid, dichloro, and trichloro constitute a single like product. 7/

One common characteristic of the isocyanurates is that their chemical composition is similar. In fact, both dichloro and trichloro are produced by chlorinating cyanuric acid. The dichloro derivatives are produced by treating cyanuric acid with two parts caustic soda to one part cyanuric acid, followed by chlorination of the nitrogen atoms to produce isocyanuric acid. Trichloro results from the combination of three parts caustic soda with one part cyanuric acid, followed by chlorination of the nitrogen atoms in the triazine ring. 8/

The isocyanurates also have similar uses. In the swimming pool trade, they are all used in the disinfectant process. Cyanuric acid is used to prolong the useful life of the chlorine which disinfects the pool water. Dichloro and trichloro release chlorine into the pool water. Consumer

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5/ Report at A-3. Hereinafter, "isocyanurates" will be used in this opinion to refer to cyanuric acid, dichloro, and trichloro collectively.

6/ Id. at A-9.

7/ Both the petition and the Commerce Department's final LTFV determination refer to cyanuric acid and its chlorinated derivatives used in the swimming pool trade. Petition at 1-2; 49 F. R. 7424 (Feb. 29, 1984); Report at app. A. The petitioner stressed that this was the segment of the market which should be considered by the Commission. Monsanto's prehearing brief at 12-13; Monsanto's posthearing brief at 21-23. However, based on the fungible nature of these chemical products (see Report at A-9 and A-48), we have made no differentiation between pool and nonpool uses for purposes of our like product analysis.

8/ Report at A-4--A-5.

preferences concerning the degree of disinfectant strength (chlorine content), solubility, and method of application to the pool water might determine which derivative is purchased; nevertheless, dichloro and trichloro are generally interchangeable as swimming pool disinfectants. 9/ In the nonpool (industrial) trades, cyanuric acid is used primarily in the production of chlorinated bleaches and whitening agents. Similarly, dichloro and trichloro are used primarily as active ingredients in dishwashing compounds, dry chlorine bleaches, scouring powders, and detergent sanitizers. 10/

For the foregoing reasons, we determine that the isocyanurates are sufficiently similar in characteristics and uses so as to constitute a single like product. 11/ 12/ The domestic industry therefore consists of the producers of isocyanurates: Monsanto Industrial Chemicals Co., (the petitioner), FMC Corp., and Olin Corp. 13/

9/ Id. at A-3 and A-6.
10/ Id. at A-6.
11/ Cyanuric acid includes both powdered and granular forms. Although one party argued that these two forms should be considered as separate like products (posthearing brief of Olin Corp. at 9, which cites Olin's postconference brief from the preliminary investigation at 2-13), we conclude that it would not be appropriate to separate powdered cyanuric acid from granular cyanuric acid. They have the same chemical composition. Although the powdered form is preferred for some applications since it dissolves faster and the granular form is preferred for others because it is easier to handle and does not clump, the two forms are, nevertheless, essentially interchangeable. Report at A-3.
12/ Even if we had found that there were two or more separate like products, it would still be necessary to make our assessment of the impact of these imports on the same basis using a product line approach. Much of the data provided by domestic producers concerning cyanuric acid, dichloro, and trichloro individually (i.e., data regarding employment, capacity, and financial information) required extensive allocations and are less reliable than data for these products on a combined basis. Report at A-29 and A-35.
13/ During the period under investigation, Olin purchased cyanuric acid for use in the production of the derivatives. Report at A-9.

Condition of the domestic industry

The domestic industry has experienced difficulties throughout the period covered by the investigation. 14/ Some of the indicators of the industry's performance show improvement during 1983, but many remained below levels evidenced earlier in the period covered by this investigation. Despite such fluctuations, this industry has been unable to operate at levels of capacity utilization or obtain prices which were sufficient to alleviate these difficulties. Apparent U.S. consumption of the isocyanurates 15/ increased between 1980 and 1981, then dropped in 1982 before recovering in 1983. 16/ Production rose between 1980 and 1981, then decreased in 1982 and rose again in 1983. 17/ Capacity increased between 1980 and 1982, then decreased in 1983. 18/ Capacity utilization rose between 1980 and 1981, then decreased in 1982 before increasing again in 1983. However, the higher utilization in that year was largely the result of a lower overall capacity. 19/

U.S. producers' domestic shipments of the isocyanurates to the pool and industrial trades increased between 1980 and 1981, then decreased in 1982; shipments increased again in 1983. 20/ Inventories increased between 1980 and 1982, then decreased in 1983. 21/

14/ Since the domestic industry consists of only three firms, nearly all of the statistical data are regarded as confidential business information. For this reason, data on most factors are discussed in general terms.
15/ To avoid the problem of double counting, we have relied on the data presented for cyanuric acid used as a final product.
16/ Report at A-45 (table 18).
17/ Id. at A-30 (table 3), app. E.
18/ Id.
19/ Id.
20/ Id. at A-31 (table 4).
21/ Id. at A-33 (table 6), app. E.

There were decreases in employment-related trends during the period under investigation. The number of production and related workers engaged in the production of the isocyanurates and the hours worked increased from 1980 to 1981, then dropped in 1982. The number of such workers further decreased in 1983. The number of hours worked in 1983 was also less than the number worked in 1982. 22/

Financial data indicate that domestic producers sustained losses on their operations producing the isocyanurates during the period under investigation. 23/ Although net sales increased between 1980 and 1981, such sales decreased in 1982 before recovering in 1983. 24/ There were also unfavorable cash flows throughout the period of investigation. 25/

Material injury

An affirmative determination of material injury to a domestic industry must be based on a finding that such injury is "by reason of" the subject imports. 26/ In making such a determination, the Commission is required to consider, among other factors (1) the volume of imports of the merchandise under investigation, (2) their impact on domestic prices, and (3) the impact of such imports on the domestic industry. 27/

The volume of U.S. imports of the subject isocyanurates increased in absolute and relative terms during the period under investigation. The volume

22/ Id. at A-34 (table 7), app. E.
23/ Because Olin experienced startup and production difficulties during the period of investigation, financial data for the domestic industry excluding Olin were also analyzed. These data indicate an unfavorable financial performance. Report at A-39 (table 11), app. E.
24/ Id. at A-38 (table 10), app. E.
25/ Id. at A-37, app. D.
26/ 19 U.S.C. § 1673d(b)(1) (1980).
27/ 19 U.S.C. § 1677(7)(B) (1980); 19 C.F.R. § 207.26.

of such imports increased between 1980 and 1981. After declining in 1982, imports again increased in 1983. 28/

The subject imports accounted for a significant share of the domestic market during the period in question. The ratio of importers' shipments to U.S. consumption rose from 20.5 percent in 1980 to 21.8 percent in 1981 before dropping to 18.7 percent in 1982, then rising again to the nearly record level of 21.7 percent in 1983. 29/

An understanding of the dynamics of the marketplace is important in assessing the impact of the subject imports on prices and on the domestic industry. The subject products are sold in bulk by the producers and importers to approximately 30 repackagers; the repackagers in turn sell the packaged product to distributors and dealers. 30/ In addition, two of the domestic producers, FMC and Olin, sell the packaged product directly to distributors and dealers under their own brand names, Sun and Pace, respectively. 31/

28/ Report at A-43 (table 17), app. E.

29/ Id. at A-44—A-45 (table 18), app. E. Imports from Japan declined in the fourth quarter of 1983, subsequent to the Commission's preliminary affirmative determination. Thus, in addition to the import level and market penetration for the full year of 1983, we have considered the import level and penetration in the first three quarters of 1983 for the purpose of analyzing import trends. Imports and import penetration in this period were significantly above those in the corresponding period of 1982. Id.

30/ Report at A-14.

31/ Because these two domestic producers compete for sales to dealers and distributors, repackagers have only one noncompeting domestic source of supply. Respondents argue that the repackagers are reluctant to rely entirely on this domestic producer and thus purchase Japanese imports as an alternate source of supply. However, the purchasing patterns of the repackagers show that repackagers commonly obtain all or most of their supply from a single source over several quarters. In addition, repackagers switch sources of supply repeatedly because of the highly competitive nature of the market. Report at A-17.

The subject chemicals are fungible, particularly at the bulk sales level, and therefore are highly price sensitive. 32/ Consequently, when a repackager confronts a supplier in this market with a lower price offer from another source, the supplier must either lower its price to meet the competition or lose the sale. 33/

In our assessment of the price competition in this market and the impact of the imports on domestic prices, we have analyzed (1) the pricing information for each product 34/ aggregated on a weighted-average basis, (2) the individual transaction prices of each repackager, and (3) where appropriate, the pricing information for specific market segments and levels of distribution.

Comparison of the quarterly weighted-average domestic and imported prices, both those received from producers and importers and those received from purchasers, in general, shows alternate periods of overselling and underselling. These weighted-average prices followed each other so closely that they were within 1 percent of each other in many of the available observations, confirming the fierce competition in the marketplace. Nonetheless, analysis of this information reveals significant underselling by the subject imports in specific quarters. 35/

In order to further explore the price effect of the Japanese imports in this market, the individual transaction prices of each repackager were also analyzed. Although an analysis of weighted-average prices demonstrates the

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32/ Report at A-9, A-14, A-47, A-58—A-59.
33/ Id. at A-58—A-59.
34/ Price comparisons were made on the basis of cyanuric acid, dichloro, and trichloro individually. The price trends for all of these products are similar and are discussed on a collective basis.
35/ Id. at A-49—A-57 (tables 19-26).

competitive nature of this marketplace, the individual transaction prices better exhibit the degree of aggressiveness of each supplier's pricing. This analysis reveals that the Japanese imports undersold the domestic products in approximately two-thirds of the instances in which comparisons could be made. 36/ This demonstrates that the importers were active in the process of driving down market prices rather than merely following the lead of domestic producers' price reductions. 37/

Respondents argue that the sales of packaged products by FMC and Olin under their own brand names were responsible for the price movements in the bulk market. 38/ However, the above analysis indicates that, notwithstanding the existence of any such influences of the branded products on market prices, the subject imports contributed significantly to the overall price pressure in the market and were, therefore, a cause of significant price depression.

36/ Confidential Staff Report to the Commission, Mar. 28, 1984 (Staff Report) at apps. G, H, and I.

37/ Thus, the concept of technical dumping does not apply to this situation.

38/ Posthearing brief of Shikoku et al. at 4-7; posthearing brief of Nissan et al. at 9. Respondents further argue that this and other factors, rather than imports, harmed the domestic industry. Posthearing brief of Shikoku et al. at 6; posthearing brief of Nissan et al. at 6-10. In title VII investigations, the Commission considers information which indicates that harm is being caused by factors other than the subject imports. However, the effects of the subject imports are not weighed against the effects of such other factors. Rather, the Commission determines whether, in light of all the information presented, there is a sufficient causal link between the subject imports and the requisite injury. S. Rep. No. 96-249, 93d Cong., 1st sess. 74-75 (1979); H.R. Rep. No. 96-317, 93d Cong., 1st sess. 46-47 (1979); 19 CFR § 207.27. As discussed above, the information obtained in this investigation demonstrates a sufficient causal link between the Japanese imports and the injury experienced by the domestic industry.

Additionally, several allegations by domestic producers that they reduced prices in response to competition from Japanese imports were confirmed. 39/ 40/ There are also confirmed instances of bulk sales lost by domestic companies to the subject imports on the basis of price during the period under investigation. 41/

For the foregoing reasons, we conclude that the Japanese importers were aggressive in their pricing practices and that they were able to maintain a significant share of the U.S. market through such price competition. The presence of the Japanese imports in the marketplace had a significant effect during the period under investigation on domestic prices and on the profitability of domestic producers. Therefore, we determine that the domestic industry is materially injured by reason of the subject imports.

39/ Report at A-61 (tables 29-31).

40/ The Japanese importers did not ship significant volumes to industrial (nonpool) users during the period under investigation. Domestic prices are higher in this market than in the pool market. Report at A-54, A-57, A-60. Thus, the apparent lack of price suppression in the industrial market contrasts with the evident adverse effect of Japanese imports in the pool market.

41/ Report at A-65 (tables 32-34); Staff Report at apps. G, H, and I.

VIEWS OF COMMISSIONER PAULA STERN

I have determined that an industry in the United States is not materially injured or threatened with material injury 1/ by reason by imports of cyanuric and its chlorinated derivatives from Japan which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). Although the U.S. industry is experiencing general difficulties, I have found no link which satisfies the legal standards of Title VII between these difficulties at the industry level, and the LTFV imports. A full examination of the record does not demonstrate the affirmative case. Rather, the record presents a picture similar to that observed in the preliminary investigation, 2/ when I also reached a negative determination.

1/ Since there is a domestic industry, material retardation of the establishment of an industry is not an issue and will not be discussed.

2/ Cyanuric Acid and its Chlorinated Derivatives from Japan, No. 731-TA-136 (Preliminary), USITC Pub. 1407, July 1983, pp. 13-21.

Burden of Proof under Title VII

The present investigation was difficult in a number of respects. Primary among these has been the evidentiary standard required for an affirmative finding. All parties were forthcoming and the difficulties in reaching a determination did not stem from any lack of information in this final investigation. The Commission was presented with a mass of data -- particularly on individual transactions -- which required laborious sifting and evaluation. As is most often the case in such proceedings, the Commission was not blessed with the luxury of having all the individual data point unidirectionally and without qualification toward an affirmative or negative finding. With the parties having cooperated without complaint and the staff having performed its tasks in a fully professional fashion, the Commission has been faced with a complex record. The "buck" stops with those who must make the determination -- the Commissioners. But to justify an affirmative finding, where does the burden of proof lie? Must there be proof of the affirmative or merely a lack of proof of the negative? What is the evidentiary standard?

An affirmative determination under section 735(b) of the Tariff Act of 1930 3/ requires a finding that there is material injury to the domestic industry (or threat thereof)

3/ (19 U.S.C. § 1673d(b)).

"by reason of" the subject imports. In examining the overall injury to a domestic industry, the Commission may consider information which indicates that harm is caused by factors other than the subject imports. However, the Commission is not allowed to weigh the degree of harm attributable to such other factors. An affirmative determination under section 735(b) is warranted only if the Commission is satisfied that, in light of all the information presented, there is a causal link between the unfair nature of the imports and the condition of the domestic industry. 4/ Clearly, the affirmative proposition that unfairly traded imports have caused (or threatened) material injury must be demonstrated. Persuasive considerations underlie this legal burden of proof. The clearly established public policy of this nation is to favor unfettered competition except in those instances or situations where good reasons can be established for interfering in or altering the workings of the market. This policy is embodied in Title VII in a number of ways. Even when the Department of Commerce has found less-than-fair-value (LTFV) or subsidized sales, no duties are imposed unless both injury and causation can be shown. The wording of the determination itself places the burden of proof on the affirmative.

4/ See S. Rep. No. 96-249, 96th Cong., 1st Sess., pp. 74 and 75; H.R. Rep. No. 96-317, 96th Cong., 1st Sess., pp. 46 and 47; and 19 C.F.R. § 207.27(d).

Recent court decisions have further clarified the evidentiary standards. A determination by the Commission must be based on substantial evidence on the record. 5/ In this investigation, hundreds of individual transactions have been examined. Sales have been lost by domestic producers to importers, and by importers to domestic producers. Microeconomic analysis of any truly competitive market -- even with all participants healthy -- should normally reveal instances of sales lost to and gained from competitors by each firm. Individual transactions are not in most circumstances a sufficient basis for reaching a conclusion about what is occurring in a market. Alone in most circumstances they cannot constitute substantial evidence on the record. 6/ My views examine, among other data, these individual transactions. Two conclusions follow: The market for the products of the industry now before the Commission is truly competitive; and there is not substantial evidence on the record justifying an affirmative determination. I have, therefore, found in the negative.

5/ See Matsushita Electric Industrial Co., Ltd. v. United States, 569 F. Supp. 853, Ct. Int'l Trade (1983), appeal docketed (Fed. Cir. Dec. 15, 1983).

6/ For example, in a bid situation where all sales are examined, an analysis of the individual transactions may be sufficient to establish substantial evidence on the record.

The U.S. industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 7/ Section 771(10) defines "like product" as "a product which is like, or in the absense of like, most similar in characteristics and uses with" the article under investigation. 8/

There are three imported products or product groups subject to this investigation: cyanuric acid, dichloro isocyanurates (dichloro), and trichloro isocyanuric acid (trichloro). 9/ Each of these three products is chemically distinguishable from each of the others, although cyanuric acid is the basic feedstock used to produce the derivatives (dichloro and trichloro). The molecular formulas for each product are different, and the two derivatives contain significantly different amounts of chlorine, the chemical for which they are purchased. 10/ Although there are differences

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7/ 19 U.S.C. § 1677(4)(A).

8/ 19 U.S.C. § 1677(10).

9/ The imported products are essentially identical to those produced in the United States (Report at A-9).

10/ Dichloro contains about 60 percent available chlorine and trichloro contains about 90 percent. Cyanuric acid contains no chlorine. Report at p. A-3.

in the uses of these products, the fundamental purposes are related. Cyanuric acid is principally used as a raw material for the production of the derivatives, and to a much lesser extent, as a chlorine stabilizer in swimming pools and an ingredient in the production of chlorinated bleaches, herbicides, and whitening agents. 11/ The two derivatives are used in the swimming-pool trade as pool water disinfectants. Outside the pool trade they are used as ingredients in the production of dishwashing compounds, dry chlorine bleaches, scouring powders, algicides, and deodorants. 12/ The focus of this investigation has been on the swimming pool trade. While the uses of the two derivatives are similar, trichloro, as mentioned, has a larger amount of available chlorine, which makes it a stronger disinfectant, bleaching, agent, etc. In addition, as it is less soluble in water than dichloro, it is introduced into swimming pools in a different manner. Generally, dichloro is simply broadcast over the surface of the pool, while trichloro is introduced through a dispensing apparatus which hold sticks or tablets of trichloro. 13/ These

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11/ Report at p. A-6.

12/ Id.

13/ Report at p. A-6.

distinctions were sufficient in the preliminary investigation to find each of the three products a separate "like product." 14/

In this final investigation, further examination of the allocation methods used by firms producing the three products has convinced me that the most reliable data are those for the combined operations and not those allocated to each of the three products. In conjunction with section 771(4)(D), 15/ I believe that it is now most appropriate to evaluate the impact of the subject imports against one domestic industry. Had I found three like products in this final investigation, my determinations would have also been negative.

There are two companies in the United States that currently produce cyanuric acid--Monsanto Industrial Chemicals Co., the petitioner, and FMC Corp. These two companies also produce both derivatives. In addition, Olin Corp. produces the derivatives from imported cyanuric acid. 16/ The domestic industry, therefore, consists of the facilities of these three producers which are devoted to the production of the subject products.

14/ See my views in the preliminary investigation at p. 13, where I noted that ". . . I have found that it is most appropriate at this preliminary stage to make three separate findings. However, had the like-product question been resolved otherwise, my determinations would not have been different."

15/ 19 U.S.C. § 1677(4)(D).

16/ Olin is not currently producing dichloro, but its plant is reported to be capable of resuming production at any time. Report at p. A-9.

Condition of the domestic industry: 1980-83

Because of the limited number of domestic producers of the subject products, virtually all of the data collected by the Commission on their operations are confidential. Nevertheless, all three have reported data that indicate less-than-satisfactory operating results during 1980-83. The principal reason for their poor financial experience has been the fierce price competition among all suppliers. This has resulted in prices in 1983 that are significantly below those of 1982 and, in many cases, those of 1981. I note, however, that with the increase in sales brought about by the improved weather in 1983, the financial performance of these firms was better in that year than it was in 1982. 17/ 18/ Sales revenues, therefore, have not keep pace with production costs, and all three firms have incurred operating losses.

U.S. consumption of the three products together, as well as individually, rose in 1981, fell in 1982, and then rose again in 1983. 19/ The level of apparent consumption in 1983 was only slightly below that of 1981, the highest year on record. In the case of one product, trichloro, consumption in 1983 actually exceeded 1981 levels. Other indicators of the

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17/ Report at pp. A-35 through A-42.

18/ Report at pp. A-46 through A-64.

19/ Report at p. A-23.

market, with the exception of profit and loss data and prices, show similar recovery of the market for isocyanurates in 1983. The decline in 1982 was primarily the result of poor weather, which discouraged the use of swimming pools. No doubt the economic recession also contributed to the poor market in 1982.

The roles of imports

In the aggregate, imports from Japan increased their U.S. market share in 1981, decreased their share in 1982, and then increased their share again in 1983. All changes, however, were relatively minor and market shares for the Japanese products together have not varied by more than 2 percentage points from 20 percent throughout the period. 20/ The relative volume of the subject imports in the U.S. market is best characterized as stable. The yearly variations are not large and do not exhibit any particular trend. Import penetration in 1983 was actually lowest for dichloro, the product which at least one firm stopped producing because, according to his testimony, prices were too low. Import penetration in 1983 for cyanuric acid sold in the open market was highest of all the three items, yet capacity utilization for this product was also the highest.

20/ The specific market-penetration figures are 20.5 percent in 1980, 21.8 percent in 1981, 18.7 percent in 1982, and 21.7 percent in 1983. Report at p. A-45.

Price and nonprice considerations

Equal in significance to the relatively stable role of imports is the fact that both domestic and import selling prices for the subject products may be characterized as truly competitive throughout the period covered by the investigation. There are numerous examples of periods in which domestic products undersold Japanese products and many (though less numerous) examples of periods in which Japanese products undersold domestic products. Prices were equal in other cases and, when underselling or overselling occurred, it was generally by small amounts. For prices reported by producers and importers for sales to repackagers, domestic prices were lower or equal to Japanese prices in 9 of 12 quarters for cyanuric acid, 6 of 12 quarters for dichloro, and 7 of 12 quarters for trichloro. 21/ Customers often changed suppliers; suppliers sometimes lowered prices to meet a competitive offer and sometimes did not. 22/

The detailed examination of individual transactions can be helpful. However, it does not necessarily yield an accurate picture of the marketplace as a whole. In any competitive

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21/ Report at pp. A-48, A-52, and A-55.

22/ See Appendixes G, H, and I of the confidential Staff Report to the Commission on the subject investigation, March 28, 1984.

situation -- and this market clearly qualifies as such -- there are always lower prices at one time or another by one or another supplier, just as there are always sales lost by U.S. producers to importers (and vice versa) by reason of price. Nevertheless, such an examination may reveal some interesting patterns or may underscore just how consistent or inconsistent the aggregate data are. For instance, in this investigation it was observed that a selection of repackagers 23/ had purchased both imported and domestically-produced isocyanurates in a single quarter approximately 200 times, 23a/ and that the importer's prices were lower in more than 50 percent of these instances. 24/

The same raw data, however, show numerous instances where the low-priced supplier -- whether U.S. producer or importer --

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23/ I note that the selection from which these data are drawn was made on the basis of price-suppression and lost sales allegations by the U.S. producers. Although this selection covers a large percentage of all repackagers, there are inherent biases in such data. Nevertheless, several of these repackagers bought no imported isocyanurates whatsoever.

23a/ Over 100 such occurrences marked the sales of trichloro, the product showing the smallest increase in import penetration in 1983.

24/ These calculations of "underselling" do not consider the many repackagers who did not buy imported material for extended periods or at all; nor do they consider the direction of price movements at the time of the reported transactions and whether the lower import price is leading or lagging the general price trend.

actually sold less to the customer than did the high-priced supplier. If price were the only consideration in the sale of these products, such inconsistencies would have been rare and primarily due to happenstance.

Clearly, price is not the only consideration. Three related nonprice considerations combine in this investigation to underline the insignificance of price differences related to LTFV sales of the imported products. In summary, past quality problems with a crucial domestic supplier have motivated repackagers to diversify their sources of supply. The competitive realities of the U.S. market have further impelled repackagers to source part to their suppliers abroad. Finally, imports in any market are characterized by uncertainties which normally allow domestic product to command a premium. Each of these factors will now be analyzed in turn.

Testimony and submissions demonstrate that at least some large repackagers were seriously concerned with the quality issue. In 1981 Monsanto customers experienced a problem called gassing with trichloro. It resulted from the trichloro becoming sufficiently moist to cause the release of chlorine gas. Testimony and submissions of several customers confirmed that Monsanto was slow in responding to their concerns regarding the danger of the product to the health of their workers. 25/ Monsanto was able to correct the problem, but

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25/ See, e.g., Appendix F of the confidential Staff Report to the Commission on the subject investigation, March 28, 1984.

only after delays and the recall of the unsatisfactory trichloro. However, the uncertainty left in the minds of repackagers regarding Monsanto, made them unwilling to continue relying principally on Monsanto for isocyanurates. Monsanto's share of the trichloro market declined significantly from 1980 to 1982. Much of that loss was picked up by Olin or FMC, domestic producers. Although Monsanto has apparently corrected the problems. It's loss of market share in the relevant period demonstrates the importance of quality considerations to Monsanto's customer. All these customers are repackagers and they have not forgotten these problems.

Having been driven by quality problems to seek alternative suppliers, repackagers faced (and continue to face) a dilemma -- whom to choose. There are three U.S. producers of the subject products. Monsanto sells its products in bulk to repackagers who package, tabletize, or even slightly modify the isocyanurates before selling them to distributors and retailers. FMC sells some isocyanurates to repackagers, and to its distributors. Olin sells a significant amount of trichloro to repackagers, but it also repackages under its own brand which it sells directly to distributors and retailers. Thus, Monsanto is the only domestic source of isocyanurates that does not compete head-to-head with its own first-level customers, the repackagers. Common business sense dictates caution when relying on a competitor as a source of supply. Thus,

repackagers seeking to avoid reliance on competitors must choose between Monsanto or importers.

The choice is further complicated by yet another set of nonprice considerations. All other things being equal, importers are almost always at some disadvantage, compared to domestic producers, because of their longer lines of supply. In this case those lines stretched 9,000 miles. The results can include large lags between ordering and delivery, greater financial risks, and potential service problems. Such difficulties in a highly seasonal product can be quite threatening to repackagers. To mitigate these disadvantages, one importer responded by consigning his material to those repackagers who had warehousing facilities, adjusting the price to cover the costs of such warehousing, and thereby providing these customers with a service that, in itself, cannot be easily translated into a price-equivalent. Such nonprice considerations alter the normal premium domestic producers can expect to command over foreign product. They also greatly complicate the analysis of price in individual transactions.

Competitive pricing

Having considered the nonprice factors which make total reliance on price comparisons potentially misleading, I believe it is appropriate to see what light can be shed by a detailed examination of prices. My conclusion is that there is no evidence of any pattern of import price leadership. In fact, there is some indication that U.S. producers led price changes in sales of cyanuric acid throughout the period of investigation. Changes in importers' prices for this product almost always lagged a prior change in U.S. producers' prices until the final six months of 1983. 27/ Importers were clearly reacting to producers' prices for this product. Data for the other products are not as clear. Nevertheless, the most severe injury to the U.S. industry occurred in 1982 when the whole market turned precipitously downward because of weather and recession. During that period prices as reported by repackagers show that importers sold, on an average, consistently above the trichloro prices of U.S. producers. 28/ In fact, after mid-1980, importers's prices for trichloro were higher than those of domestic producers in nine of fourteen quarters. And when imports gained market share in 1983, the frequency with which they oversold the three domestic products actually increased.

27/ A-48-51.

28/ A-56.

FMC and Olin sell bulk isocyanurates to repackagers, and their own packaged, branded product to distributors and retailers. They claimed that the prices of their branded products were being driven down by the low prices of repackagers selling material of Japanese origin. Yet, the average prices of these products to distributors throughout the period of investigation were below the prices of the three repackagers identified as selling primarily or totally Japanese-origin. 29/

Although these repackagers' average prices may not be based on as large a sample as the prices of the U.S. producers, the prices reported by the repackagers are consistent with the U.S. industry claimed to be competing against. The prices of the U.S. producers in those submissions were list prices, whereas the prices in the Report are transaction prices and are considerably lower. This is a further indication that domestic competition is the driving force behind the price suppression in this market.

My analysis of the massive quantity of micro data demonstrates that imports have benefitted from the competitive forces in this market. But there is no substantial evidence to show that LTFV sales have caused any price depression or

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29/ Report at A-58-59.

suppression resulting in material injury. The legislative history of Title VII makes it crystal clear that in competitive situations where LTFV sales are not enhancing the position of the subject imports, Congress did not believe dumping duties to be justified. 30/ Importers were never expected to "stand back" or exit a market because of declines in prices fundamentally due to domestic factors. Nor were they expected to take advantage of such circumstances. Imports of cyanuric acid and its chlorinated derivatives from Japan have been sold at prices that compete with those of domestic products. In the process, the subject imports have neither taken nor lost market share to the U.S. industry. The dumping found by Commerce has not been a cause of material injury warranting a remedy contemplated by Title VII of the Act.

30/ See, for instance, the Senate Finance Committee's description of "technical dumping" as, ". . . selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home-market price. Such so-called 'technical dumping' is not anti-competitive, hence, not unfair; it is procompetitive in effect." Committee on Finance, S. Rept. No. 93-1298, 93d Cong., 2d Sess., at 179.

Threat of material injury

There is no indication that Japanese producers of the subject products intend to export the products to the United States at rates that exceed the projected growth rates for the U.S. market. To the contrary, experience over the last three years indicates that the market share held by imports from Japan has remained remarkably stable during both growth and retraction of U.S. consumption. Further, U.S. importers' inventories have generally fallen in 1983. 31/ The market has started to recover. To the extent that price and profit problems continue, they should reflect the same factors that have explained this industry's recent performance. Accordingly, I find no threat of material injury from the subject imports in this investigation.

31/ Report at p. A-67.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On June 3, 1983, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Monsanto Industrial Chemicals Co. (Monsanto), St. Louis, Mo., alleging that cyanuric acid (CA) and its chlorinated derivatives provided for in item 425.10 of the Tariff Schedules of the United States (TSUS) are being, or are likely to be, sold in the United States at less than fair value (LTFV), and that an industry in the United States is materially injured or threatened with material injury by reason of imports of such merchandise. Accordingly, effective June 3, 1983, the Commission instituted preliminary antidumping investigation No. 731-TA-136 (Preliminary) under section 733(a) of the Tariff Act of 1930. On July 13, 1983, the Commission determined 1/ in that 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 imports of the subject products from Japan.

On November 18, 1983, the Department of Commerce made a preliminary determination that there was a reasonable basis to believe or suspect that the subject products are being, or are likely to be, sold in the United States at LTFV within the meaning of section 731 of the act. 2/ Effective that date, the Commission instituted investigation No. 731-TA-136 (Final), pursuant to 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, by reason of imports of the subject products from Japan. 3/

Upon request by an exporter that accounted for a significant share of exports, Commerce extended the period for its final dumping determination until February 23, 1984. 4/ The Commission, in turn, extended its investigation. Commerce published its final LTFV determination on February 29, 1984. 5/ In connection with the Commission's investigation, a public hearing was held in the Commission's hearing room in Washington, D.C., on March 14, 1984. Notice of the hearing 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 it in the Federal Register. 6/ The Commission voted on this investigation on April 5, 1984.

Nature and Extent of Sales at LTFV

As mentioned, the Department of Commerce made its final determination of sales at LTFV in this investigation on February 29, 1984. Commerce

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1/ Commissioner Stern dissenting.
2/ 48 F.R. 52497.
3/ 48 F.R. 57386.
4/ 49 F.R. 924.
5/ 49 F.R. 7424.
6/ Copies of Commerce's notices are presented in app. A; copies of the Commission's notices are presented in app. B. A list of witnesses appearing at the Commission's hearing is also presented in app. B.

investigated the sales by two Japanese producers of the subject products, Nissan Chemical Industries, Ltd. (Nissan), and Shikoku Chemicals Corp. (Shikoku), which account for all exports from Japan to the United States. Commerce compared the U.S. price (based on purchase price) with the foreign-market value (based on sales in Japan of the subject merchandise to unrelated distributors). Margins were found on 21.4 percent of the sales of CA, 100 percent of the sales of dichloro isocyanurates, and 98 percent of the sales of trichloro isocyanuric acid, as shown in the following tabulation:

Manufacturer and product	Weighted-average margin (percent)
Nissan:	
Dichloro isocyanurates	32.40
Trichloro isocyanuric acid	8.84
Shikoku:	
CA	10.93
Dichloro isocyanurates	32.00
Trichloro isocyanuric acid	21.40
All other:	
CA	3.00
Dichloro isocyanurates	32.20
Trichloro isocyanuric acid	16.58

Commerce's finding with respect to CA manufactured by Nissan was negative. On the date of its preliminary determination, the Department of Commerce directed the U.S. Customs Service to suspend liquidations of all entries of the subject products imported from Japan (except CA manufactured by Nissan) and to collect cash deposits or bonds on all subsequent entries in the amounts of the margins found in its preliminary investigation. On the date of its final determination, Commerce directed the Customs Service to continue to suspend the liquidations and require the posting of bond equal to the weighted-average margins shown above. Because of an affirmative injury determination by the Commission, dumping duties will be assessed on all unliquidated entries after November 18, 1983.

The Products

Description and uses

CA (also called isocyanuric acid) and its chlorinated derivatives are white, crystalline, solid, synthetic organic chemicals containing a triazine ring. There are five commercial products, CA (Chemical Abstracts Service Registry (CAS) No. 108-80-5), sodium dichloro isocyanurate dihydrate (CAS No.

51580-86-0), sodium dichloro isocyanurate (CAS No. 2893-78-9), potassium dichloro isocyanurate (CAS No. 2244-21-5), and trichloro isocyanuric acid (CAS No. 87-90-1). The molecular formulas for these products are shown in figure 1.

CA is produced by pyrolyzing urea at a high temperature, and is refined by acid hydrolysis. Dichloro isocyanurates are produced by treating CA with two parts caustic soda (sodium hydroxide) to one part CA, followed by chlorination to yield dichloro isocyanuric acid (DCCA). Sodium dichloro isocyanurate dihydrate is the salt produced by treating DCCA with caustic soda, followed by crystallization. The anhydrous form, sodium dichloro isocyanurate, is produced by drying the dihydrate. Potassium dichloro isocyanurate is the salt produced by treating DCCA with potassium hydroxide, followed by crystallization. Trichloro isocyanuric acid results from the combination of three parts caustic soda with one part CA, followed by chlorination of the nitrogen atoms in the triazine ring.

CA and its chlorinated derivatives are generally produced on a campaign basis. A producer may use the same equipment and work force to produce each product, dedicating its facilities to only one product for a length of time. After a production run, the equipment is generally cleaned and set up for a production run of another related product. An overview of the production process is shown in figure 2.

These products are grouped into three categories on the basis of chlorine content: (1) CA contains no chlorine; (2) sodium dichloro isocyanurate dihydrate, sodium dichloro isocyanurate, and potassium dichloro isocyanurate contain approximately 60 percent available chlorine and are collectively called dichloro isocyanurates (hereinafter referred to as dichloro); and (3) trichloro isocyanuric acid (trichloro) contains approximately 90 percent available chlorine. The data and information collected by the Commission in the course of this investigation are based on the three categories specified above. In addition, reference is often made in the report to "chlorinated derivatives;" this term refers to dichloro and trichloro combined.

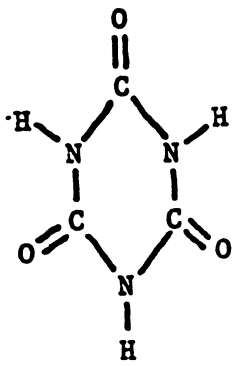
CA is initially produced as a powder. It may also be compacted into granular form in the same production process stream. 1/ In some applications, the powder is preferred because it dissolves faster. In other applications, the granular form, which is similar in consistency to household dishwasher detergent, is preferred because it does not clump as the powder does and because it is easier to handle (won't blow away on a windy day, for example). In general, however, the two forms are interchangeable.

Virtually all dichloro is marketed in granular form. Some trichloro is also sold in granular form, but most trichloro is further compacted from granular form into tablets or sticks, 2/ which are preferred for use in swimming pools.

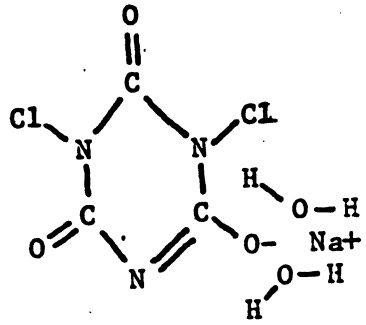
1/ * * * grinds granular CA into powder if necessary for use in * * *.

2/ "Tabletizing" is performed by pouring granular trichloro into the hopper of a machine that compacts it into 1 oz. or 8 oz. tablets (1 inch and 3 inches in diameter, respectively) or 8 oz. sticks. Standard tabletizing equipment costs about $100,000.

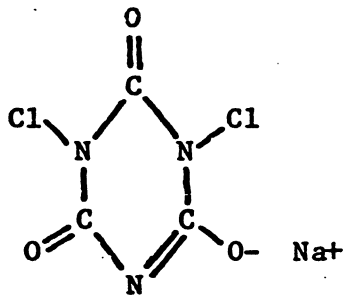
Figure 1.--Molecular formulas for CA and its chlorinated derivatives



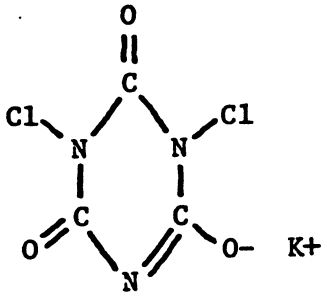
Solid cyanuric acid
(predominant form)



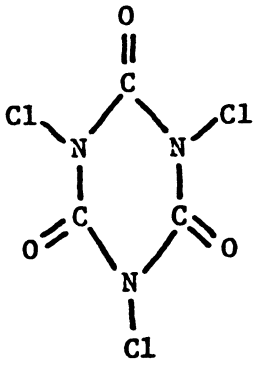
Sodium dichloro
isocyanurate dihydrate



Sodium dichloro
isocyanurate



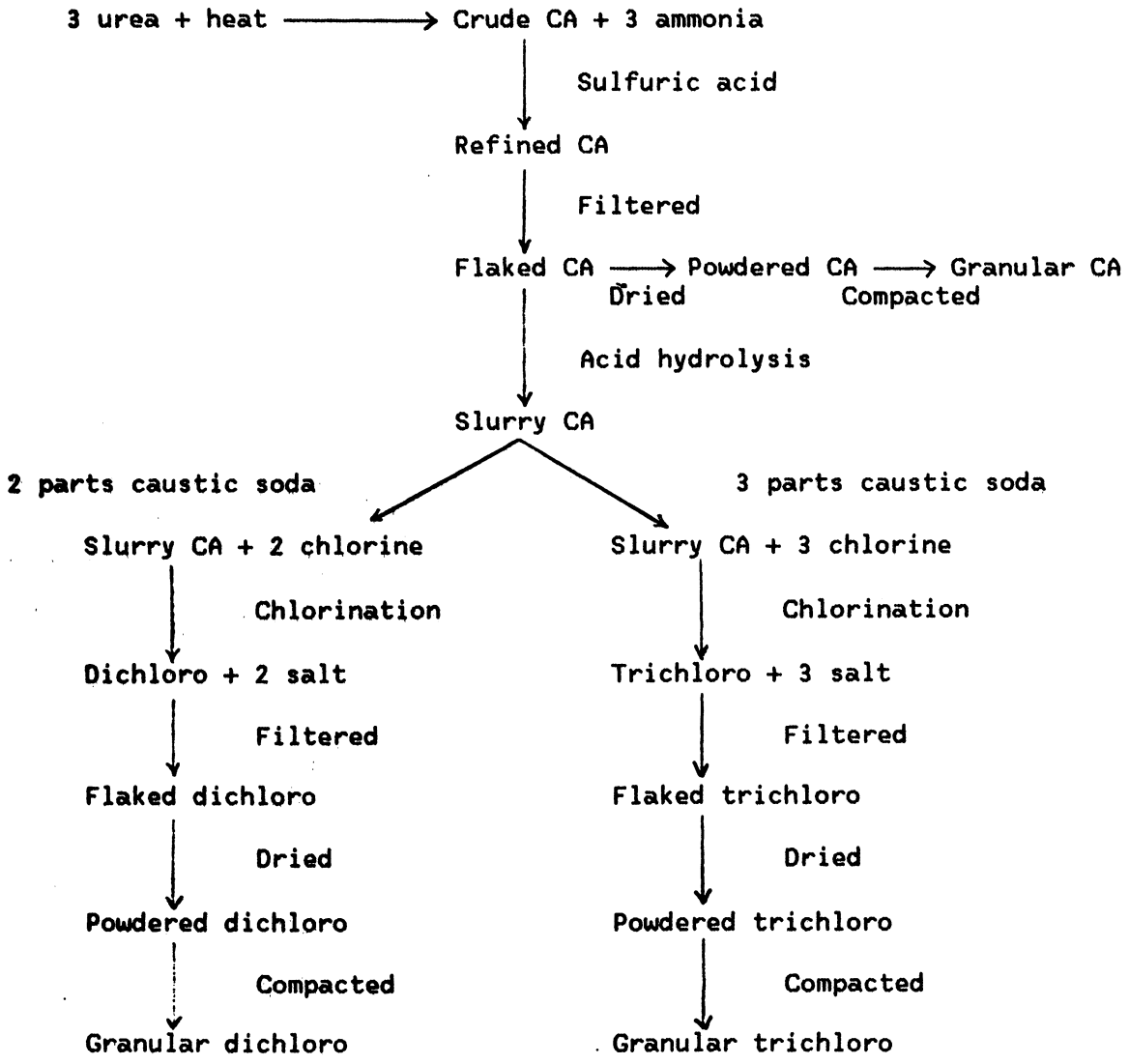
Potassium dichloro
isocyanurate



Trichloro
isocyanuric acid

Source: Chlorinated Isocyanurates, Chemical Economics Handbook, SRI (Stamford Research Institute) International, Menlo Park, California, September 1982.

Figure 2.—Production process for CA and its chlorinated derivatives



Source: Compiled from conversations with officials of Monsanto.

The chief use of CA is as a chemical intermediate, i.e., raw material, for production of the chlorinated derivatives. As a final product, CA is used in the swimming pool trade as a stabilizer (also called "conditioner"), "a granular chemical which helps prolong the useful life of chlorine in the water [of a pool], even in direct sunlight." 1/ There are other miscellaneous uses for CA as a final product outside of the pool trade. These include the production of chlorinated bleaches, herbicides, and whitening agents.

Dichloro is used in the swimming pool trade as a pool water disinfectant; it is applied by throwing (broadcasting) the granular dichloro in the pool. Outside of the pool trade, it is most often used as the active ingredient in dishwashing compounds, dry chlorine bleaches, scouring powders, and detergent sanitizers; additional miscellaneous uses include water and sewage treatment, algicides, and deodorants.

Trichloro is used both in the swimming pool trade and outside the pool trade for the same purposes as dichloro. Because it has a larger percentage of available chlorine, it is a stronger swimming pool disinfectant; in the nonpool trade, it is used in stronger commercial laundry bleaches, etc. Since it has a lower solubility in water than dichloro, it is applied in the pool through pool care systems where the water is chlorinated by flowing around trichloro tablets, sticks, or cartridges (that hold tablets or sticks which are compacted from granular trichloro). The following tabulation shows the uses of the subject products as reported in response to questionnaires of the Commission:

Product and uses	Share of apparent U.S. consumption in 1982
CA:	
Chemical intermediate	***
Pool trade	***
Nonpool trade	***
Total	100.0
Dichloro:	
Pool trade:	
Swimming pool disinfectants	***
Nonpool trade:	
Dishwashing compounds	***
Dry chlorine bleaches	***
Other	***
Total	100.0

1/ E.Z. Clor (trademark) Pool Care Products, E.Z. Clor (trademark) Pool Care Guide, 1981, p. 17.

Product and uses	Share of apparent U.S. consumption in 1982
Trichloro:	
Pool trade:	
Swimming pool disinfectants	***
Nonpool trade	***
Total	100.0
Dichloro and trichloro combined:	
Pool trade	***
Nonpool trade	***
Total	100.0

The products covered by this investigation compete directly with other chemicals such as calcium hypochlorite, sodium hypochlorite, and small amounts of chlorine gas, which are priced lower than chlorinated isocyanurates but are less convenient for pool operators to use. The subject products account for approximately 40 percent of apparent U.S. consumption of all water treatment chemicals. 1/

U.S. tariff treatment

CA and its chlorinated derivatives are classified under item 425.10 of the TSUS, with a column 1 rate of duty of 4.1 percent ad valorem and a column 2 rate of duty of 25 percent ad valorem. 2/ The current column 1 rate of duty is the fifth of eight staged reductions resulting from concessions made by the United States in the most recent round of the Multilateral Trade Negotiations (MTN), which will result in a most-favored-nation rate of duty for this item of 3.5 percent ad valorem on January 1, 1987. Least developed developing countries (LDDC's) designated in general headnote 3(d) of the TSUSA are granted the full U.S. MTN concession rate for a particular item without

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1/ Chem Data, Inc., Chemical Profiles, "Calcium Hypochlorite," July 1983 and responses to questionnaires of the United States International Trade Commission.

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

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 TSUSA. Such rates do not apply to products of the People's Republic of China, Hungary, Romania, or Yugoslavia.

staging of duty reductions. Imports entering under item 425.10 are eligible for duty-free treatment under the Generalized System of Preferences (GSP). 1/

U.S. Producers

From the early 1960's to 1979, the two U.S. producers of CA and its chlorinated derivatives were FMC Corp. (Philadelphia, Pa.) and Monsanto (St. Louis, Mo.). In late 1979, a third firm, Olin Corp. (Stamford, Conn.), also became a producer of these products.

FMC's production plant is located in South Charleston, W. Va., where it produces CA, dichloro (trademark CDB Clearon), and trichloro (trademark CDB-90). FMC also * * *. FMC tabletizes and repackages some of its products into consumer-size packages under the "Sun" trademark in its plant in Livonia, Mich.; it sells the balance in bulk quantities to repackagers.

Monsanto owns three plants capable of producing CA and its chlorinated derivatives. Its plant in Luling, La., produces CA and dichloro. The trademarks for Monsanto's dichloro products are as shown in the following tabulation:

Product	Trademark
Sodium dichloro isocyanurate dihydrate	ACL 56
Sodium dichloro isocyanurate	ACL 60
Potassium dichloro isocyanurate	ACL 59

Monsanto's plant in Sauget, Ill., produces trichloro. During the summer and early fall of 1981, Monsanto's trichloro (trademark ACL 85) was experiencing premature chlorine release. Process improvements were made which corrected this problem. Simultaneously, Monsanto increased the chlorine content of its trichloro. Therefore, on September 22, 1982, "ACL 85" was renamed "ACL 90 Plus" to reflect the increased chlorine. 2/ Monsanto's third plant, in Everett, Mass., produced CA but was shut down in September 1982. 3/ * * *. All of Monsanto's sales of the subject products are made in bulk quantities to repackagers.

1/ The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The 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. It provides for duty-free treatment of eligible articles imported directly from designated beneficiary developing countries.

2/ Old stocks and packaging were exhausted before these name changes were made.

3/ An importer's submission claims that this plant was closed and reopened several times in recent years (post-conference brief of Steptoe & Johnson, representing Olin Corp., p. 19, footnote, inv. No. 731-TA-136 (Preliminary)).

Olin began production of the subject products late in 1979. Its only plant is located in Lake Charles, La. Olin reports that the portion of the plant which produced CA was shut down in December 1980 owing to production difficulties. * * *, Olin suspended dichloro production in December 1982. The dichloro producing facilities are kept in working order, however. The plant still produces trichloro in granular form under the trademark OCI 90. * * *. Olin processes * * * domestically produced CA * * *, but most of its CA needs are met by * * * imports * * * of CA made by Nissan.

Olin sells some of its derivatives in bulk quantities to repackagers that repackage them under their own brand names. The balance of Olin's products are tabletized and repackaged for Olin by contract repackagers under Olin's brand name, "Pace." The trademark, "Constant Chlor, " is also registered by Olin.

Because one producer's product is essentially identical to another's, or to the imported products, U.S. producers often swap dichloro for trichloro or purchase products 1/ from each other if that is more economical than to alter operation of the production line to meet short-term changes in demand. Additionally, to avoid freight costs, one producer might buy products from another if its customer is located closer to the other's plant. The second producer would load the product in the first's truck, or a common carrier, without knowing the identity of the customer. 2/

U.S. Importers

The companies involved in importing the subject products from Japan are ICI Americas, Inc., Toyomenka (America), Inc., Sumitomo Corp. of America, and Olin Corp. All companies that use or consume the Japanese products in the United States purchase them from one of these U.S. importers.

ICI Americas, Inc. (ICI)

ICI is a wholly owned U.S. subsidiary of Imperial Chemical Industries, PLC, of London, England. It is the exclusive U.S. marketer of CA, dichloro, and trichloro made by Shikoku, and has several warehouses in the United States. Shikoku sells the products to Mitsubishi, which is responsible for transporting them to the U.S. ports of entry. ICI buys the products from Mitsubishi and becomes the importer of record.

1/ Prehearing brief of FMC, p. 12.

2/ Meeting between Commission staff and domestic producers during plant visit.

Toyomenka (America), Inc. (Toyomenka)

Toyomenka is a wholly owned subsidiary of Toyo Menka Kaisha, Ltd., a Japanese trading company that is an exporter from Japan of the subject products manufactured by Nissan. Toyomenka imports CA, dichloro, and trichloro, as well as calcium hypochlorite. Toyomenka's imports of CA are not subject to this investigation because they are produced by Nissan, for which Commerce made a negative dumping determination.

Sumitomo Corp. of America (Sumitomo)

Sumitomo is a wholly owned subsidiary of Sumitomo Corp. of Japan, a trading company that also exports CA manufactured by Nissan to the United States. Accordingly, Sumitomo's imports are also not subject to this investigation.

Olin Corp.

Olin imports CA produced by Nissan from Japan. * * *. Since Olin's imports of CA are produced by Nissan, they are not subject to this investigation.

The following tabulation shows the combined imports from Japan of CA, dichloro, and trichloro as reported to the Commission by the U.S. importers:

(1,000 pounds)

Firm	1980	1981	1982	January-September--	
				1982	1983
ICI	***	***	***	***	***
Toyomenka 1/	***	***	***	***	***
Sumitomo 1/	***	***	***	***	***
Olin 1/	***	***	***	***	***
Total	21,043	30,655	24,238	20,967	23,594

1/ Some or all of the imports by these firms were not found to be sold at LTFV by Commerce.

The following tabulation shows the combined imports from Japan of the products that are subject to this investigation (CA produced by Shikoku only, dichloro, and all trichloro) as reported to the Commission by the U.S. importers:

* * * * * * *

U.S. Market and Channels of Distribution

The market shares of shipments to the U.S. pool market for each primary supplier are shown in the following tabulation:

(In percent)

Product and firm	1980	1981	1982	Jan-Sept.	
				1982	1983
CA sold as CA:					
Monsanto	***	***	***	***	***
FMC	***	***	***	***	***
Total domestic	***	***	***	***	***
Olin	***	***	***	***	***
ICI	***	***	***	***	***
Toyomenka	***	***	***	***	***
Total imported from Japan	***	***	***	***	***
Total CA	100	100	100	100	100
Dichloro:					
Monsanto	***	***	***	***	***
FMC	***	***	***	***	***
Olin	***	***	***	***	***
Total domestic	***	***	***	***	***
ICI	***	***	***	***	***
Toyomenka	***	***	***	***	***
Total imported from Japan	***	***	***	***	***
Total dichloro	100	100	100	100	100
Trichloro:					
Monsanto	***	***	***	***	***
FMC	***	***	***	***	***
Olin	***	***	***	***	***
Total domestic	***	***	***	***	***
ICI	***	***	***	***	***
Toyomenka	***	***	***	***	***
Total imported from Japan	***	***	***	***	***
Total trichloro	100	100	100	100	100

ICI alleged that Monsanto lost market share in trichloro due to its "gassing" problem in 1981. 1/ As shown in the tabulation above, Monsanto's market share in the trichloro pool market decreased from * * * percent in 1980 to * * * percent in 1981; * * * percent of that decrease was gained by importers from Japan and the other * * * percent, by the other domestic producers. Purchasers' views on the significance of Monsanto's quality problem, as well as the degree of responsiveness and responsibility with which Monsanto handled the problem, differ. The former purchasing agent for Purex Corp., now a * * * buyer of Japanese products in the Los Angeles area, testified that the problem was severe and Monsanto was slow to respond, which caused losses to Purex. 2/ The Chairman of Leslie's Pool Mart, another * * * customer of Japanese products in the Los Angeles area, stated that * * *. 3/

Cyanuric acid

CA is used in the United States as a chemical intermediate for the production of dichloro and trichloro. In addition, CA is also sold as a final product for use in the pool trade and, to a lesser extent, for use in the nonpool trade (generally as a component of industrial or consumer chemical products). The following tabulation shows the distribution of CA in the U.S. market, in total and by primary supplier, as compiled from data provided by the producers and importers in response to the Commission's questionnaires:

1/ Prehearing brief by ICI, p. 12.

2/ Transcript of the hearing, inv. No. 731-TA-136 (Final), p. 246.

3/ Meeting between S. Vastagh of the Commission staff and P. Leslie, Chairman of the Board of Leslie's Pool Mart., Jan. 27, 1984

(1,000 pounds)

Cyanuric acid	1980	1981	1982	Jan-Sept. 1982	Jan-Sept. 1983
Used as intermediate for:					
Producing dichloro	***	***	***	***	***
Producing trichloro	***	***	***	***	***
Total, intermediate	***	***	***	***	***
Sold as CA to the pool trade:					
To repackagers	***	***	***	***	***
To distributors	***	***	***	***	***
To larger retailers	***	***	***	***	***
To smaller retailers	***	***	***	***	***
Total, pool trade	***	***	***	***	***
Sold as CA to the nonpool trade:					
To distributors	***	***	***	***	***
To end users	***	***	***	***	***
Total, nonpool trade	***	***	***	***	***
Total, sold as CA	***	***	***	***	***
Sold as CA to the pool trade by--					
Monsanto:					
To repackagers	***	***	***	***	***
FMC:					
To repackagers	***	***	***	***	***
To distributors	***	***	***	***	***
To larger retailers	***	***	***	***	***
Total, FMC	***	***	***	***	***
Olin:					
To repackagers	***	***	***	***	***
To distributors	***	***	***	***	***
To larger retailers	***	***	***	***	***
To smaller retailers	***	***	***	***	***
Total, Olin	***	***	***	***	***
ICI:					
To repackagers	***	***	***	***	***
Toyomenka:					
To repackagers	***	***	***	***	***
Total, pool trade	***	***	***	***	***

Dichloro and trichloro

Dichloro and trichloro are produced by Monsanto, FMC, and Olin (trichloro only since December 1982) and are imported from Japan by ICI and Toyomenka. Both dichloro and trichloro are sold only as final products, i.e., not as chemical intermediates. They are sold through the same channels of

distribution. The following tabulations show the distribution of dichloro and trichloro in the U.S. market, in total and by primary suppliers, based on the questionnaire responses of the producers and importers:

* * * * * * *

* * * * * * *

The pool market for CA (as a final product), dichloro, and trichloro

The pool market is defined herein as all uses of the subject products for applications that are related to swimming pools and spas (hot tubs, whirlpools, etc.). There are four levels of suppliers in the pool market that provide the subject products to the end users:

Primary suppliers (producers and importers)	U.S. producers (Olin for derivatives, Monsanto, and FMC) and importers (Olin for CA, ICI, and Toyomenka.) All five primary suppliers sell the subject products to the secondary suppliers in bulk. In addition, two of the primary suppliers, FMC and Olin, also sell the subject products to the third-and fourth-level suppliers in packaged form.
Secondary suppliers (repackagers)	There are approximately 30-40 repackagers in the United States. They purchase the subject products from the primary suppliers in bulk and sell them to the third and fourth level suppliers, as well as to the endusers, in packaged form.
Third-level suppliers (distributors)	There are approximately 125 distributors in the United States. They purchase from the primary and secondary suppliers in packaged form and sell to the fourth-level suppliers, as well as to the endusers.
Fourth-level suppliers (smaller and larger retailers/dealers)	These retailers/dealers purchase from one or more of the other suppliers, always in packaged form, and sell to the endusers. The number of retail stores where the subject products are sold is estimated to be more than 5,000.

As described below, many of the repackagers and distributors can be classified in more than one of the supplier categories; furthermore, all repackagers, distributors, and retailers manufacture, distribute, and/or sell other chemicals and other pool-related equipment and accessories.

Endusers.--The pool-trade endusers of the subject products include the individual pool or hot-tub owners, the operators or maintenance crews of public and common pools, professional pool builders and maintenance companies, and everyone else that treats the water in a swimming pool or spa. These endusers purchase the CA, dichloro, or trichloro in packages that range in size from 1 pound to 100 pounds (the professional pool maintenance companies most often buy the larger packages).

These endusers might purchase the packaged products from a retailer, from a distributor, or from a repackager. The individual home pool owner generally buys from a retailer, while the pool professionals might purchase the subject products from any of the four sources.

Smaller retailers (also called dealers).--These fourth-level pool-trade suppliers are smaller retail stores that are not related to distributors or repackagers. Most of these are independent pool supply stores that specialize in selling items related to the swimming pool trade. The merchandise sold in these stores includes other chemicals for the pool in addition to the subject products. Besides chemicals, these stores also sell pool- and spa-related equipment, accessories, etc. Thus, the subject products are only a part of their total business.

The subject products are also sold by smaller retailers that do not specialize in swimming-pool-related merchandise, e.g., smaller hardware stores, etc.

The smaller retailers buy the subject products either from distributors or from repackagers. They might also purchase directly from Olin, the only producer that sells directly to the smaller retailers. The smaller retailers may receive advertising allowances 1/ as a purchase incentive.

Larger retailers (also called dealers).--These fourth-level suppliers are mass merchandisers that have multiple retail locations. The large retailers are national or regional department and discount-department stores, grocery-, drug-, hardware-, and lumber-store chains, etc. They have central purchasing departments/offices for a region or for the entire chain. For example, the subject products are supplied to the West Coast stores of K-Mart, Sears, Safeway, etc., by California repackagers, whereas the east coast stores of the same chains may be supplied by repackagers located in the Atlantic States.

The repackagers that supply the subject products to large retailers generally also supply other chemical products to the same retailers as well (e.g., bleaches, scouring powders, various detergents, etc.).

1/ Upon presenting proof of advertising to the supplier, the retailer will either receive full or partial reimbursement for the cost of advertising, or will receive free merchandise of the advertised type in an amount previously agreed upon by the retailer and supplier. Alternatively, the retailer may receive a previously agreed-upon retroactive discount on the purchase of the advertised type of merchandise. The majority of the advertising programs originate from FMC and Olin, * * *. The secondary suppliers, the repackagers, rarely provide advertising programs.

Some of the larger retailers invite bids from the suppliers to provide the subject products for a year. The bid may include price, in-store service (e.g., keeping the shelves clean and filled), advertising allowance, point-of-purchase advertising, etc.

The larger retailers buy the subject products from primary suppliers FMC and Olin, as well as from secondary and third-level suppliers.

Distributors.--These third-level pool-trade suppliers are wholesalers in the swimming pool business. They invariably handle all chemicals, equipment, and accessories for the pool trade. They are middlemen between the respective manufacturers and the retailers. They may handle more than one brand of most products, including the subject products, thus often offering a variety of competing products to the retailers.

The distributors buy the subject products in packaged form from primary suppliers (FMC or Olin), and/or from secondary suppliers, (the repackagers). They sell the same packaged products to fourth-level suppliers, the retailers (more to the smaller and less to the larger retailers). Some distributors also have showrooms in which they sell only to the pool professional endusers (these showrooms are not retail stores for the consumer), and others own and operate true retail stores in which they sell the subject products.

Some distributors are also repackagers; they package the subject products themselves, under their own new brandnames, and promote them in competition with the products they distribute. Such distributors might buy the subject products from FMC or Olin both in packaged form for resale and in bulk form for repackaging, or they might buy one brand of the subject products from another repackager that prefers not to sell to dealers. Sometimes the distributor's own brandname products may be intended for a market segment different from that of the primary supplier or another repackager whose products they also distribute. 1/

1/ FMC argues that distributors and repackagers are on the same level of distribution, i.e., both are wholesalers (prehearing brief by FMC, pp. 14 and 15). Responses to the Commission's questionnaire from repackagers, however, indicate that there is another layer between the repackagers and dealers for some sales by the repackagers. Of the total sales by repackagers in 1982, 70 percent was to large and small dealers and endusers directly and 30 percent was to distributors. Few repackagers sell over 90 percent of their products to distributors or dealers only; most divide their business between the different types of customers. Furthermore, the repackagers differ from the distributors in the degree of control over the product, as they are able to procure material from different sources without changing the brandname they sell. The distributors cannot shift their purchases of packaged materials without profoundly affecting their business. In other words, the distributor is more dependent on the actions of its supplier than is the repackager.

Repackagers.--These secondary pool-trade suppliers are companies that purchase the subject products in bulk from one or more of the five primary suppliers (Monsanto, FMC, Olin, ICI, and Toyomenka). The repackagers then transfer the subject products into smaller packages and label the packages with their own brandname. (The trichloro is tabletized by them before transfer into smaller packages.)

Most repackagers are chemical companies that manufacture and/or repackage other chemical products. These other chemical products are for both the pool and the nonpool trade and include bleaches, cleansers, scouring powders, algicides, detergents, etc. Some repackagers are also equipment manufacturers. Their equipment is generally for the pool trade, e.g., water circulating, cleaning, heating, filtering and maintenance equipment, and parts thereof.

Some of the repackagers perform contract packaging and/or tabletizing for one or more of the primary suppliers of the subject products. In these instances the repackagers are hired to package products that compete with their own brands. Those repackagers that avail themselves of such contract opportunities do so for pragmatic reasons--some other repackager will accept the contract if they do not, or a new business will spring up that will eventually become a competitor. Such contracts also improve utilization of their repackaging capacities and stabilize employment.

The repackagers sell the subject products to both levels of distribution below them, i.e., to the distributors and to smaller and larger retailers. Some repackagers also sell to the pool professional endusers through their own showrooms or salesmen. Finally, some repackagers own and operate true retail stores, and some sell their products through mail-order catalogs. While a few repackagers prefer to sell exclusively through a single channel of distribution (e.g., to larger retailers or through their own stores), most sell their products through more than one of the channels described.

Some repackagers are also distributors of other chemicals and equipment for the pool trade. Other repackagers are also smaller retailers, as mentioned above.

The last major structural changes in this market took place in 1978 and 1979, when FMC and Olin began to sell not only bulk, but also repackaged CA, dichloro, and trichloro. The five current primary suppliers have been selling the subject products during the entire period of the investigation. Because of the highly competitive nature of the marketplace, however, the supplier-purchaser relationships, as well as relative market shares, have changed. Most repackagers have relied exclusively or for the majority of their raw materials on all or most primary suppliers at one time or another.

Virtually none of the companies in the channels of distribution for the subject products rely solely on the sale of the subject products for their revenues.

Primary suppliers for the pool market.--FMC sells its products to distributors and large retailers under the "Sun" trademark, and also sells to repackagers in bulk. FMC acquired the Sun Cleanser Co. in 1978 in order to enter the market with repackaged products in addition to selling in bulk. FMC sells granular CA in 3-, 6-, 35-, and 100-pound packages to distributors and large retailers, and in 300- and 2000-pound containers to repackagers (bulk sales). FMC's dichloro is sold in granular form in 2-, 5-, 10-, 20-, 45-, and 100-pound containers to distributors and large retailers, and in 300-pound containers to repackagers (bulk sales). FMC's granular trichloro is available in 100- and 300-pound drums for bulk sale to repackagers. FMC's tabletized "Sun" brand trichloro is marketed in three forms, 1-inch tablets, 3-inch tablets, and 8-oz. sticks; they are sold to distributors and large retailers in the following package sizes: (a) a 1-inch tablet is available in 2-, 5-, 10-, 20-, and 40-pound containers; (b) the 3-inch tablet is available in 4-, 7-, 14-, 25-, and 65-pound packages; and (c) 8-oz. sticks are sold in 4-, 10-, 25-, and 50-pound packages. Trichloro is also available in cartridges, which are containers of various shapes that contain trichloro tablets or sticks and generally weigh 3 to 5 pounds each. FMC generally sells the subject products to the nonpool market in bulk.

Monsanto sells all its subject products in bulk to repackagers in 300-pound drums or in 1,500-pound "bins" under the "ACL" trademark. 1/ Unlike FMC and Olin, Monsanto does not repackage or tabletize. Thus, it does not sell directly to pool-trade distributors or retailers. Monsanto's customers are free to, and do, market these products under their own trade names.

Olin sells in bulk to repackagers, and markets its repackaged "Pace" 2/ products with its own marketing organization to distributors and large and small retailers. The Pace brand CA is sold in 3.5 pound packages. Dichloro is sold in 4-, 10-, 16-, 25-, and 100-pound containers. "Pace" brand trichloro is available in 4-, 10-, 16-, 30-, and 100-pound containers of 1-inch tablets, in single tablet; 3.5-, 10-, 17.5-, 35-, and 215-pound containers of 3-inch tablets; and in 4-, 10-, 35-, and 50-pound containers of 6-inch cartridges.

ICI sells most of the imported products in bulk to repackagers and sells a * * * share * * * to the nonpool market. ICI offers to place the merchandise into the customers' facilities/warehouses on a consignment basis. Those customers that elect to store the merchandise for ICI receive a * * * cent discount for performing the warehousing for ICI. Currently, * * * avail themselves of this opportunity. Additionally, ICI maintains seven warehouses in the United States. 3/ ICI sells to * * * percent of all repackagers. It had * * * repackager customers during 1980-83, * * * of which accounted for * * * percent of ICI's sales.

1/ The "ACL" trademark is only used in the bulk market. There are no packaged products that have the name "ACL."

2/ "Constant-Chlor" is also an Olin brand.

3/ Prehearing brief by ICI, p. 15.

Toyomenka sells all its imports to repackagers. It had * * * customers during 1980-83; * * * accounted for * * * percent of its business in 1983.

The importers argue that the reason some of the repackagers purchase imported merchandise exclusively or almost exclusively is that in the mid- and late 1970's, Monsanto and FMC refused to supply bulk material to businesses that were attempting to enter the repackaging market. 1/ These companies thus began to purchase from the importers and have remained their customers to date.

The importers also argue that they are the only noncompetitive supplier, other than Monsanto, to the U.S. repackagers, and that alternative sources of supply are important to the repackagers. 2/ A review of the repackagers' purchasing patterns shows that many have in the past or do now rely on * * * for one or more of the products. * * * of the repackagers reviewed show * * *.

The share of the five primary suppliers' shipments going to pool-trade repackagers and distributors/retailers is shown in the following tabulation (in percent):

Source	1980	1981	1982	Jan.-Sept.-- 1983
CA sold as CA:				
Monsanto:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
FMC:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Olin:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
ICI:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Toyomenka:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Total:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***

1/ Prehearing brief by ICI, p. 14, and transcript of the hearing, pp. 193, 196.

2/ Prehearing brief by ICI, p. 20, and transcript of the hearing, pp. 233.

Source	1980	1981	1982	Jan.-Sept.-- 1983
Dichloro:				
Monsanto:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
FMC:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Olin:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
ICI:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Toyomenka:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Total:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Trichloro:				
Monsanto:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
FMC:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Olin:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
ICI:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Toyomenka:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***
Total:				
Repackagers	***	***	***	***
Distributors/retailers	***	***	***	***

The Commission's questionnaire asked the following question of all U.S. producers and importers (all primary suppliers):

> Please describe what your firm believes has been the effect (1) of the subject imports from Japan and from other countries and (2) of the U.S. producers' and repackagers' marketing strategies on (a) your firm's sales, pricing, and market share, (b) on U.S. market conditions, and (c) on the firms in the distribution chain (distributors, retailers, etc.).

Responses were received from ICI, Olin, FMC, Monsanto, and Toyomenka; these responses are reproduced in appendix C.

The nonpool market for the subject products

In the nonpool market, over * * * percent of the subject products are sold by the producers or importers directly to the endusers; the remainder is sold through chemical distributors/wholesalers in the nonpool business. There is * * * percentage of the subject Japanese products sold in this market, although there is somewhat more sold in that market than is sold by the importers directly, as some of the repackagers are allegedly bidding on institutional and public sector projects for nonpool use of the subject products with Japanese material. 1/

The apparent reason for the Japanese importers not directly being involved in the industrial market is the need for technical/chemical support by the supplier. Such expertise, the domestic producers claim, does not reside in the U.S. sales organizations for the Japanese producers. Furthermore, the importers prefer larger purchasers, whereas the industrial customers tend to purchase less than the pool-trade repackagers. 2/ Toyomenka * * *, ICI sells small quantities * * * and intends to increase its sales to the nonpool market. 3/4/

1/ Although there are no data to indicate the quantities of the subject products sold by pool-trade distributors/repackagers in the nonpool market, in the best estimate of the staff it is small.

2/ Transcript of the hearing, pp. 35, 36.

3/ Transcript of the hearing, p. 219.

4/ * * *.

Apparent U.S. Consumption

Data on apparent U.S. consumption of CA, dichloro, and trichloro are shown in table 1.

Combined apparent U.S. consumption for CA , dichloro, and trichloro increased by 15 percent in 1981 to 152 million pounds and then decreased to 122.7 million pounds in 1982, or by 19 percent. The reason for the decrease in consumption was reportedly poor swimming weather on the west coast and in the Sun Belt, coupled with the effects of the economic recession.

Apparent U.S. consumption of CA * * * increased from * * * million pounds in 1980 to * * * million pounds in 1981, or by * * * percent, and then decreased to * * * million pounds in 1982, or by * * * percent. Apparent consumption during January-September 1983 was * * * million pounds, representing an increase of * * * percent compared with apparent consumption in the corresponding period of 1982.

Apparent U.S. consumption of dichloro decreased irregularly from * * * million pounds in 1980 to * * * million pounds in 1982, but then rose by * * * percent in January-September 1983 compared with consumption in the corresponding period of 1982.

Apparent U.S. consumption of trichloro increased from * * * million pounds in 1980 to * * * million pounds in 1981, or by * * * percent, and then decreased to * * * million pounds in 1982, or by * * * percent. Apparent consumption during January-September 1983 was * * * million pounds, representing an increase of * * * percent compared with apparent consumption in the corresponding period of 1982.

Foreign Producers

Other countries besides the United States that produce CA or its chlorinated derivatives include Japan, the United Kingdom, France, Taiwan, The People's Republic of China, and Spain. It is believed that the production processes in each of these countries are very similar to those used in the United States.

Table 1.--CA, dichloro, and trichloro: Apparent U.S. consumption and U.S. shipments of imports from Japan, 1980-82, January-September 1982, and January-September 1983

Product and period	Apparent U.S. consumption	U.S. shipments of imports from Japan	Ratio of shipments of imports from Japan to consumption
	1,000 pounds		Percent
CA, total:			
1980	***	***	6.1
1981	***	***	18.8
1982	***	***	15.1
January-September--			
1982	***	***	18.4
1983	***	***	21.8
CA sold as CA:			
1980	***	***	25.9
1981	***	***	34.8
1982	***	***	28.4
January-September--			
1982	***	***	28.8
1983	***	***	46.1
Dichloro:			
1980	***	***	15.9
1981	***	***	12.4
1982	***	***	12.0
January-September--			
1982	***	***	12.4
1983	***	***	18.6
Trichloro:			
1980	***	***	23.0
1981	***	***	27.4
1982	***	***	22.5
January-September--			
1982	***	***	21.4
1983	***	***	24.8
Total, dichloro and trichloro:			
1980	***	***	20.3
1981	***	***	21.8
1982	***	***	18.1
January-September--			
1982	***	***	17.6
1983	***	***	22.6
Total, CA total dichloro, and trichloro: 1/			
1980	131,596	19,382	14.7
1981	151,993	31,301	20.6
1982	122,699	20,582	16.8
January-September--			
1982	99,430	17,870	18.0
1983	121,013	26,946	22.3

1/ Data double count CA used for producing the derivatives.

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

Japan 1/

The three producers of CA or its chlorinated derivatives in Japan are Shikoku Chemicals Corp., Nissan Chemical Industries, Ltd., and Nippon Soda to., Ltd. (since 1983 only). The two largest producers provided no capacity data. A secondary source has indicated that Shikoku's and Nissan's annual combined capacity to produce the derivatives in 1981 was 35.3 million pounds. 1/ Total exports of the derivatives to all countries in 1981 by these firms were * * * million pounds 2/

Shikoku.--Shikoku commenced production of these products in 1967 and currently produces them at its plant in Marugame City, Kagawa Prefecture. Most of Shikoku's CA is * * *, but it is also * * *.

The Commission requested specific annual production and capacity data for each year during 1980-83 from Shikoku. No data were supplied; instead, a Shikoku company official indicated that Shikoku's production of the subject products * * *. Shikoku reported exports to the United States and to other countries of the subject products during fiscal years 1981-83 (Apr. 1-Mar. 31), to be as shown the following tabulation (in thousands of pounds):

1/ The American Embassy, Tokyo, reports that the Japanese Ministry of International Trade and Industry's (MITI) production and export statistics on chemical products "contain no independent figures for cyanuric acid and its chlorinated derivatives . . . A MITI official explained that these products were completely dropped from the MITI official data because the number of producers concerned is only three and their combined total production is quite insignificant compared to other chemical products . . ." Accordingly, the data presented herein have been largely obtained directly from the companies involved, through the American Embassy in Tokyo.

Item	Exports to the United States	Exports to countries other than the United States
CA:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***
Dichloro:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***
Trichloro:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***
Total:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***

The United States * * * accounted for * * * of Shikoku's exports of CA during the past 3 years; * * * pounds per year were reported to have been exported to countries other than the United States. Shikoku's exports of the derivatives have averaged * * * pounds per year, with the United States and the European Community (particularly West Germany) being the principal destinations. Shikoku's exports of these products to the United States are handled by Mitsubishi Corp.

Nissan.--Nissan commenced production of CA in 1965 and currently produces CA, dichloro, and trichloro at a plant in Toyama Prefecture. Nissan reported its production of the subject products during fiscal years 1980-83 (May 1-Apr. 30), to be as shown in the following tabulation (in thousands of pounds):

Item	Fiscal year-- 1980	1981	1982	1983
CA	***	***	***	***
Dichloro	***	***	***	***
Trichloro	***	***	***	***

1/ Chlorinated Isocyanurates, Chemical Economics Handbook, SRI (Stanford Research Institute) International, Menlo Park, California, September 1982.

2/ Shikoku - capacity: 24.3, total exports: * * *; Nissan - capacity: 11.0, total exports: * * *.

Nissan consumes CA within its Toyama plant as a raw material for the chlorinated derivatives, but also supplies CA to * * * customers in addition to the U.S. market. Nissan's exports of the subject products to the United States and to all countries during calendar years 1980-83 are shown in the following tabulation (in thousands of pounds):

Item	Exports to the United States	Exports to countries other than the United States
CA:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***
Dichloro:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***
Trichloro:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***
Total:		
1980	***	***
1981	***	***
1982	***	***
1983	***	***

Nissan's exports of these products to the United States are handled by Toyomenka Kaisha and by Sumitomo Corp. * * *. A Nissan offical commented that the * * *.

The Commission also requested capacity data from Nissan but such data were not supplied.

Nippon.--Nippon commenced production of CA and trichloro at the beginning of 1983. Nippon's CA is * * *. The quantities of CA and trichloro produced by Nippon in 1983 were approximately * * * and * * * pounds, respectively. Nippon provided capacity data at the Commission's request, its current annual capacity is * * * pounds.

Nippon exported * * * of trichloro to * * * countries other than the United States. Its capacity utilization in 1983 was at * * * percent; Nippon expects capacity utilization to increase to * * * percent in 1984.

Western Europe 1/

Western European consumption of cyanuric acid and its chlorinated derivatives in 1981 was 22.5 million pounds, consisting of 15.4 million to 16.5 million pounds produced in Western Europe and of imports of 8.8 million to 9.3 million pounds. Of the 8.8 million to 9.3 million pounds imported into Western Europe, approximately 6.0 million pounds were from the United States, and the remainder was from Japan. Western Europe exported approximately 2.2 million pounds in 1981, mainly to the Republic of South Africa, Kenya, and Australia. Principal uses for chlorinated derivatives in Western Europe are dishwashing compounds and swimming pool sanitization. Western European producers of chlorinated derivatives are in the United Kingdom, France, and Spain. Annual capacity to produce the derivatives in Western Europe in 1981 totaled 24 million pounds.

In the United Kingdom, Chlor-Chem, Ltd., produces the derivatives at its plant in Widnes, Cheshire. Chlor-Chem is 50 percent owned by FMC Corp. (U.S.A.) and 50 percent owned by FMC (Holdings), Ltd. Chlor-Chem's annual capacity in 1981 was 11.2 million pounds. * * *.

In France, Société Toulousaine de Syntese SA (STS) produced the derivatives at its plant in Toulouse, Haute-Garonne. Annual capacity of STS in 1981 was 11.0 million pounds.

In Spain, Derivados Electroquimicos produced the derivatives at its plant in Llerona, Barcelona. Annual capacity in 1981 was 1.8 million pounds.

Consideration of Material Injury to an Industry

in the United States

U.S. production

The Commission collected production data from all three producers of the products under investigation. Data on their U.S. production are shown in table 2. 2/

1/ Chlorinated Isocyanurates, Chemical Economics Handbook, SRI (Stanford Research Institute) International, Menlo Park, California, September 1982. (All data appearing in this section are data for 1981 from SRI International)

2/ The Commission originally collected questionnaire data for 1980-82, January-September 1982, and January-September 1983. In response to a request made during the hearing all 5 primary suppliers provided selected data on their operations during full-year 1983. Such data are presented in app. D.

Table 2.--CA, dichloro, and trichloro: U.S. production, 1980-82, January-September 1982, and January-September 1983

(1,000 pounds)

Product	1980	1981	1982	Jan.-Sept--	
				1982	1983
CA	***	***	***	***	***
Dichloro	***	***	***	***	***
Trichloro	***	***	***	***	***
Total, dichloro and trichloro	***	***	***	***	***
Total, CA, dichloro, and trichloro	***	***	***	***	***

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

Cyanuric acid.--Total production of CA is necessarily substantially higher than shipments of CA to the endusers, because total production of CA includes CA consumed by the producers as an intermediate for the production of dichloro and trichloro. Production of CA, however, should not be viewed independently from the production of dichloro and trichloro, because if there were no demand for dichloro or trichloro, no CA would be produced therefor.

Total U.S. production of cyanuric acid * * * from * * * million pounds in 1980 to * * * million pounds in 1981, and then * * * to * * * million pounds in 1982, or by * * * percent. Production in January-September 1983 was * * * million pounds, * * * than the * * * million pounds produced in January-September 1982.

Dichloro.--U.S. production of dichloro increased from * * * million pounds in 1980 to * * * million pounds in 1981, or by * * * percent, and was * * * in 1982. Production in January-September 1983 totaled * * * million pounds, representing a decrease of * * * percent from the * * * million pounds produced in January-September 1982. * * *, Olin discontinued production of dichloro in December 1982 * * *.

Trichloro.--U.S. production of trichloro increased from * * * million pounds in 1980 to * * * million pounds in 1981, or by * * * percent, and then decreased to * * * million pounds in 1982, or by * * * percent. Production in January-September 1983 totaled * * * million pounds, representing an increase of * * * percent from the * * * million pounds produced in January-September 1982.

FMC officials stated that it developed, patented, and tried out a new production process for CA which would cut the cost of producing CA by as much

as 25 percent. However, the investment of approximately * * * million to commercialize the process can not be justified at the present time given the depressed prices reportedly caused by Japanese competition. 1/

U.S. capacity and capacity utilization

U.S. producers' capacity and capacity utilization for CA, dichloro, and trichloro are shown in table 3. Because producers use the same equipment for production of more than one product, the firms were asked to calculate capacity on the basis of their actual 1982 product mix. CA capacity is shown only for producing CA for sale as final product. Capacity to produce CA as an intermediate is included in data for dichloro and trichloro capacity; thus there is no duplication in table 3.

Capacity to produce CA for sale to endusers remained relatively stable during the period covered by the investigation. Capacity utilization * * * from * * * percent in 1980 to * * * percent in 1982, but * * * to * * * percent in January-September 1983.

Capacity to produce dichloro increased from * * * million pounds in 1980 to * * * million pounds in 1982. Capacity decreased in January-September 1983 compared with that in the corresponding period of 1982 because of * * *. 1/ Capacity utilization for dichloro increased from * * * percent in 1980 to * * * percent in 1981, * * * percent in 1982, and * * * percent in January-September 1983.

Capacity to produce trichloro increased from * * * million pounds in 1980 to * * * million pounds in 1982. Capacity also increased in January-September 1983 compared with that in the corresponding period of 1982, * * * because of FMC's apparent conversion of dichloro equipment to trichloro. Capacity utilization for trichloro increased from * * * percent in 1980 to * * * percent in 1981, and then decreased to * * * percent in 1982. Capacity utilization during January-September 1983 was * * * percent, compared with * * * percent in January-September 1982. As mentioned earlier, the capacities of this type of equipment can only be established by using allocations and estimates.

1/ Meetings between S. Vastagh of the Commissions' staff and FMC officials, Mar. 8, 1984.

2/ * * *.

Table 3.--CA, dichloro, and trichloro: U.S. producers' production, capacity, and capacity utilization, 1980-82, January-September 1982, and January-September 1983

Item	1980	1981	1982	Jan.-Sept.--	
				1982	1983
CA as final product:					
Production-------million pounds--	***	***	***	***	***
Capacity------------------do----	***	***	***	***	***
Capacity utilization----percent--	***	***	***	***	***
Dichloro:					
Production-------million pounds--	***	***	***	***	***
Capacity------------------do----	***	***	***	***	***
Capacity utilization----percent--	***	***	***	***	***
Trichloro:					
Production-------million pounds--	***	***	***	***	***
Capacity------------------do----	***	***	***	***	***
Capacity utilization----percent--	***	***	***	***	***
Total, dichloro and trichloro:					
Production-------million pounds--	***	***	***	***	***
Capacity------------------do----	***	***	***	***	***
Capacity utilization----percent--	***	***	***	***	***
Total, CA + dichloro + trichloro:					
Production-------million pounds--	***	***	***	***	***
Capacity------------------do----	***	***	***	***	***
Capacity utilization----percent--	***	***	***	***	***

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

U.S. producers' domestic shipments

Data collected on U.S. producers' domestic shipments of the subject merchandise during the period under investigation are shown in table 4.

Table 4.--CA, dichloro, and trichloro: U.S. producers' domestic shipments, by endusers, 1980-82, January-September 1982, and January-September 1983

Item	1980	1981	1982	Jan.-Sept.--	
				1982	1983
CA shipments to:					
Pool trade------1,000 lbs--	***	***	***	***	***
Nonpool trade--------do----	***	***	***	***	***
Total--------------do----	***	***	***	***	***
Pool trade--------percent--	***	***	***	***	***
Nonpool trade--------do----	***	***	***	***	***
Dichloro shipments to:					
Pool trade------1,000 lbs--	***	***	***	***	***
Nonpool trade--------do----	***	***	***	***	***
Total--------------do----	***	***	***	***	***
Pool trade---------percent--	***	***	***	***	***
Nonpool trade--------do----	***	***	***	***	***
Trichloro shipments to:					
Pool trade------1,000 lbs--	***	***	***	***	***
Nonpool trade--------do----	***	***	***	***	***
Total--------------do----	***	***	***	***	***
Pool trade--------percent--	***	***	***	***	***
Nonpool trade--------do----	***	***	***	***	***

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

Cyanuric acid.--U.S. producers' shipments of CA for consumption in the U.S. market as a final product * * * from * * * million pounds in 1980 to * * * million pounds in 1982, or by * * * percent. Shipments * * * during January-September 1983, when they were * * * than those during the corresponding period of 1982. Virtually all shipments were made to the pool trade, as shown in table 4 (since 1981 the shipments to pool trade were * * * percent or more of total shipments by domestic producers of CA).

Dichloro.--U.S. producers' shipments of dichloro increased from * * * million pounds in 1980 to * * * million pounds in 1981, or by * * * percent, and then decreased to * * * million pounds in 1982, or by * * * percent. * * *. Dichloro shipments increased to * * * million pounds in January-September 1983 from * * * million pounds in the corresponding period in 1982, or by * * * percent.

Trichloro.--U.S. producers' shipments of trichloro increased from * * * million pounds in 1980 to * * * million pounds in 1981, or by approximately * * * percent, and then decreased to * * * million pounds in 1982, or by * * * percent. Shipments * * * in January-September 1983 to * * * million pounds from * * * million pounds in the corresponding period in 1982, or by * * * percent. Shipments to the pool trade represented * * * percent of total domestic shipments of trichloro during the period.

U.S. producers' exports

U.S. producers' exports of the subject merchandise are shown in table 5. Most of the merchandise exported during 1980-82 consisted of dichloro. The principal destination of exports was Western Europe. Table 5 also shows the ratio of exports to U.S. producers' total shipments. The ratios of CA and trichloro exports to U.S. producers' total shipments was * * * percent during the period; the corresponding ratio for dichloro was * * * percent in 1980-82 and * * * percent in January-September 1983.

U.S. producers' inventories

Data collected on U.S. producers' end-of-period inventories of the subject merchandise produced in the United States are shown in table 6. 1/ The ratio of U.S. producers' inventories to production for CA is * * * because the majority of CA produced is fed into the production of dichloro and trichloro without being placed in inventory. The same ratio for dichloro and trichloro is greater, ranging from * * * to * * * percent during the period under investigation.

1/ Since production of these products occurs on a campaign basis, inventories of any one product may vary substantially over time.

Table 5.--CA, dichloro, and trichloro: U.S. producers' exports, 1980-82, January-September 1982, and January-September 1983

Item	1980	1981	1982	Jan.-Sept--	
				1982	1983
CA:					
Exports------1,000 pounds--	***	***	***	***	***
Share of total shipments percent--	***	***	***	***	***
Dichloro:					
Exports------1,000 pounds--	***	***	***	***	***
Share of total shipments percent--	***	***	***	***	***
Trichloro:					
Exports------1,000 pounds--	***	***	***	***	***
Share of total shipments percent--	***	***	***	***	***

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

Table 6.--CA, dichloro, and trichloro: U.S. producers' end-of-period inventories, 1980-82, January-September 1982, and January-September 1983

* * * * * * *

U.S. employment, wages, and productivity

The number of production and related workers engaged in the production of CA for sale as CA, dichloro, and trichloro 1/ increased from * * * in 1980 to * * * in 1981 and then decreased to * * * in 1982 (table 7). The number of workers increased to * * * in January-September 1983 from * * * in the corresponding period of 1982.

1/ Data for CA used to produce dichloro and/or trichloro are included in statistics reported for the derivatives.

Table 7.--CA, dichloro, and trichloro: Average number of production and related workers, hours worked, total compensation, hourly compensation, and output per hour, 1980-82, January-September 1982, and January-September 1983

Item	1980	1981	1982	Jan.-Sept.--	
				1982	1983
Production and related workers producing:					
CA for sale as CA	***	***	***	***	***
Dichloro	***	***	***	***	***
Trichloro	***	***	***	***	***
Total, dichloro and trichloro	***	***	***	***	***
Total, CA for sale as CA, dichloro, and trichloro	***	***	***	***	***
Hours worked by production and related workers producing:					
CA for sale as CA-1,000 hours	***	***	***	***	***
Dichloro-----do	***	***	***	***	***
Trichloro-----do	***	***	***	***	***
Total, dichloro and trichloro	***	***	***	***	***
Total, CA for sale as CA, dichloro, and trichloro	***	***	***	***	***
Total compensation of production and related workers:					
CA for sale as CA 1,000 dollars	***	***	***	***	***
Dichloro-----do	***	***	***	***	***
Trichloro-----do	***	***	***	***	***
Total, dichloro and trichloro	***	***	***	***	***
Total, CA for sale as CA, dichloro, and trichloro	***	***	***	***	***
Average hourly compensation:					
CA for sale as CA---dollars	***	***	***	***	***
Dichloro-----do	***	***	***	***	***
Trichloro-----do	***	***	***	***	***
Total, dichloro and trichloro	***	***	***	***	***
Total, CA for sale as CA, dichloro, and trichloro	***	***	***	***	***
Output per hour:					
CA for sale as CA----pounds	***	***	***	***	***
Dichloro-----do	***	***	***	***	***
Trichloro-----do	***	***	***	***	***
Total, dichloro and trichloro	***	***	***	***	***
Total, CA for sale as CA, dichloro, and trichloro	***	***	***	***	***

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

The number of hours worked by production and related workers engaged in the production of CA for sale as CA, dichloro, and trichloro increased from * * * in 1980 to * * * in 1981 and then decreased to * * * in 1982. Hours worked during January-September 1983 remained similar to those of the corresponding period in 1982. Wages and total compensation paid are also shown in table 7.

Because allocations are necessary for reporting employment data on a product-by-product basis, the combined employment data for all three products are probably more accurate than their components separately.

Financial experience of U.S. producers

Three U.S. producers, FMC, Olin, and Monsanto, furnished usable income-and-loss data relative to the overall operation of their establishments within which CA and its chlorinated derivatives are produced. The three producers also supplied income-and-loss data relative to their separate operations producing CA, dichloro, and trichloro. U.S. producers do not maintain separate profit centers for each type of chlorinated derivative. As a result, some of the income-and-loss data shown in this report have been constructed specifically for this investigation. Hence, the aggregated data for CA, dichloro, and trichloro are more reliable than those for any one derivative alone.

* * * * * * *

Overall establishment operations.--The income-and-loss experience of FMC, Monsanto, and Olin on the overall operations of their establishments within which CA and its chlorinated derivatives are produced is shown in table 8 for 1980-82, January-September 1982, and January-September 1983.

Net sales of all products rose from * * * million in 1980 to * * * million in 1981 and then declined * * * percent to * * * million in 1982. Net sales were * * * million during the 9-month 1983 period, compared with * * * million for the corresponding period of 1982. * * *. The operating losses were * * *.

Table 8.--Income-and-loss experience of FMC, Monsanto, and Olin 1/ on the overall operations of their establishments within which CA and its chlorinated derivatives are produced, 1980-82, January-September 1982, and January-September 1983 2/ 3/

Item	1980	1981	1982	January-September	
				1982	1983
Net sales---------1,000 dollars--	***	***	***	***	***
Cost of goods sold---------do----	***	***	***	***	***
Gross income or (loss)-----do----	***	***	***	***	***
General, selling, and administrative expenses 1,000 dollars--	***	***	***	***	***
Operating loss----1,000 dollars--	***	***	***	***	***
Interest expense----------do----	***	***	***	***	***
Other income or (expense) net 1,000 dollars--	***	***	***	***	***
Net loss before income taxes 1,000 dollars--	***	***	***	***	***
Depreciation and amortization expense---------1,000 dollars--	***	***	***	***	***
Cash flow from operations 1,000 dollars--	***	***	***	***	***
Ratio of gross income or (loss) to net sales----------percent--	***	***	***	***	***
Ratio of operating loss to net sales----------percent--	***	***	***	***	***
Ratio of net loss before income taxes to net sales----percent--	***	***	***	***	***
Ratio of cost of goods sold to net sales----------percent--	***	***	***	***	***
Ratio of general, selling, and administrative expenses to net sales----------percent--	***	***	***	***	***
Number of firms reporting operating losses----------	***	***	***	***	***
Number of firms reporting net losses----------	***	***	***	***	***

1/ Income-and-loss data are presented separately for each company in app. E.

2/ The accounting year for all three firms ended on December 31.

3/ Data include start up and other nonrecurring costs, amounting to * * * million in 1980, * * * million in 1981, and * * * million in 1982 and January-September 1982.

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

Data for the combined establishment operations of FMC and Monsanto are shown in table 9. Their net sales * * *.

Table 9.--Income-and-loss experience of FMC and Monsanto on the overall operations of their establishments within which CA and its chlorinated derivatives are produced, 1980-82, January-September 1982, and January-September 1983

* * * * * * *

CA, dichloro, and trichloro.--The income-and-loss experience of the U.S. producers 1/ on their operations producing CA, dichloro, and trichloro is shown in table 10. Net sales of * * * the individual chlorinated products * * * in 1981 and * * * in 1982. Net sales of CA and dichloro * * * during January-September 1983, * * * net sales of trichloro * * * during this period. Each individual product operation * * *.

The income-and-loss experience of FMC and Monsanto on their operations producing CA, dichloro, and trichloro are shown in table 11. Aggregate net sales * * *.

Net sales of CA * * *. Dichloro net sales * * *. Trichloro net sales * * *.

FMC's and Monsanto's CA operations * * *. Their dichloro operations * * *. Their combined trichloro operations * * *. Their combined CA, dichloro, and trichloro operations * * *. The two producers * * *.

The CA, dichloro, and trichloro operations of FMC are shown in table 12. During 1980-82, FMC's combined net sales * * *. Net sales of trichloro * * *. Dichloro net sales * * *. CA sales * * *.

The CA, dichloro, and trichloro operations of Monsanto are shown in table 13. Monsanto's combined net sales * * *.

Monsanto's dichloro operation * * *.

The income-and-loss experiences of Olin on its operations producing dichloro and trichloro are shown in table 14. Olin's combined net sales * * *.

In aggregate, U.S. producers * * * sustained negative cash flows from their * * * operations (see app. D).

1/ For CA: Monsanto and FMC; for the derivatives: Monsanto, FMC, and Olin. * * *.

Table 10.--Income-and-loss experience of the U.S. producers 1/ on their operations producing CA, dichloro, and trichloro, by products, 1980-82, January-September 1982, and January-September 1983 2/

Item	1980	1981	1982	Jan.-Sept.-- 1982	Jan.-Sept.-- 1983
	1,000 dollars				
Net sales:					
CA	***	***	***	***	***
Dichloro	***	***	***	***	***
Trichloro	***	***	***	***	***
Total	***	***	***	***	***
Operating income or (loss):					
CA	***	***	***	***	***
Dichloro	***	***	***	***	***
Trichloro	***	***	***	***	***
Total	***	***	***	***	***
Net income or (loss):					
CA	***	***	***	***	***
Dichloro	***	***	***	***	***
Trichloro	***	***	***	***	***
Total	***	***	***	***	***
	Percent				
Ratio of operating income or (loss) to net sales:					
CA	***	***	***	***	***
Dichloro	***	***	***	***	***
Trichloro	***	***	***	***	***
Total	***	***	***	***	***
Ratio of net income or (loss) to net sales:					
CA	***	***	***	***	***
Dichloro	***	***	***	***	***
Trichloro	***	***	***	***	***
Total	***	***	***	***	***

1/ For CA: Monsanto and FMC; for the derivatives: Monsanto, FMC, and Olin.
2/ The accounting year of all three firms ended on December 31.

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

Table 11.--Income-and-loss experience of FMC and Monsanto on their operations producing CA, dichloro, and trichloro, by products, 1980-82, January-September 1982, and January-September 1983

* * * * * * *

Table 12.--Income-and-loss experience of FMC on its operations producing CA, dichloro, and trichloro, by products, 1980-82, January-September 1982, and January-September 1983

* * * * * * *

Table 13.--Income-and-loss experience of Monsanto on its operations producing CA, dichloro, and trichloro, by products, 1980-82, January-September 1982, and January-September 1983

* * * * * * *

Table 14.--Income-and-loss experience of Olin on its operations producing dichloro and trichloro, by products, 1980-82, January-September 1982, and January-September 1983

* * * * * * *

Investment in productive facilities.--All three firms supplied data relative to their investment in productive facilities employed in the overall operations of the establishments within which CA and its chlorinated derivatives are produced. The three firms also supplied data relative to their investment in productive facilities employed in the manufacture of CA, dichloro, and trichloro. All the investment data are as of December 31, 1980-82, September 30, 1982, and September 30, 1983.

Their aggregate overall establishment investment in such facilities, valued at cost, * * *. The book value * * *. Their investment in facilities used in the production of CA, dichloro, and trichloro generally followed the same trend.

Their aggregate investment in CA facilities, valued at cost, * * *. Their aggregate investment in dichloro facilities, valued at cost, * * *. Their aggregate investment in trichloro facilities, valued at cost, * * * (table 15).

Table 15.--U.S. producers' investment in productive facilities used in the production of CA and its chlorinated derivatives, as of December 31, 1980-82, September 30, 1982, and September 30, 1982

Period and firm	Fixed assets		Operating income or (loss)	Ratio of operating income or (loss) to	
	Original cost	Book value		Original cost	Book value
	1,000 dollars			Percent	

* * * * * * *

Capital expenditures.--In 1980, the three U.S. producers together made * * * million in capital expenditures for land, buildings, and machinery and equipment used principally in the production of CA and its chlorinated derivatives (table 16). Total capital expenditures * * *. Machinery and equipment purchases * * *.

Seventy-seven percent of the 1980 capital expenditures were for * * *.

Table 16.--U.S. producers' capital expenditures for land, buildings, and machinery and equipment used in the production of CA and its chlorinated derivatives, 1980-82, January-September 1982, and January-September 1983

Item	1980	1981	1982	January-September--	
				1982	1983
Capital expenditures on--					
All products of establishments:					
Land and land improvements:					
FMC	***	***	***	***	***
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***
Total	***	***	***	***	***
Buildings or leasehold improvements:					
FMC	***	***	***	***	***
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***
Total	***	***	***	***	***
Machinery, equipment, and fixtures:					
FMC	***	***	***	***	***
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***
Total	***	***	***	***	***
Total capital expenditures:					
FMC	***	***	***	***	***
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***
Total	***	***	***	***	***

* * * * * * *

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

Research and development expenses.--All three of the reporting firms supplied research and development data relative to their combined CA, dichloro, and trichloro operations. Two of the three reporting firms supplied separate data for each of the three product lines. Such expenditures are presented in the following tabulation (in thousands of dollars):

Source	1980	1981	1982	January-September--	
				1982	1983
Combined:					
FMC	***	***	***	***	***
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***
Total	***	***	***	***	***
CA:					
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***
Dichloro:					
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***
Trichloro:					
Monsanto	***	***	***	***	***
Olin	***	***	***	***	***

* * * * * * *

Capital and investment.--The following replies were received from FMC, Monsanto, and Olin relative to actual and potential negative effects of LTFV imports of CA and its chlorinated derivatives on their firms' growth, investment, and ability to raise capital:

* * * * * * *

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

U.S. imports

Aggregate U.S. imports of CA, dichloro, and trichloro from Japan increased from 21.0 million pounds in 1980 to 30.7 million pounds in 1981, and then decreased to 24.2 million pounds in 1982 (table 17). Imports during January-September 1983 totaled 23.6 million pounds, representing an increase of 13 percent over the 21.0 million pounds imported in the corresponding period of 1982.

Table 17.--CA, dichloro, and trichloro: U.S. imports from Japan, by firms, 1980-82, January-September 1982, and January-September 1983

* * * * * * *

Table 17 shows the delivered total cost to the importer of the subject imports from Japan. The average costs of Japanese products * * *.

Imports of the subject products by U.S. producers consist mainly of imports by * * *.

Cyanuric acid.--U.S. imports of CA from Japan * * *.

* * *. Olin's purchases of domestic and imported CA are shown in the following tabulation:

* * * * * * *

Small quantities of CA are also imported from Taiwan and from the People's Republic of China and shipped for the pool market. These imports are included in the data on apparent U.S. consumption, and are shown in the following tabulation:

Year	Quantity (1,000 pounds)
1980	***
1981	***
1982	***
Jan.-Sept:	
1982	***
1983	***

Dichloro.--U.S. imports of dichloro from Japan * * *.

There are currently only two known importers of dichloro from Japan: ICI and Toyomenka. * * *.

Trichloro.--U.S. imports of trichloro from Japan * * *.

As in the case of dichloro, ICI and Toyomenka are the only two importers of trichloro. * * *. Both ICI and Toyomenka import for their own account and resell to repackagers.

Market penetration of imports

Imports from Japan of the subject CA (i.e., excluding imports of CA produced by Nissan), dichloro, and trichloro shipped to the U.S. market as a share of apparent consumption are shown in table 18. Market penetration for CA is calculated on the basis of imports produced only by Shikoku (which are sold by ICI and purchased for resale as CA to endusers).

Cyanuric acid.--Shipments of imported subject CA (sold to endusers as CA) as a share of U.S. consumption decreased from 23.1 percent in 1980 to 22.4 percent in 1981 and then increased to 25.5 percent in 1982 and further increased to 28.7 percent in 1983. The ratio of subject imports to apparent consumption during January-September 1983 was 30.2 percent compared with 27.6 percent in the corresponding period of 1982.

Dichloro.--Shipments of imported Japanese dichloro as a share of U.S. consumption decreased from 15.9 percent in 1980 to 12.0 percent in 1982 but increased to 18.2 percent in 1983. The same ratio for January-September 1983 was 18.6 percent, an increase of 6.2 percentage points from that in the corresponding period of 1982.

Trichloro.--Shipments of imported Japanese trichloro as a share of U.S. consumption increased from 23.0 percent in 1980 to 27.4 percent in 1981, and then decreased to 22.5 percent in 1982 and remained steady at 23.0 percent in 1983. The ratio during January-September 1983 was 24.8 percent, a 3.4 percentage point increase from the 21.4 percent of the corresponding 1982 period.

Table 18.--CA, dichloro, and trichloro: Apparent U.S. consumption and U.S. shipments of subject imports from Japan, 1980-82, January-September 1982, and January-September 1983

Product and period	Apparent U.S. consumption	U.S. shipments of subject imports from Japan	Ratio of shipments of subject imports to consumption
	1,000 pounds		Percent
Subject CA:			
1980	***	***	23.1
1981	***	***	22.4
1982	***	***	25.5
1983	***	***	28.7
January-September--			
1982	***	***	27.6
1983	***	***	1/ 30.2
Dichloro:			
1980	***	***	15.9
1981	***	***	12.4
1982	***	***	12.0
1983	***	***	18.2
January-September--			
1982	***	***	12.4
1983	***	***	18.6
Trichloro:			
1980	***	***	23.0
1981	***	***	27.4
1982	***	***	22.5
1983	***	***	23.0
January-September--			
1982	***	***	21.4
1983	***	***	24.8
Total, dichloro and trichloro:			
1980	***	***	20.3
1981	***	***	21.8
1982	***	***	18.1
1983	***	***	21.2
January-September--			
1982	***	***	17.6
1983	***	***	22.6
Total, subject CA, dichloro, and trichloro:			
1980	***	***	20.5
1981	***	***	21.8
1982	***	***	18.7
1983	***	***	21.7
January-September--			
1982	***	***	18.4
1983	***	***	23.4

1/ Revised data.

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

Prices

CA and its chlorinated derivatives are sold by the three U.S. producers and by the importers both on an f.o.b. (plant, U.S. warehouse, or port of entry) basis and on a delivered basis. The U.S. producers initially quote prices on an f.o.b. basis but often provide allowances for freight (for freight equalization or to meet other competitive situations), effectively establishing a delivered price. Importers more often quote delivered prices owing to the flexibility of delivery to the various ports of entry. Both the producers' and importers' price data in this report are converted (if needed) to delivered prices.

Sales are made on both a contract basis and on a spot basis. Larger or longstanding accounts frequently contract for most of their anticipated annual requirements in the final months of the year. These contracts may call for delivery of specific quantities on a periodic basis during the life of the contract. This contract, however, is not always binding on the purchaser either with respect to quantity, delivery schedule, or price. The contracts are binding on the suppliers only to not raise prices higher than those stated in the contract. The contracts generally include terms that allow the purchaser to request the supplier to meet its competitors' prices if prices should decline over the life of the agreement; if the supplier chooses not to meet a lower price, the contract may be terminated under this clause. These same contract customers also purchase on a spot basis to fulfill unanticipated needs. Other customers less able to predict their needs generally purchase on a spot basis as their demands arise. Although the contracts may cover large quantities, delivered over time, shipments more normally consist of either truckload quantities (24,000 to 40,000 pounds) or freightcar quantities (160,000 to 180,000 pounds); shipments are generally invoiced separately by the manufacturer.

List prices.--All of the primary suppliers publish price lists except Toyomenka. U.S. producers advertise list prices for the new season in the fall of each year and negotiate from these prices as competition requires. 1/ Producers may offer reductions from the list price to those customers willing to commit to contracts for delivery early in season; these reductions generally are available only through mid-December of each year. Monsanto alleges that it has been forced to extend its "early buy" program and to reduce prices below these offered discounts in recent years because of competition from CA and its derivatives imported from Japan. One large customer, however, claims that the Monsanto list price has not been realistic in recent seasons, and this customer suggests that it views the list price as only an indication of the maximum possible cost of the product to them. U.S. producers' list prices for the subject products were often lower in 1983 than they were in 1980.

1/ For example, FMC made approximately * * * percent of its sales of packaged products at list prices during the period of this investigation * * *. See FMC's prehearing brief, p. 34. Olin made * * * percent of its sales of a packaged products at list prices during 1982 and * * * percent in 1983. See Olin's prehearing brief, p. 10, and transcript of the hearing, pp. 72 and 73.

FMC considers its list prices to be representative of the market because of the large percentage of sales made at list prices. Olin also argues that an analysis of list prices would be representative of market transactions. 1/ Monsanto testified that it sets list prices with the serious intention of selling at those prices and deviates from those list prices only after a formal process of documentation and approval. 2/ Olin also testified that reductions from list prices are approved through a formal process similar to that of Monsanto.

Levels of price competition.--As mentioned, CA and its derivatives are sold in the U.S. market both in bulk and in packages. However, no importers sell packaged products (all imported products are packaged in the United States) and, therefore, no direct price comparisons are possible for such products.

Imported and domestic products compete for bulk sales to both the pool trade and the nonpool trade. In the pool trade, the bulk sales are to repackagers. All U.S. producers and importers make such sales, and such sales account for nearly all imports of the subject CA and its derivatives from Japan (100 percent of the subject CA, 96 to 99 percent of the dichloro, and over 99 percent of the trichloro). The remainder of the bulk sales are in the nonpool trade.

Domestic producers argue that selling prices of packaged products are relevant to the investigation, although no importer sells packaged products, because bulk prices determine the prices of the packaged products (the costs of packaging material and labor being similar for all repackagers and producers). They further argue that FMC and Olin derive no competitive advantage by virtue of the fact that they package their own brands, because their packaging operations are identical to those of repackagers (FMC packages in a facility that was formerly operated by an independent repackager before FMC'c purchase, and Olin's repackaging is performed by such independent repackagers on a contract basis). Thus, the producers contend, there is no basis to consider FMC and Olin different from the repackagers. 3/ Because of the similar packaging costs, if the bulk price changes, repackagers allegedly change their packaged prices by an equivalent amount. Therefore, the producers argue that LTFV imports sold in bulk to repackagers have suppressed prices for the packaged products.

1/ Transcript of the hearing, p. 128.
2/ Ibid, p. 9.
3/ Prehearing brief by Olin, pp. 2-4; prehearing brief by FMC, pp. 16-18.

Analysis of bulk prices.--Delivered prices of the three products followed the same general trend, whether from U.S. producers or importers. * * *.

CA prices reported by producers and importers.--Prices for bulk sales of granular CA (accounting for * * * percent of total sales to repackagers in 1981-83) were reported by both U.S. producers (Monsanto and FMC) and the importer (ICI) for sales to repackagers. 1/ Producers' weighted-average prices to repackagers * * * (table 19). * * *.

Table 19.--Granular CA in bulk containers: Weighted-average delivered selling prices for sales to repackagers by U.S. producers and the importer of Japanese product, by quarters, January 1981-December 1983

(Per pound, except as noted)

Period	U.S. producers	Importer	Margin of underselling (overselling)
			Percent
1981:			
January-March	***	***	***	-
April-June	***	***	***	(***)
July-September	***	***	***	(***)
October-December	***	***	***	***
1982:			
January-March	***	***	***	(***)
April-June	***	***	***	(***)
July-September	***	***	***	-
October-December	***	***	***	***
1983:			
January-March	***	***	***	***
April-June	***	***	***	(***)
July-September	***	***	***	(***)
October-December	***	***	***	(***)

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

1/ Prices for CA produced by Nissan are not discussed since that firm was found to be selling at fair value.

ICI's weighted-average prices for bulk sales of granular CA to repackagers * * *.

Margins of underselling occurred in three quarters, ranging from * * * to * * * percent. These margins varied substantially during 1981-83, partially because of * * *, but primarily because of * * *. ICI's weighted-average prices were above those of U.S. producers in 7 of 12 quarters, by margins ranging from * * * percent (April-June 1983) to * * * percent (January-March 1982).

CA prices to repackers reported by purchasers.--Questionnaires were sent to the 34 known repackagers of CA and its derivatives, requesting the quarterly quantities and net delivered costs of their bulk purchases from each primary supplier. As mentioned, questionnaires were also sent to the producers and to the importers requesting their total sales to all repackagers (see previous section). Purchases of bulk CA reported by the responding repackagers accounted for 85 percent of total sales to repackagers reported by the suppliers in 1980, 78 percent in 1981, 82 percent in 1982, and 74 percent for January-September 1983. 1/

Weighted-average delivered purchase prices for bulk CA calculated from the purchasers' responses are shown in table 20.

1/ As a share of total sales to the pool trade (repackagers, distributors, and retailers combined) these responses represented * * * percent in 1980, * * * percent in 1981, * * * percent in 1982, and * * * percent in January-September 1983.

Table 20.--Granular CA in bulk containers: Weighted-average delivered purchase prices for purchases by repackagers from U.S. producers and the importer of Japanese product, by quarters, January 1980-December 1983

(Per pound, except as noted)

Period	U.S. producers	Importer	Margin of underselling (overselling)	
				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	***	***	***	(***)
April-June	***	***	***	(***)
July-September	***	***	***	***
October-December	***	***	***	(***)

1/ Calculated from unrounded data.

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

A graphic presentation of the data in table 20, and of the quantities purchased by questionnaire respondents, are shown in figure 3. Domestic and import prices generally * * * through October-December 1983. Underselling occurred in 6 periods, ranging from * * * to * * * percent. The importers' prices exceeded the domestic producers' prices in 10 periods, by margins ranging from * * * to
* * * percent. The prices of domestic and imported products were within 1 percent of each other in 7 of the 16 periods.

Figure 3.--Bulk CA: Weighted-average prices and quantities of sales to repackagers, by quarters, 1980-83.

* * * * * * *

Source: Compiled from data submitted in response in questionnaires of the United States International Trade Commission.

Dichloro.--U.S. producers sell bulk dichloro to pool trade repackagers and to nonpool trade endusers. These are discussed separately, because the price levels and trends in the two categories are somewhat different.

Dichloro prices to repackagers reported by producers and importers.--U.S. producers' weighted-average selling prices of dichloro for bulk sales to repackagers increased irregularly from * * * per pound in January-March 1981 to * * * in July-September 1981, but returned to the first quarter's level in the last quarter of that year. Prices of domestic producers followed the same pattern in 1982, rising from * * * in the first quarter to * * * in the middle of the year, but decreasing to * * * in the last quarter (table 21). Prices were lower in 1983 than in any of the preceeding two years, ranging between * * * and * * * per pound. 1/

Importers' weighted-average selling prices of dichloro sold in bulk to repackagers followed a trend similar to that of producers' prices. Prices increased * * * percent from * * * per pound in January-March 1981 to a high of * * * per pound during April-June 1982, but subsequently declined by * * * percent to * * * per pound in January-March 1983. Prices strengthened in the remainder of 1983, following the filing of the dumping petition in June, increasing to * * * per pound in October-December.

Importers undersold U.S. producers in 6 of the 12 periods for which data are available. Periods of underselling occurred from January to September 1981, and from July 1982 through March 1983. Generally, these margins were between 0.7 and 5.2 percent, but reached 14.6 percent in October-December 1982. Importers' prices were above those of U.S. producers from October-December 1981 to April-June 1982, and from April-June 1983 through October-December 1983, i.e. in 6 of the 12 periods.

Dichloro prices to repackagers reported by purchasers.--Purchases of dichloro reported by responding repackagers accounted for 73 percent of total sales reported by the suppliers in 1980, 88 percent in 1981, 100 percent in 1982, and 81 percent in January-September 1983. 2/ Weighted-average delivered

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1/ These data represent between * * * percent (1982) and * * * percent (Jan.-Sept. 1983) of all sales of dichloro to repackagers.

2/ As a share of total sales to pool trade (repackagers, distributors, and retailers combined) these responses represented * * * percent in 1980, * * * percent in 1981, * * * percent in 1982, and * * * percent in January-September 1983.

Table 21.--Granular dichloro in bulk containers: Weighted average delivered selling prices for sales to repackagers by U.S. producers and importers of Japanese products, by quarters, January 1981-December 1983

(Per pound, except as noted)

Period	U.S. producers	Importers	Margin of underselling (overselling)
			Percent
1981:			
January-March	***	***	*** 2.1
April-June	***	***	*** 2.5
July-September	***	***	*** 4.8
October-December	***	***	*** (2.1)
1982:			
January-March	***	***	*** (10.0)
April-June	***	***	*** (5.1)
July-September	***	***	*** 5.2
October-December	***	***	*** 14.6
1983:			
January-March	***	***	*** 0.7
April-June	***	***	*** (0.8)
July-September	***	***	*** (0.4)
October-December	***	***	*** (3.7)

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

purchase prices of bulk dichloro were calculated from the purchasers' responses and are shown in table 22. A graphic presentation of the data in table 22 and of the quantities purchased by the questionnaire respondents, is shown in figure 4. 1/ The seasonal nature of purchases of domestic products is apparent; purchases of Japanese products show less variation.

Prices for domestic products generally dropped in the fourth quarter of each year; however, the drop in prices in the fourth quarter of 1982 was the sharpest during the period. Since 1981, prices for domestic and Japanese dichloro have been essentially competitive.

Weighted-average purchase prices of domestic dichloro in bulk sales were steady at * * * in 1980, dropped to * * * in January-March 1980, but returned to the previous year's level in the last three quarters of that year. Prices of domestic products increased further in January-September 1982, but decreased sharply to * * * in the last quarter of 1982 and the first quarter of 1983. Prices were lower in 1983 than in any of the preceding three years, ranging between * * * per pound.

1/ The bar graph portion of fig. 4 represents the sum of the price suppression allegations submitted by U.S. producers in their questionnaire responses. Price suppression allegations are discussed later in the report.

Table 22.--Granular dichloro in bulk containers: Weighted-average delivered purchase prices of purchases by repackagers from U.S. producers and importers of Japanese products, by quarters, January 1980-December 1983

(Per pound, except as noted)

Period	Domestic	Japanese	Margin of underselling (overselling) 1/
			Percent
1980:			
January-March	***	***	9.8
April-June	***	***	21.4
July-September	***	***	19.8
October-December	***	***	11.0
1981:			
January-March	***	***	(0.2)
April-June	***	***	6.0
July-September	***	***	5.7
October-December	***	***	1.8
1982:			
January-March	***	***	(2.7)
April-June	***	***	(5.1)
July-September	***	***	4.0
October-December	***	***	0.7
1983:			
January-March	***	***	0.2
April-June	***	***	1.6
July-September	***	***	.3
October-December	***	***	(2.2)

1/ Calculated from unrounded numbers.

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

Figure 4.--Bulk dichloro: Weighted-average prices and quantities of sales to repackagers, by quarters, 1980-83.

* * * * * * *

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

Weighted-average purchase prices of Japanese dichloro in bulk increased steadily from * * * in April-June 1980 to a high of * * * per pound during April-June 1982, but subsequently declined to * * * per pound in January-March 1983. Prices strengthened in the remainder of 1983, increasing to * * * per pound in October-December.

Japanese dichloro undersold U.S. products in 12 of the 16 periods. Underselling occurred during 1980 and 1981 and from July-September 1982 to July-September 1983. These margins varied widely, between 0.2 percent and 21.4 percent. Japanese prices were above those of U.S. producers in 4 of the 12 periods, January-March 1981, January-June 1982, and October-December 1983.

Dichloro prices to nonpool trade endusers.--The industrial market for dichloro is supplied primarily by U.S. producers. * * *.

One customer, * * *. Producers' prices to this purchaser are shown separately * * *.

U.S. producers' prices and * * *'s prices for bulk sales of dichloro to nonpool trade endusers * * * (table 23).

Table 23.--Granular dichloro in bulk containers: Weighted-average delivered prices for sales to nonpool trade endusers by U.S. producers and importers of Japanese products, by quarters, January 1980-December 1983

*	*	*	*	*	*	*
*	*	*	*	*	*	*

* * * undersold U.S. producers in 10 of the 12 periods covered by the investigation. Because prices were generally stable in each year, margins also remained relatively constant in each calendar year. In 1981, margins ranged from * * * percent to * * * percent. In 1982, U.S. producers' average prices were higher than * * * by * * * percent in January-March, but * * *. * * * oversold U.S. producers in 2 of the 12 periods.

The range of U.S. producers' weighted-average selling prices for sales of bulk dichloro to the swimming pool trade was * * * to * * *, with an average of * * *, in 1980-83 (table 21), whereas the range of weighted-average selling prices in the nonpool trade * * * was * * * to * * *, with an average of * * * (table 23).

Trichloro.--FMC, Monsanto, and Olin each reported prices on sales of granular trichloro, as did two importers. As with dichloro, direct comparisons of prices are possible only for sales to repackagers and to nonpool trade endusers. These two categories are discussed separately below.

Trichloro prices to repackagers reported by producers and importers.--Prices of trichloro sold by U.S. producers to repackagers in bulk (table 24) followed a trend similar to that of dichloro prices. 1/ Prices increased from * * * per pound in January-March 1981 to * * * per pound in April-June, and declined slightly during the latter half of 1981. Prices increased * * * percent to * * * in January-March 1982, and held relatively steady through September of that year. Prices declined to * * * in October-December 1982 and to * * * in January-March 1983. Producers' prices then increased slightly through the remainder of 1983, ending the year at * * * per pound.

Table 24.--Granular trichloro in bulk containers: Weighted-average delivered selling prices for sales to repackagers by U.S. producers and importers of Japanese products, by quarters, January 1981-December 1983

(Per pound)

Period	U.S. producers	Importers	Margin of underselling (overselling)
			Percent
1981			
January-March	***	***	*** (1.2)
April-June	***	***	*** 1.6
July-September	***	***	*** (3.7)
October-December	***	***	*** (0.9)
1982			
January-March	***	***	*** (4.0)
April-June	***	***	*** (6.6)
July-September	***	***	*** 0.4
October-December	***	***	*** 3.4
1983			
January-March	***	***	*** 4.4
April-June	***	***	*** 6.0
July-September	***	***	*** (4.3)
October-December	***	***	*** (4.1)

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

Importers' prices increased slightly from * * * per pound in early 1981 to end the year at * * * per pound. Prices increased again in the first 6 months of 1982 to * * *, or by * * * percent, before declining by * * * percent to * * * per pound during the first 6 months of 1983. Prices increased again in 1983, ending the year at * * * per pound.

Importers undersold U.S. producers in bulk sales to repackagers in five periods during 1981-83. Underselling occurred in each period from July-September 1982 through April-June 1983, ranging from 0.4 percent in the first

1/ These data represent * * * percent of sales to repackagers in 1981 and 1982 and * * * percent in January-September 1983.

of those periods to 6.0 percent in the last. Importers' prices were above U.S. producers' prices in 7 periods during 1981-83, from July 1981 through June 1982 and again from July 1983 through December 1983. These margins ranged from 0.9 percent to 6.6 percent.

Trichloro prices to repackagers reported by purchasers.--Purchases of trichloro reported by responding repackagers accounted for 77 percent of total sales reported by the suppliers in 1980, 85 percent in 1981, 60 percent in 1982, and 77 percent in January-September 1983. 1/ Weighted-average delivered purchase prices of bulk trichloro were calculated from the purchasers' responses and are shown in table 25. A graphic presentation of the data in table 25, and of the quantities purchased by the questionnaire respondents, is shown in figure 5.

Table 25.--Granular trichloro in bulk containers: Weighted-average delivered purchase prices for purchases by repackagers from U.S. producers and importers of Japanese products, by quarters, January 1980-December 1983

(Per pound, except are noted)

Period	Domestic	Japanese	Margin of underselling (overselling) 1/
			Percent
1980:			
January-March	***	***	*** 1.3
April-June	***	***	*** 13.1
July-September	***	***	*** (2.6)
October-December	***	***	*** (0.3)
1981:			
January-March	***	***	*** 2.2
April-June	***	***	*** 3.4
July-September	***	***	*** (2.4)
October-December	***	***	*** .4
1982:			
January-March	***	***	*** (4.7)
April-June	***	***	*** (5.1)
July-September	***	***	*** (3.1)
October-December	***	***	*** (12.2)
1983:			
January-March	***	***	*** 1.9
April-June	***	***	*** 2.4
July-September	***	***	*** (2.6)
October-December	***	***	*** (7.6)

1/ Calculated from unrounded data.

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

1/ As a share of total sales to the pool trade (repackagers, distributors, and retailers combined) these responses represented * * * percent in 1980, * * * percent in 1981, * * * percent in 1982, and * * * percent in January-September 1983.

Figure 5.--Bulk trichloro: Weighted-average prices and quantities of sales to repackagers, by quarters, 1980-83.

* * * * * * *

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

The pattern of trichloro prices is more similar to that of dichloro prices than to CA prices. The low-demand-year of 1982 was accompanied by higher prices. Purchase prices of domestic trichloro declined sharply in October-December 1982 and began to increase slowly in 1983. Prices of Japanese trichloro declined further in January-March 1983. These early 1983 prices were lower than prices in most periods during 1980 and 1981. Underselling occurred in 7 periods, ranging from 0.4 to 13.1 percent, mostly around 1 to 3 percent. Import prices were higher in 9 periods, by margins ranging from 0.3 to 12.2 percent, mostly around 3 to 5 percent.

Prices to nonpool trade endusers.--As with bulk sales of granular dichloro to these endusers, prices of trichloro 1/ were generally higher than those to repackagers and somewhat more stable. Producers' prices increased irregularly from * * * per pound in January-March 1981 to * * * in April-June 1983, or by * * * percent. Prices then declined to * * * per pound in April-June 1983, but recovered to * * * by the end of 1983 (table 26).

Table 26.--Granular trichloro in bulk containers: Weighted-average delivered selling prices for sales to nonpool trade endusers by U.S. producers and importers of Japanese products, by quarters, January 1981-December 1983

* * * * * * *

* * * * * * *

* * * undersold the U.S. producers in 8 of the 12 periods covered by the investigation. Margins ranged from * * * percent * * * to * * * percent in July-September 1981. * * *'s prices were above the U.S. producers' weighted-average prices in * * * by * * * percent.

The range of U.S. producers' selling prices to the nonpool trade was * * * to * * * per pound (average * * *), and the range of U.S. producers' prices to the pool trade was * * * to * * * (average * * *) (tables 24 and 26).

1/ The quantities sold by U.S. producers in this market were * * * million pounds annually in 1980-82; * * * sold * * * million pounds.

Analysis of prices of packaged products.--Repackagers appearing at the hearing in opposition to the petition 1/ claim that the entry of Olin and FMC into the packaged market with brandname products, and their subsequent competition for marketshare, has forced repackagers to seek alternative sources of CA, dichloro, and trichloro. These repackagers claim that Monsanto has had to reduce prices to allow purchasers of its bulk products to remain price competitive with the other U.S. producers and that repackagers do not wish to be commercially dependent on a single U.S. source. However, U.S. producers allege that the sales of Japanese products to the repackagers are a primary cause of the intense price competition and provided the Commission with documentation of competitive price reductions in support of this claim. 2/

The three repackagers that appeared at the hearing have purchased principally Japanese products in recent years; they were asked during the hearing to provide the Commission with data on their sales to distributors. Two of these repackagers * * *; the third * * *. The weighted-average prices to distributors for these three repackagers and the weighted-average prices for sales to distributors by FMC and Olin, are shown in tables 27 and 28.

The tables show that * * *. Additionally, the prices reported by the three repackagers were generally above those of * * * the U.S. producers, * * *.

Price suppression/lost revenues involving bulk sales.--The domestic producers made numerous general and specific price suppression allegations: (1) that importers of Japanese LTFV products sell to repackagers at lower prices, thereby depressing bulk-sales prices; (2) that those repackagers which purchase in bulk the imported LTFV products are able to sell the packaged products at lower prices, thereby depressing Olin's and FMC's selling prices; and (3) that the repackagers that purchase from domestic producers in bulk have to compete for sales of their packaged products with repackagers that purchase Japanese products in bulk. 3/

The importers and the repackagers testifying in behalf of the importers allege that the depressed prices are due to competition among the U.S. producers, that FMC and Olin initiated the price decreases at various times and that the repackager/purchasers of the Japanese products had to lower their prices in order to stay in competition with Olin and FMC. 4/

The domestic producers counter the importers' arguments by stating that they attempted to raise prices several times but were faced with the choice

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1/ These repackagers are Chem-tab, Purex, and York Chemical.

2/ These submissions are discussed in the section of the report on price suppression/lost revenues.

3/ These or similar statements appear repeatedly in the record in the testimony and submissions of domestic producers. See, for example, prehearing brief by FMC, p. 22, and prehearing brief by Olin, p. 23.

4/ These or similar statements appear repeatedly in the record in the testimony and submissions of the parties in opposition to the petition. See for example, prehearing brief by ICI, pp. 21 and 22, and prehearing brief by Toyomenka, pp. 3 and 22.

Table 27.--Granular dichloro in packaged form: U.S. producers' and certain repackagers' 1/ weighted-average prices to distributors, by quarters, 1981-83

(Per pound)

Period	Olin	FMC	Average, Olin and FMC	Repack-agers
1981:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***
1982:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***
1983:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***

1/ Repackagers are Chem-tab, Purex, and York Chemicals.

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

Table 28.--Trichloro in tablet or stick form:: U.S. producers' and certain repackagers' 1/ weighted-average prices to distributors, by quarters, 1981-83

* * * * * * *

of keeping their prices at lower levels or losing market share. 1/ Therefore, the domestic producers state, they decided to meet and beat the Japanese price competition by lowering their prices on some occasions, but chose not to lower their price, and therefore lost business, at other times.

In addition to the briefs and testimony of the parties that appeared at the public hearing, some repackagers submitted letters concerning the issue of price suppression with their questionnaire responses. These letters are on the record of this investigation.

ICI alleges that Olin sold trichloro tablets below its cost in 1982 in order to gain market share, and that Olin was the price leader generally during the period under investigation. Thus, Olin caused any price suppression, not imports from Japan. 2/ Mr. P. Leslie, Chairman of the Board

1/ Prehearing brief by FMC, p. 22; prehearing brief by Olin, pp. 6 and 8.
2/ Prehearing brief by ICI, pp. 21 and 22.

of Leslie's Pool Mart * * * testified that his chief competition is Olin's Pace brand and submitted newspaper clippings of retail advertisements (published in newspapers around the nation during the last 6 years) to support his claim that the price suppression is initiated by Olin.

U.S. producers argue that the proof for the Japanese being the cause of the price suppression is the lack of suppressed prices in markets where there is no or less Japanese product in the marketplace. For example, FMC presented data showing that it gave greater discounts in the western States and Florida (where the Japanese products are most common) than it did in other areas where the presence of Japanese competition is less. 1/

When prices of the same products sold in the pool market are compared with prices in the nonpool market (where there is a smaller Japanese presence), the data collected by the Commission indicate that pool prices are, on average, 20 percent lower for dichloro and 35 percent lower for trichloro. 2/

Olin argues that the stability of prices since the filing of the antidumping petition in June 1983 and the lack of underselling by Japanese products since then confirm that the Japanese products caused the prices to be unstable and that Olin's price reductions and discounting were prompted by competitive pressures from repackagers that purchase Japanese material. 3/

Importers argue that the price suppression allegations must be discounted, because the rejected asking prices alleged by the U.S. producers were always much greater than the going price at the time of the allegation. Thus, it would be unrealistic to consider the higher prices as reasonable asking prices. 4/ Importers further argue that declining prices in 1982 were the result of lower consumption (decrease of demand) and not price depression caused by Japanese products. 5/

Price suppression allegations concerning bulk sales of CA, dichloro, and trichloro are enumerated in the tables that were presented as appendixes G, H, and I to the staff report to the commission. The tables show the quantity and average prices of each firm's purchases from each of the five primary suppliers, by quarters, during 1980-83; these quarterly data are summarized in table 29 for CA, table 30 for dichloro, and table 31 for trichloro.

1/ FMC's prehearing brief.

2/ Comparison for dichloro is made between tables 21 and 23; for trichloro, between tables 24 and 26.

3/ Prehearing brief by Olin, pp. 8 and 9.

4/ Prehearing brief by ICI, pp. 28-31.

5/ Prehearing brief by Toyomenka, p. 24.

Table 29.--Cyanuric acid: Price suppression allegations and named firm's purchasing histories, by firms, 1980-83

(Allegations and purchases in 1,000 pounds, prices in dollars per pound)

Item	1980	1981	1982	1983
Purchaser: * * *				
Price suppression allegations	***	***	***	***
Purchases from domestic producers	***	***	***	***
Purchases of subject imports	***	***	***	***
Avg. price of domestic products	***	***	***	***
Avg. price of subject imports	***	***	***	***
Purchaser: * * *				
Price suppression allegations	***	***	***	***
Purchases from domestic producers	***	***	***	***
Purchases of subject imports	***	***	***	***
Avg. price of domestic products	***	***	***	***
Avg. price of subject imports	***	***	***	***

* * * * * * *

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

Table 30.--Bulk dichloro: Price suppression allegations and named firms' purchasing histories, by firms, 1980-83

* * * * * * *

Table 32.--Bulk trichloro: Price suppression allegations and named firms' purchasing histories, by firms, 1980-83

* * * * * * *

There were 37 price suppression allegations concerning bulk sales of dichloro to 16 repackagers. There were 15 repackagers not identified in dichloro price suppression allegations at any time during 1980-83 and 16 repackagers that had at least one price-suppression allegation during that

period. 1/ Weighted-average prices for each group were calculated and are presented in figure 6, together with the quantities of U.S. producers' sales to those two groups of repackagers. Domestic producers' dichloro prices to both groups were similar in 1980 and in 1981, but prices to repackagers with price suppression allegations were lower during most of 1982 and 1983. 2/

Figure 6.--Bulk dichloro: Quantities sold by and weighted-average prices of U.S. producers' to repackagers with and without price suppression allegations, by quarters, 1980-83

* * * * * * *

Price suppression/lost revenues involving packaged products at the retail level.--Olin claims that it has been forced in many instances to reduce its price to dealers in order to avoid losing a sale to repackagers selling a product of Japanese origin; these price reductions reportedly have caused Olin to suffer lost revenues. Olin provided examples of such instances in its questionnaire response. Allegations for 1980-81 did not include data regarding either the volume or the value of the sale, nor were there indications that the sales had actually been completed at the lower price. Allegations of price reductions in 1982-83 did provide quantity data, and are discussed below. 3/

1/ The repackagers with price suppression allegations accounted for * * * percent of total sales of dichloro to repackagers in 1980, * * * percent in 1981, * * * percent in 1982, and * * * percent in Jan.-Sept. 1983. The group without price suppression allegations accounted for the balance of total purchasers of dichloro by repackagers.

2/ Similar comparisons cannot be made for purchases of CA or trichloro beacuse most repackagers of those products were identified in price suppression allegations.

3/ Olin provided internal documents in support of all retail level competitive price reduction allegations. * * *.

Olin alleged that price reductions had been made in 1982-83 to meet offers of repackagers believed to be selling Japanese material. These competitors and the quantity of material subject to the various competitive price reductions are shown in the following tabulation.

Competitor	Source of repackager's material 1/	Quantity on which price was reduced	
		1982 (pounds)	1983 (pounds)
*	*	*	*	*	*	*

1/ As reported by the repackager in Commission questionnaire responses. Percentages are approximate owing to changing supply patterns of some repackagers.

As shown in the tabulation, three of the repackagers named by Olin sell material predominantly of Japanese origin, two split their suppliers approximately equally, and three purchase predominantly U.S.-produced material. The staff contacted the purchasers named in the allegations involving Chem-tab, Hydro-tech, and York Chemical. In each case the purchaser remarked on the competitive nature of the business and that all suppliers lowered prices frequently to make a sale.

* * * confirmed that it regularly uses offer prices from other suppliers to negotiate lower prices * * *. Although the particular instance named by Olin * * * pounds sold at lower prices in response to a * * *, could not be confirmed, * * * stated that "it was probably accurate." * * * characterized the * * * market as especially competitive, * * *.

* * * was named as the customer receiving lower prices on * * * products in response to offers from * * *. The owner of * * * stated that the firm * * *. The firm prefers to spread its purchases among many sources.

* * * firms were named as the recipient of lower prices owing to competition from * * *. One of the two firms named * * *. The second firm, * * *, stated that * * *.

Commission staff was unable to contact representative of the firms named in the * * * allegations.

In support of its allegations of price suppression in the packaged-product market, FMC submitted copies of correspondence from two * * * distributors; * * *. The letters from * * * request price reductions from FMC to allow * * * to better compete with packaged products sold by the following companies:

Company	Approximate share of purchases of-- Domestic products (percent)	Japanese products (percent)
* * *	* * *	* * *

Letters from * * * to FMC seek reductions in prices 1/ in order to be competitive in * * * with packaged products sold by the following repackagers:

Company	Approximate share of purchases of-- Domestic products (percent)	Japanese products (percent)
* * *	* * *	* * *

In addition, * * * stated that another of * * *'s major competitors * * *.

Lost sales

A number of lost sales allegations were received from the U.S producers. The majority of allegations concerning lost bulk sales were submitted by Monsanto. Additional lost sales allegations concerning packaged products were submitted by FMC and Olin. The bulk lost sales allegations, together with the individual firms' purchasing history (quantity, source, and average price) are tabulated, and summarized, by products, in tables 32-34.

Cyanuric acid.--Monsanto submitted 29 allegations of instances in which it lost sales of bulk CA to imports from Japan during 1980-83. The allegations involved 16 companies, 13 of which responded to the Commission's questionnaire. A summary of the allegations, and of 15 of the named firm's purchasing histories is presented in table 32. 2/

Dichloro.--Monsanto submitted 10 allegations of instances in which it lost sales of bulk dichloro to imports from Japan during 1980-83. The allegations involved 8 companies, 6 of which responded to the Commission's questionnaire. A summary of the allegations, and of each named firm's purchasing history is presented in table 33. 3/

1/ FMC reduced its prices to * * * by * * * percent from 1982 to 1983.

2/ Purchasing histories for two of the companies that did not respond to the questionnaire have been constructed from the producers' and importers' questionnaire returns. Histories for the third firm are not available.

3/ Purchasing histories for two of the companies that did not respond to the questionnaire have been constructed from the producers' and importers' questionnaire returns. Histories for the third firm are not available.

Table 32.--Cyanuric acid: Lost sales allegations and named firms' purchasing histories, by firms, 1980-83

(In thousands of pounds)

Item	1980	1981	1982	1983
Purchaser: * * *				
Lost sales allegations	***	***	***	***
Purchases from domestic producers	***	***	***	***
Purchases of subject imports	***	***	***	***
Purchases of other imports	***	***	***	***
Purchaser: * * *				
Lost sales allegations	***	***	***	***
Purchases from domestic producers	***	***	***	***
Purchases of subject imports	***	***	***	***
Purchases of other imports	***	***	***	***

* * * * * * *

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

Table 33.--Bulk dichloro: Lost sales allegations and named firm's purchasing histories, by firms, 1980-83

* * * * * * *

Trichloro.--Monsanto submitted 23 allegations of instances in which it lost sales of bulk trichloro to imports from Japan during 1980-83. The allegations involved 13 companies, 11 of which responded to the Commission's questionnaire. A summary of the allegations, and of each named firm's purchasing history is presented in table 34. 1/

1/ Purchasing histories for the 2 companies that did not respond to the questionnaire have been constructed from the producers' and importers' questionnaire returns.

Table 34.--Bulk trichloro: Lost sales allegations and named firm's purchasing histories, by firms, 1980-83

* * * * * * *

Exchange rate fluctuations

The following tabulation, based on data from International Financial Statistics (International Monetary Fund, November 1983), shows an index of the nominal and real value (adjusted for inflation) of the Japanese yen in terms of the U.S. dollar for January-March 1981 to July-September 1983. The nominal value of the yen declined by 21 percent during 1981-82 but increased during 1983, ending the period at 85 percent of its January-March 1981 level. Because the level of inflation in Japan was similar to that in the United States during the 1981-83 period, changes in the real value of the yen were approximately the same as those in the nominal value. In July-September 1983, the real value of the yen was 89 percent of its January-March 1981 level.

	Nominal	Real
1981:		
January-March	100.0	100.0
April-June	93.4	94.9
July-September	88.6	89.4
October-December	91.5	92.6
1982:		
January-March	88.0	89.3
April-June	84.2	85.6
July-September	79.4	80.2
October-December	79.2	80.1
1983:		
January-March	87.1	90.0
April-June	86.4	90.5
July-September	84.6	89.2

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

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

penetration. Information obtained on the Japanese industry's ability to increase the level of exports to the United States is presented below. 1/

A Nissan official stated that Nissan expects its exports of the subject products to the United States to * * *. He also stated that demand in Japan for sterilizers for swimming pools and water-cleaning tanks is expected to * * * in 1984.

For the preliminary investigation the Commission asked Shikoku for data on its expected changes in exports. Shikoku responded that it generally expected its exports in 1983 to * * *. Actual imports by ICI of Shikoku's subject products * * *.

In a followup telegram for the final investigation the Commission asked for 1983 data and 1984 expectations. Shikoku responded that its records indicated * * *. Shikoku "expects its production in 1984 to * * *".

Nippon's production was * * * in 1983. Nippon expects to produce * * * in 1984. * * *. Nippon began production of CA and trichloro in 1983.

A Nippon official reported that * * *. Nippon intends to start * * *.

U.S. importers' inventories

Another factor to be examined in assessing the threat of injury is the trend in U.S. importers' inventories. U.S. importers' inventories of CA, dichloro, and trichloro are shown in table 35.

Table 35.--CA, dichloro, and trichloro: U.S. importers' end-of-period inventories of the subject products imported from Japan, 1979-82, Sept. 30, 1982, and Sept. 30, 1983

* * * * * * *

Table 35 indicates that U.S. importers' inventories of CA decreased * * *.

Dichloro inventories * * *, and trichloro inventories * * * in the same period. Combined inventories of the derivatives decreased * * *.

* * * * * * *

1/ Department of State (Tokyo) telegram No. 12009, p. 3.

APPENDIX A

COMMERCE'S FINAL LTFV DETERMINATION

[A-588-019]

Final Determinations of Sales at Less Than Fair Value; Cyanuric Acid and its Chlorinated Derivaties From Japan Used in the Swimming Pool Trade

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determinations.

SUMMARY: We have determined that cyanuric acid and its chlorinated derivatives from Japan used in the swimming pool trade are being sold in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determinations, and the ITC will determine, within 45 days of the publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry. We have directed the United States Customs Service to continue to suspend the liquidation of certain entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after November 18, 1983, in accordance with our preliminary determinations, and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: February 29, 1984.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1778.

SUPPLEMENTARY INFORMATION:

Final Determinations

We have determined that cyanuric acid and its chlorinated derivatives (CA&CD) from Japan used in the swimming pool trade are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). We have also determined that critical circumstances do not exist because there have not been massive imports of CA&CD over a relatively short period.

We have found that the foreign market value of CA&CD exceeded the United States price on 21.42 percent of the sales of cyanuric acid, 100 percent of the sales of dichloro iscyanurates, and 98 percent of the sales of trichloro isocyanuric acid. These margins ranged from 0.0 to 42.48 percent for cyanuric acid, 7.29 to 43.52 percent for dichloro isocyanurates, and 0.45 to 34.84 percent for trichloro isocyanuric acid. The overall weighted-average margins of all sales compared are 3.00 percent for cyanuric acid, 32.20 percent for dichloro isocyanurates, and 16.58 percent for trichloro isocyanuric acid.

Case History

On June 3, 1983, we received a petition filed by Monsanto Industrial Chemicals Co. In accordance with the filing requirements of section 353.36 of the Commerce Department Regulations, petitioner alleged that CA&CD from Japan for use in the swimming pool trade 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 Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry. Critical circumstances were also alleged under section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds to initiate antidumping investigations. We notified the ITC of our action and initiated investigations on June 20, 1983 (48 FR 29037). On July 18, 1983, the ITC found that there is a reasonable indication that imports of CA&CD are materially injuring a United States industry.

The petition alleged that Shikoku Chemicals Corp. (Shikoku), Nissan Chemical Industries, Ltd. (Nissan), and Nippon Soda Co., Ltd. produce CA&CD for export to the United States. We determined that Shikoku and Nissan are manufacturers or producers accounting for 100 percent of the merchandise under

investigation exported to the United States during the period of investigation. We are not examining sales by Nippon Soda Co., Ltd. because it appears that it never exported the merchandise under investigation to the United States either prior to or during the period of investigation.

On July 8, 1983, we sent questionnaires to Shikoku and Nissan, and to Mitsubishi Corp. (Mitsubishi), Toyo Menka Kaisha (Toyo Menka), and Sumitomo Shoji Kaisha Ltd. (Sumitomo), trading companies which export the merchandise under investigation to the United States. We received responses from Shikoku and Nissan on August 25 and September 6, 1983, respectively. We received responses from Sumitomo, Mitsubishi, and Toyo Menka on August 19, August 25, and September 2, 1983, respectively.

On October 20, 1983, petitioner alleged that home market sales of CA&CD are being made at less than the cost of production in Japan. We did not receive this allegation in time for consideration in our preliminary determinations.

On October 24, 1984, petitioner submitted various comments regarding the adequancy of the questionnaire response received in these proceedings and various claims for adjustments made by Nissan. Our prelimiary determinations incorrectly stated that this submission had not yet been served. In fact, it was properly filed on the same day these determinations were made, but received too late for consideration in those determinations.

On October 31, 1983, we sent supplemental questionnaires on cost of production to Shikoku and Nissan. We received a response from Nissan on November 21, 1983, and from Shikoku on November 22, 1983.

On November 10, 1983, we preliminarily determined that CA&CD from Japan used in the swimming pool trade are being, or are likely to be, sold in the United States at less than fair value (48 FR 52497).

On December 9, 1983, counsel for Shikoku asked us to extend the period for the final determinations until not later than 105 days after the date of publication of the preliminary determinations, in accordance with section 735(a)(2)(A) of the Act. In a notice published January 6, 1984 (49 FR 924), we postponed our final determinations until not later than February 23, 1984. We held a hearing on January 23, 1984, to allow the parties an opportunity to address the issues orally.

Scope of Investigations

The merchandise covered by these investigations is cyanuric acid (also known as isocyanuric acid) and its chlorinated derivatives (dichloro isocyanurates, *i.e.* sodium dichloro isocyanurate, potassium dichloro isocyanurate, and sodium dichloro isocyanurate dihydrate; and trichloro isocyanuric acid), used in the swimming pool trade. For purposes of these investigations, we have categorized the merchandise as cyanuric acid, dichloro isocyanurates, and trichloro isocyanuric acid, which we determine are separate classes or kinds of merchandise. We base this determination on the fact that the chemical compositions of these products are distinct. Further, cyanuric acid is a raw material used as the basis for producing the chlorinated derivatives. By comparison, dichloro isocyanurates and trichloro isocyanuric acid are used as swimming pool disinfectants. Trichloro isocyanuric acid dissolves more slowly than dichloro isocyanurates, and thus lasts longer. These products are sold in three basic consistencies: powder, granular, and tablet.

This merchandise is currently classifiable under item number 425.1050 of the *Tariff Schedules of the United States Annotated* (TSUSA).

We investigated sales of CA&CD by the two manufacturers for the period January 1 to June 30, 1983.

Fair Value Comparison

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. No comparisons were made for sales by Shikoku of sodium dichloro isocyanurate dihydrate because there was not a viable home market and the U.S. sales were less than 4 percent of total U.S. sales of dichloro isocyanurates.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because sales were made to unrelated Japanese trading firms for export to the United States and the manufacturers knew the destination of the merchandise at the time of sale. We calculated the purchase price for Shikoku and Nissan based on the c.i.f. port of exportation packed price. We made deductions for Japanese freight and insurance.

Foreign Market Value

We calculated home market prices based on c.i.f. packed prices on sales to unrelated distributors. From these prices we deducted inland freight and insurance. We also made deductions, where appropriate, for after-sales rebates and discounts based upon competitive circumstances. We made circumstances of sale adjustments for differences between U.S. and home market credit costs in accordance with section 353.15 of the Commerce Regulations. We made an adjustment for differences in home market and U.S. packing costs, pursuant to section 773(a)(1) of the Act. For Nissan, we also made adjustments, where appropriate, for differences in composition of similar merchandise (granular cyanuric acid with or without anticaking agent vs. powdered isocyanuric acid) in accordance with section 353.16 of the Commerce Regulations. For Shikoku, we made circumstance of sale adjustments for advertising and promotion expenses as assumptions of a purchaser's costs in accordance with section 353.15 of the Commerce Regulations.

Shikoku also claimed circumstance of sale adjustments for "direct selling expenses" including saleman's salaries and traveling expenses, and technical services. We allowed none of these adjustments, because they were not directly related to the sales of the merchandise under investigation in accordance with section 353.15 of the Commerce Regulations. During verification, Nissan waived its claim for circumstance of sale adjustments for sales commissions, communication expenses, travel expenses, and promotion expenses.

Nissan exported several grades of granular cyanuric acid to the United States. Since Nissan had no home market sales of the granular grades during the period of investigation, we adjusted Nissan's home market price for powdered cyanuric acid. These adjustments, made pursuant to § 353.16 of the Commerce Regulations, reflect additional manufacturing costs incurred in converting Nissan's powdered cyanuric acid into the various granular grades exported to the United States. We determine that the Nissan home market price for powdered cyanuric acid (based on all home market sales, regardless of whether they are sold to the swimming pool trade or elsewhere) is the appropriate basis for making the granular adjustments because the section 771(16)(B) criteria for such or similar merchandise are satisfied. The powdered merchandise sold in the home

market and the granular grades exported to the United States are: (1) Both produced or manufactured in Japan by Nissan, (2) have similar or identical component materials and have the same uses (*i.e.* to make the chlorinated derivatives), and (3) have approximately equal commercial value.

Petitioner alleged that sales in the home market were at prices below the cost of producing CA&CD. We examined production costs which included all appropriate costs for materials, fabrication and general expenses. We found sales below the cost of production by Shikoku only for less than 0.3 percent of dichloro isocyanurates sales. We found no sales below the cost of production for Nissan. Accordingly, we did not disregard any home market sales in making our fair value comparisons.

Negative Determination of Critical Circumstances

Petitioner alleged that imports of CA&CD from Japan present "critical circumstances" within the meaning of section 733(e) of the Act. Critical circumstances exist if the Department has a reasonable basis to believe or suspect that: (1)(a) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom or for whose account the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value; and (2) there have been massive imports of the merchandise under investigation over a relatively short period. Petitioner alleged that the importers knew or should have known the exporters were selling at less than fair value and that there have been massive imports of the subject products over a relatively short period of time.

In determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period, we considered the following factors: recent import penetration levels; changes in import penetration since the date of the ITC's preliminary affirmative determination of injury; whether imports have surged recently; whether recent imports are significantly above the average calculated over several years (January 1980–September 1983); and whether the pattern of imports over that 3¾ year period may be explained by seasonal swings. Based upon these factors, we determine that imports of the products covered by these investigations do not appear massive over a relatively short period. Therefore, we determine that critical circumstances do not exist.

Verification

In accordance with 776(a) of the Act, we verified the information used in making these determinations by using standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and selected documents containing relevant information.

Petitioner's Comments

Comment 1: Petitioner contends that the Department erred in failing to limit foreign market value to home market sales within the swimming pool trade. It claims that the term "ordinary course of trade," which is used in section 773(a)(1)(A) of the Act to describe the term "foreign market value," requires that foreign market value be based upon sales of merchandise in the home market which are of the same class or kind of merchandise that is under investigation. Since petitioner has intentionally limited the class or kind of merchandise under investigation to imports of cyanuric acid and its chlorinated derivatives used in the swimming pool trade, petitioner reasons that the Department must limit its home market price comparisons accordingly.

DOC Position: We disagree with petitioner's interpretation of the term "ordinary course of trade." This term is defined by section 771(15) of the Act to mean:

> The conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to the merchandise of the same class or kind.

From the pertinent legislative history, it is clear that the original definition of "ordinary course of trade," on which section 771(15) is based, is a general customs law definition. It was intended simply to allow Customs to take into account normal commercial practices in international trade and to remove any incentive to frustrate the import laws by creating artificial conditions in order to obtain more favorable appraisements. When Congress added similar language to the former Antidumping Act, 1921, as section 212(2), it did not indicate any intent to deviate from its initial emphasis on commercial practice. Rather, Congress made only minor changes in terminology to clarify that section 212(2) applied only to antidumping duties.

Indeed, at the same time that Congress added the definition of "ordinary course of trade" to section 212 of the Antidumping Act, it also defined the term "such or similar merchandise." Although several of the alternatives contained in the original definition of this term were subsequently deleted, the remainder of the provision became the present section 771(16) of the Act. Of the present alternative meanings, the first and preferred definition is: "The merchandise which is the subject of an investigation (*i.e.*, the merchandise imported into the United States) and *other merchandise which is identical in physical characteristics* with * * * that merchandise" (emphasis supplied). In this case, since this perferred definition is, with one exception, satisfied by sales of physically identical merchandise in the home market, both for swimming pool and non-pool use, discussion of the other alternatives is unnecessary. The single exception, powdered cyanuric acid, satisfies the section 771(16)(B) definition of "such or similar merchandise" because, among other reasons, it has the same "purpose for which used" (i.e., to make chlorinated derivatives) as granular cyanuric acid.

The relevant legislative history, in addition to emphasizing that physical identity is the sole factor in defining the preferred universe of such or similar merchandise, indicates that Congress intended that this definition facilitate speedy and equitable price comparisons. Petitioner has cited no legislative history to support its interpretation. Further, when read together, it is only reasonable that Congress did not intend that sections 771(15) and 771(16) would operate as petitioner believes they should. If petitioner's theory were correct, Congress would simply have defined "such or similar merchandise" in terms of the merchandise under investigation. Instead, Congress expressly included within the definition all other merchandise produced by the same person and in the same country that is physically identical to the investigated merchandise.

It would be illogical to conclude that Congress meant that the term "ordinary course of trade" has the effect of completely nullifying the language in section 771(16) that applies to merchandise other than that being investigated. A fundamental rule of statutory construction is that effect must be given, if possible, to every word of a statute so that no part will be inoperative, superfluous, or void. In the absence of clear Congressional intent that our foreign market comparisons in this case should be limited to merchandise sold in the swimming pool trade, we have considered all merchandise sold in the home market that is physically identical to that

merchandise under investigation in making our comparisons.

Comment 2: Based on analysis presented in our final results of an administrative review in *Portable Electric Typewriters from Japan*, 48 FR 7768 (February 24, 1983), petitioner contends that the type of merchandise to be used in determining foreign market value is defined in part by the actual use of the merchandise under investigation. For example, petitioner contends that if "office" machines were considered excluded from the scope of an antidumping order on typewriters, the Department could not choose for foreign market value purposes "office" machines sold in the home market for comparison with portable electric typewriters ("PETs") sold in the United States. Petitioner reasons that if "office" machines were excluded from the scope of the order partly on the basis of use, cyanuric acid and its chlorinated derivatives sold to other than the swimming pool trade in Japan should likewise be excluded from our foreign market value comparisons.

DOC Position: Petitioner has confused the scope analysis appearing in *Typewriters* with factors used to determine appropriate sales for foreign market value purposes. The scope question concerns which imports are subject to antidumping duties as the result of a particular order. When, because of technological advances or other factors, ambiguity arises as to whether a particular imported article is affected by an outstanding order, the factors considered in *Typewriters* (among them, use) are applied. Thus, if an order is ultimately issued in this proceeding and a question subsequently arises in a future review of that order as to whether cyanuric acid imported for a certain use is covered by the order, analysis like that applied in *Typewriters* might be relevant.

By contrast, as discussed above, foreign market value is usually, as in this case, based on home market sales of such or similar merchandise. While petitioner might be correct that we would not compare a home market office machine sale with a PET sale in the U.S. market, that decision would be driven by the factors contained in section 773(a)(1) of the Act, not the scope factors in *Typewriters*. Office machines would probably not be used for foreign market value first because there would probably be relevant home market sales of physically identical merchandise. Use would become important only if the second or third definitions of "such or similar merchandise" become relevant because of the absence of such physically identical merchandise. As noted above, however, since the preferred definition of this term is satisfied in this proceeding in all cases where the petition claims use is relevant, we determine that consideration of use is unnecessary.

Comment 3: Petitioner contends that the Department must reject Nissan's data and use the best information otherwise available because Nissan has failed to identify sales to the swimming pool trade, as requested.

DOC Position: Regardless of whether Nissan complied with this request for information, our conclusions with respect to relevant home market sales make the requested information superfluous. Therefore, it would be inappropriate in this case to draw negative inferences from any possible noncompliance with a request for information when that information is ultimately deemed to be irrelevant.

Comment 4: Petitioner contends that should the Department nevertheless use sales of the merchandise outside the swimming pool trade as a basis for foreign market value, such transaction data must be adjusted for differences in circumstance of sale. The circumstances of sale identified by petitioner is the fact that the investigated merchandise may be sold to the swimming pool trade or to another market. According to petitioner, the price differential between these two types of sales is precisely "due to" the difference between selling in these different parts of the market. Petitioner argues that adjustments for such circumstances of sale would be analogous to quantity discounts expressly provided by section 773(a)(4)(A) of the Act. Finally, petitioner cites *Methyl Alcohol*, 44 FR 19090 (March 30, 1979), and *Steel Wire Rope from Korea*, 48 FR 41615 (September 16, 1983), to support its argument.

DOC Position: Petitioner's argument is without merit for several reasons. First, neither of the cited precedents is apposite. Petitioner is correct that in *Methyl Alcohol*, Treasury found "two distinct classes of purchaser(s)" in the home market and, as a result, "two separate weighted-average home market prices were calculated for fair value comparisons." 44 FR 19090–91. This fact, however, does not support petitioner's claim for either a circumstance of sale adjustment or a separate foreign market value and dumping margin for merchandise sold to the swimming pool trade. This precedent has no bearing on petitioner's circumstance of sale claim since no such adjustment was made in *Methyl Alcohol* on the basis of the purchaser classes. Also, in *Methyl Alcohol*, the weighted-average margin for the merchandise was computed for *all* sales, not on a specific purchaser class basis. Assuming that each price was weighted appropriately, the same overall weighted average margin would have been calculated had the foreign market value been weighted as a whole. Thus, the result in *Methyl Alcohol* (i.e., one weighted average margin on all merchandise) does not support petitioner's claim for foreign market value comparisons only for merchandise sold in the swimming pool trade.

With respect to *Steel Wire Rope*, petitioner has overlooked the fact that the Department's comment in that case that the information in the record indicates "no correlation between price and class of customer" was in response to a request for a level of trade adjustment. There being no level of trade claim being asserted by petitioner in this case, further discussion of *Rope* is unnecessary.

We turn now to the more general question of whether the pricing differential between the pool and non-pool trade is a circumstance of sale warranting an adjustment. Section 353.15(b) of the Commerce Regulations lists several examples of circumstances of sale for which adjustments are allowed. In each of these examples, the seller is conveying to the purchaser something of value in addition to the physical merchandise, such as credit, warranties, or technical assistance. We have not found that the price differential between sales of such or similar merchandise to two different markets in this case is due in any way to greater direct selling expenses or to value in addition to the physical article itself being conveyed to purchasers in the higher-priced market. Therefore, we conclude that sales in the pool and non-pool markets do not warrant a circumstance of sale adjustment.

Finally, petitioner's analogy between this situation and a quantity discount adjustment is also misplaced. The authority for making adjustments as a result of quantity discounts is expressly provided in section 773(a)(4)(A). The underlying rationale for this adjustment is that the quantity discount is a deviation from the normal business practice—i.e., no quantity discount. There is no evidence here that differences in prices in the home market were a function of the quantity involved in individual sales, and accordingly, no basis for an adjustment in the home market price based upon quantities.

Comment 5: Respondents have claimed adjustments to foreign market value for alleged difference in circumstances of sale which are impermissible. There is no relationship between the value of the merchandise in the marketplace, as measured by its price, and the cost to respondents allegedly associated with differing circumstances of sale. Since respondents were engaged in price fixing in the home market, differences in prices in the swimming pool trade were not due to differences in cost but rather on the basis of the agreement between themselves.

DOC Position: We verified that the Japanese Fair Trade Commission determined that there was a price fixing arrangement between Nissan and Shikoku covering the merchandise, but such arrangement ended on June 8, 1981. We do not believe that this decision has any effect on our investigations which cover a period beginning more than one year after the violation ceased.

Comment 6: The alleged circumstance of sales adjustments are impermissible because they are not directly related to the sales under consideration.

DOC Position: We verified that the adjustments claimed by Shikoku for credit expense, media advertisting, promotional expenses, rebate expenses, and other discounts and the credit expense claimed by Nissan were directly related to the sales under consideration, and we granted these adjustments. As noted in the Foreign Market Value section of this notice, Nissan waived all circumstances of sale adjustments except for credit expenses. We agree that Shikoku was unable to demonstrate that technical services expenses and claimed "direct selling expenses" were directly related to the sale under consideration, and we denied these adjustments.

Comment 7: Petitioner argues that the Department must obtain additional information on sales to the U.S. beyond the initial sales by Nissan. Petitioner contends that the Department has not addressed the issue of middleman dumping raised by petitioner on November 7, 1983.

DOC Position: Because we determined that Nissan knew the destination of the merchandise at the time of sale, we followed our usual practice of requesting only certain information from the middlemen (trading companies). Trading companies typically operate at small mark ups, and they are not likely to be making sales at prices lower than those of acquisition when they are dealing with unrelated manufacturers. We had no reason to believe that the trading companies were failing to recover their costs in transactions concerning the subject merchandise.

Comment 8: Petitioner maintains that Nissan and Shikoku have understated their costs or production.

Doc Position: We verified to our satisfaction Nissan's and Shikoku's costs of production and, therefore, cannot agree with petitioner.

Comment 9: A review of the Act and the evidence of record does not support the Department's preliminary determination that critical circumstances do not exist. The trading companies which sell CA&CD are long-established, experienced firms, with prior exposure to the administration of the antidumping laws. Given the high fixed prices in the Japanese home market due to the price-fixing cartel, the importers knew or should have known that the exported prices were lower than the home market prices and that the merchandise was being dumped. Information on the import category covering CA&CD shows a very significant increase in imports in January–October 1983 over similar periods of 1982 and 1981.

DOC Position: Because the applicable TSUSA number is a basket provision, product specific import statistics are not available from the Census Bureau. We verified the actual shipments of CA&CD from Shikoku and Nissan from January 1, 1980–September 30, 1983, and we did not find massive imports of the merchandise under investigation over a relatively short period. During the first nine months of 1983, imports of cyanuric acid, trichloro isocyanuric acid, and all products under investigation were lower than import levels of the same merchandise in calendar year 1982 and the average of calendar years of 1980–1982. The imports of dichloro isocyanuric acid exceeded the average import levels of 1980–1982 by 6 percent. Because of the seasonal nature of the swimming pool use of this merchandise, imports tend to be lowest during the last quarter of the year. Since we did not find massive imports over a relatively short period, we need not consider petitioner's argument regarding the importer's purported knowledge.

Respondent Nissan's Comments

Comment 1: The Department improperly included sales not in the ordinary course of trade and not in the usual wholesale quantities in determining foreign market value in its preliminary determinations. Nissan sold granular trichloro isocyanuric acid identical to that exported to the United States in the usual wholesale quantities to only one purchaser in [illegible]. Department nonetheless aggregated all home market sales of the granular trichloro, including sales to minor distributors in varying quantities and at irregular intervals. The prices associated with the sporadic and inconsistent sales to the minor distributors should be ignored in favor of the prices associated with the higher volume, "wholesale quantity" sales to the large purchaser in Japan.

DOC Position: There is no requirement that only home market sales at the quantity cloest to export sales be compared. We have no evidence that the sales to any distributors were not in the usual wholeslae quantities. Accordingly, we have used a weighted average of the sales prices of all merchandise to determine the foreign market value.

Comment 2: The Department improperly requested confidential cost of production data from Nissan. The only "facts" petitioner cited as evidence to support its allegation of below cost of production sales by Nissan were petitioner's own cost of production, its own unsupported estimates of Nissan's production costs, and hearsay information concerning overall operating losses by Nissan.

DOC Position: Section 353.36(a)(7) of the Commerce Regulations recognizes that petitioners unable to furnish information on foreign sales or costs may present information concerning U.S. domestic producers' costs adjusted for differences in the foreign country in question from information publicly available. The information provided by petitioner constituted a reasonable basis for our institution of a cost of production investigation.

Respondent Shikoku's Comments

Comment 1: The Department should not disallow Shikoku's claimed direct selling expense. Shikoku sells the merchandise under investigation in bulk form for export to the United States and in a form suitable for consumer use in Japan. Shikoku, in the home market, assumes the repackager's role.

DOC Position: We did not allow this adjustment for salesmen's salaries and traveling expenses because it is not directly related to the sales of the merchandise under investigation. The adjustment for differences in packing compensates for the additional costs Shikoku incurs as a repackager.

Comment 2: The technical service expense incurred by Shikoku in the home market is a *bona fide* difference in circumstances of sale and should be

DOC Position: We did not allow this adjustment because Shikoku could not provide evidence which demonstrates that this expense is directly related to the sales of the merchandise under investigation.

Comment 3: The Department should allow an adjustment for after-sale rebates.

DOC Position: We agree. We verified that Shikoku gave cash rebates to its domestic customers for CA&CD for swimming pool and septic tank use based upon the purchase of the same or greater quantities as compared to 1982 purchases.

Comment 4: Shikoku maintains that the Department should make an allowance for discounts based upon competitive circumstances.

DOC Position: We agree. We verified the amount of additional merchandise shipped at no extra cost to certain customers who purchased for septic tank and swimming pool use during the period of investigation, thus reducing the unit price.

Suspension of Liquidation

In accordance with section 733(d) of the Act, on November 18, 1983, we instructed the United States Customs Service to suspend liquidation of entries of CA&CD from Japan for use in the swimming pool trade (except cyanuric acid produced by Nissan) that are entered, or withdrawn from warehouse, for consumption (48 FR 52497).

As of the date of publication of this notice in the **Federal Register**, the Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value merchandise subject to these investigations exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/producers/exporter	Weighted-average margin (percent)
Nissan:	
Dichloro isocyanurates	32.40
Trichloro isocyanurates	8.84
Shikoku:	
Cyanuric acid	10.93
Dichloro isocyanurates	32.00
Trichloro isocyanuric acid	21.40
All other manufacturers/producers/exporters:	
Cyanuric acid	9.00
Dichloro isocyanurates	32.20
Trichloro isocyanuric acid	16.58

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final determinations. In addition, we are making available to the ITC all nonpriviledged and nonconfidential information relating to these investigations. We will allow the ITC access to all priviledged and confidential information in our files, provided the ITC 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.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, these proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs offices to assess an antidumping duty on CA&CD from Japan entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

These determinations are being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: February 23, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-5467 Filed 2-28-84; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

NOTICES OF THE COMMISSION IN CONNECTION WITH THE SUBJECT INVESTIGATION AND LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

[Investigation No. 731-TA-136 (Final)]

Cyanuric Acid and Its Chlorinated Derivatives From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation.

SUMMARY: As a result of an affirmative preliminary determination by the United States Department of Commerce that there is a reasonable basis to believe or suspect that imports from Japan of cyanuric acid and its chlorinated derivatives, provided for in item 425.10 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 (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-136 (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.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen Vastagh, investigator (202-523-1369), or Lynn Featherstone, supervisory investigator (202-523-0242), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured by reason of allegedly LTFV imports of cyanuric acid and its chlorinated derivatives from Japan. The preliminary investigation was instituted in response to a petition filed on June 3, 1983, by counsel on behalf of Monsanto Industrial Chemicals Co., a U.S. producer of the subject products.

Participation in the Investigations

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 addresses 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 these investigations must be served on all other parties to the investigations (as dentified 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 March 2, 1984, 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 March 15, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:14 p.m.) on February 29, 1984. 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 March 5, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 12, 1984.

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 analysis, and factual materials 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 March 21, 1984.

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 March 12, 1984. 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 submission 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, subpart 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).

Issued: December 21, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-34524 Filed 12-28-83; 8:45 am]

BILLING CODE 7020-02-M

the Commission's notice of investigation (48 FR 57386, December 29, 1983).

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Vastagh (202–523–0283), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

Issued: January 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2035 Filed 1–24–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–136 (Final)]

Cyanuric Acid and Its Chlorinated Derivatives From Japan

AGENCY: United States International Trade Commission.

ACTION: Dates for certain actions in connection with the subject investigation are changed as follows: a nonconfidential version of the Commission's staff report containing preliminary findings of fact will be releasd on February 28, 1984, instead of March 2, 1984; prehearing briefs from parties to the investigation will be due on March 9, 1984, instead of March 12, 1984; and the hearing will be held on March 14, 1984, instead of March 15, 1984. Information concerning participation in the hearing and the filing of prehearing briefs is contained in

CALENDAR OF PUBLIC HEARING

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

Subject : Cyanuric Acid and Its Chlorinated Derivatives from Japan

Inv. No. : 731-TA-136 (Final)

Date and time : March 14, 1984 - 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:

Stewart and Stewart--Counsel
Washington, D.C.
on behalf of

Monsanto Industrial Chemicals Company

Donald A. Olson, Business Director, Fine Chemicals and Water Treatment

Michael L. Marcum, Business Manager, ACL

Jerome F. Crowley, Manager, Planning Detergent Products

Donald P. Doherty, Esq.--Assistant Company Counsel

Eugene L. Stewart--OF COUNSEL

Gibson, Dunn & Crutcher--Counsel
Washington, D.C.
on behalf of

FMC Corporation

James R. Collins, CDB and Sun Swim Pool Products Manager

Joseph H. Price--OF COUNSEL

Steptoe & Johnson--Counsel
Washington, D.C.
on behalf of

Olin Corporation

Peter Kosche, Director, Business Development, Pool Chemical

Robert Bertrand, Project Manager, Pool Chemical Development

Mari-Jo Scopac, Counsel, Chemicals Group

Richard O. Cunningham)
Alice L. Mattice) --OF COUNSEL

In opposition to the imposition of antidumping duties:

Graham & James--Counsel
Washington, D.C.
on behalf of

Nissan Chemical Industries, Ltd. ("Nissan"), Toyomenka America, Inc. ("Toyomenka America") and Sumitomo Corporation of America ("Sumitomo America")

Ron Vale, Former Purchasing Manager, Pool Products Division, Purex Corporation

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

Barnes, Richardson & Colburn--Counsel
Washington, D.C.
on behalf of

Skikoku Chemicals Corp., Kagawa Prefecture, Japan; Mitsubishi Corporation; Tokyo, Japan; and ICI Americas Inc., Wilmington, Delaware

E. J. Casthenoli, President, York Chemical Corporation

Frank Tarquin, President, Chem-Tab Chemical Corporation

- more -

Barnes, Richardson & Colburn (Continued)

Philip Leslie, Chairman, Leslie's Swimming Pool Supplies, Inc.

S. Bass, President, Sandy's Pool Supply

James C. Miller, Marketing Manager, ICI Americas Inc.

Edward E. Martin, Consulting Economist

William C. Hutchison, Jr., Senior Counsel, ICI Americas Inc.

Nicholas R. Pettoruto, Product Manager, ICI Americas Inc.

E. Thomas Honey)
Gunter von Conrad)
Richard Haroian) --OF COUNSEL
Matthrew T. McGrath)

APPENDIX C

U.S PRODUCERS' AND IMPORTERS' STATEMENTS REGARDING THE U.S. MARKET

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APPENDIX D

SUPPLEMENTARY TABLES CONTAINING TRADE DATA AND DATA ON FINANCIAL PERFORMANCE OF U.S. PRODUCERS IN FULL-YEAR 1983

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APPENDIX E

SUPPLEMENTAL STATISTICAL TABLES

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