

CERTAIN ACETYLSALICYLIC ACID (ASPIRIN) FROM TURKEY

**Determination of the Commission in
Investigation No. 701-TA-283
(Preliminary) Under the Tariff Act of
1930, Together With the Information
Obtained in the Investigation**

**Determination of the Commission in
Investigation No. 731-TA-364
(Preliminary) Under the Tariff Act of
1930, Together With the Information
Obtained in the Investigation**

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigations Nos. 701-TA-283 and 731-TA-364 (Preliminary)

ACETYSALICYLIC ACID (ASPIRIN) FROM TURKEY

Determinations

On the basis of the record 1/ developed in the subject investigations, the Commission determines, 2/ pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Turkey of bulk acetylsalicylic acid, 3/ provided for in item 410.72 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Turkey. The Commission also determines, 2/ pursuant to section 733(a) of the Act (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Turkey of bulk acetylsalicylic acid which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On October 31, 1986, petitions were filed with the Commission and the Department of Commerce by Monsanto Co., St. Louis, MO, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of bulk acetylsalicylic acid from Turkey

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/ Chairman Liebelier dissenting; Commissioner Lodwick not participating.

3/ The product covered by these investigations is acetylsalicylic acid (aspirin) containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material) and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the Handbook of Non-Prescription Drugs, 8th edition, American Pharmaceutical Association, and is not in tablet, capsule, or similar forms for direct human consumption.

at LTFV. Accordingly, effective October 31, 1986, the Commission instituted preliminary countervailing duty investigation No. 701-TA-283 (Preliminary) and preliminary antidumping investigation No. 731-TA-364 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of November 7, 1986 (51 F.R. 40524). The conference was held in Washington, DC, on October 20, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION ^{1/} ^{2/}

We determine that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly dumped and allegedly subsidized imports from Turkey of acetylsalicylic acid (aspirin). Our determination is based on declining domestic production, shipments, and prices, the domestic industry's diminished profitability, and evidence of rising market penetration and underselling by imports of bulk aspirin from Turkey. ^{3/}

Like product and domestic industry

In a preliminary title VII investigation, the Commission must determine if there is a reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of the subject imports. ^{4/}

^{1/} Chairman Liebeler voted in the negative. She joins with the majority in the definition of like product and domestic industry and the condition of the industry. See Views of Chairman Liebeler, *infra*.

^{2/} Commissioner Seeley Lodwick did not take part in this determination.

^{3/} Chairman Liebeler's and Vice Chairman Brunsdale's determinations are not based on evidence of underselling by the imported product. They believe that such evidence ordinarily is not probative on the issue of whether imports are a cause of material injury to a domestic industry. See Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from Canada, Inv. No. 731-TA-254 (Final), USITC Pub. 1808 at 11, n.25 (1986).

^{4/} Section 771(4)(A) of the Tariff Act of 1930 defines "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." 19 U.S.C. § 1677(4)(A). "Like product" is defined as "a product which is like, or in the absence of like,

(Footnote continued on next page)

The imported article subject to investigation is acetylsalicylic acid (aspirin) containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances) and not in tablet, capsule or similar forms for direct human consumption. ^{5/} The imported article is referred to as "bulk aspirin" by producers and consumers, the latter including processors for direct human consumption and other pharmaceutical users. ^{6/}

Aspirin is a chemical compound that was discovered over eighty years ago and is widely used as a non-prescription pain remedy. It is a relatively simple chemical compound produced from salicylic acid and acetic anhydride. The result of the production process is white crystalline bulk aspirin composed of various random-sized crystals. The product may be sold in that form. Usually, however, the crystals are screened and packaged according to

(Footnote continued from previous page)

most similar in characteristics and uses with, the article subject to an investigation" 19 U.S.C. § 1677(10).

^{5/} On Nov. 28, 1986, the Department of Commerce initiated the subject antidumping and countervailing duty investigations of acetylsalicylic acid from Turkey. The product subject to investigation, as defined above, is provided for in item 410.72 of the Tariff Schedules of the United States. 51 Fed. Reg. 43062.

^{6/} There are over 100 firms that are domestic consumers of bulk aspirin, in addition to Sterling and Norwich-Eaton, both of which manufacture bulk aspirin and process it for direct human consumption. Report of the Commission (Report) at A-4.

"mesh size." ^{7/} Bulk crystals can also be combined with inactive substances such as starch or coloring and sold in "compound form," or they can be ground into a fine powder and sold in "pharmaceutical form." ^{8/}

Bulk aspirin from Turkey is imported into the United States in crystal and compound form. ^{9/} Crystal aspirin accounts for well over half of the bulk aspirin imported from Turkey; most of the remainder is compound aspirin with 10 percent starch.

Domestically produced bulk aspirin is produced in crystal, pharmaceutical, or compound form according to the requirements of consumers. ^{10/} Crystal aspirin accounts for the majority of bulk aspirin sold by domestic producers and, as in the case of the subject imports, most of the remainder is compound aspirin with 10 percent starch. ^{11/}

The parties agree that the domestic like product is bulk aspirin, sold in

^{7/} Id. at A-2. The four standard mesh sizes used by producers and consumers are 20, 40, 60 and 80 grain.

^{8/} Id. at A-2-A-3.

^{9/} According to the data developed in these preliminary investigations, there are four Turkish producers of bulk aspirin, three of whom are believed to be exporting bulk aspirin to the United States. No fewer than a dozen firms have imported bulk aspirin during the period of investigation. Id. at A-2.

^{10/} There are four domestic producers of bulk aspirin: Monsanto Co. (the petitioner), Dow Chemical Co., Norwich-Eaton, Inc., and Sterling Drug Co. Id.

^{11/} Id. at A-3. The precise figures are as follows: 41 percent of domestic production is produced in compound form, 42 percent remains in crystalline form, and 17 percent is converted to pharmaceutical form. Less than 2 percent of the pharmaceutical bulk aspirin is sold on the open market. Id. at A-5.

crystal, compound or pharmaceutical form, ^{12/} and the data developed in these preliminary investigations support their view. ^{13/ 14/} We find, therefore, that the like product is bulk aspirin and the domestic industry consists of the producers of bulk aspirin.

Condition of the domestic industry ^{15/}

The statute explicitly enumerates certain factors the Commission is to consider in assessing the condition of the domestic industry. We have considered each of these factors in this investigation. ^{16/}

^{12/} Id. at A-2. No data were developed suggesting any quality differences in the various forms of bulk aspirin.

^{13/} Id. at A-3. Vice Chairman Brunsdale has considered whether other non-prescription pain relievers such as acetaminophen and ibuprofen are like aspirin and, for purposes of this preliminary investigation, has concluded they are not sufficiently similar in characteristics and uses to be considered a like product. She notes that, should this investigation proceed to a final phase, she will reconsider the question of whether aspirin, acetaminophen and ibuprofen are sufficiently close substitutes to be considered a single like product. See Additional Views of Vice Chairman Brunsdale, infra.

^{14/} Commissioner Rohr notes that the import subject to the investigation is bulk aspirin, not in tablet or capsule form, with no additional active substances. In this investigation he finds the appropriate like product is bulk aspirin. The production of tablet or capsule aspirin involves extra processes which utilize different equipment and labor and occur in separate facilities than those used in the production of bulk aspirin. He notes there is additional value added in the production of tablet and capsule aspirin. He also notes that bulk aspirin is used in combination with other pharmaceutical compounds. Further there exists a separate market for bulk aspirin other than that used in the production of tablets or capsules. Therefore, the like product in this investigation includes only bulk aspirin.

^{15/} Because only a small number of firms comprise the domestic industry, much of the data are confidential and may only be discussed in general terms.

^{16/} To determine the condition of the domestic industry, the Commission

(Footnote continued on next page)

Domestic production of bulk aspirin declined steadily from over 31 million pounds in 1983 to nearly 25 million pounds in 1985, a decline of 20.3 percent. With domestic capacity remaining constant during that period, capacity utilization fell from 69.4 percent in 1983 to 55.3 percent in 1985. ^{17/}

Apparent U.S. consumption of bulk aspirin (including consumption in both the open and captive markets of both domestically produced and imported bulk aspirin) declined significantly both in volume and value from 1983-85. ^{18/} It then rose in interim 1986 compared to interim 1985, but the resulting level of consumption did not approach that of earlier periods. The value per pound of domestic shipments of bulk aspirin also experienced an overall decline from 1983-85, and continued to decline from interim 1985 to interim 1986. ^{19/} Inventories of bulk aspirin sold on the open market increased markedly from 1983 to 1985 and remained high in the 1986 interim period. ^{20/} As a ratio of total shipments, inventories rose sharply in 1983-85 and remained high in the interim 1985-86 comparison.

(Footnote continued from previous page)
considers, among other factors, domestic production, capacity, capacity utilization, consumption, shipments, inventories, employment and profitability. 19 U.S.C. § 1677(7)(C)(iii).

^{17/} Report at A-6, Table 1.

^{18/} *Id.* at A-22. In these preliminary investigations the Commission has developed data concerning captive and open market bulk aspirin and has evaluated both sets of data in making its injury determination.

^{19/} *Id.* at A-8.

^{20/} *Id.*

The employment data are mixed. Three of the four domestic producers showed a 4.8 percent increase in employment from 1983-85 and a greater increase in interim 1986. ^{21/} The average hours worked rose. ^{22/} Productivity, however, declined. Total and hourly compensation increased from 1983-85, but declined slightly from interim 1985 to 1986. Because of declining production and increased employment, unit labor costs rose. ^{23/}

The financial picture for the two firms that sell bulk aspirin on the open market is also mixed. ^{24/} Net sales increased slightly from 1983 to 1984, then declined sharply in 1985, and increased slightly from interim 1985 to 1986. Profits from open market sales of bulk aspirin declined sharply for most of the period under investigation, and the upward trend in the most recent interim period was slight. Operating profits were substantially eroded, and although the industry did not experience an overall loss during the period of investigation, its financial picture for 1985 was relatively poor. The domestic industry's expenditures on capital improvements and research and development during the period of investigation have not resulted in corresponding increases in competitiveness or productivity.

Although some statutory indicators of the condition of the domestic industry improved sporadically during the investigatory period, these

^{21/} Employment data for Norwich-Eaton are not available during this preliminary investigation. Id.

^{22/} Id.

^{23/} Id. at A-10.

^{24/} From 1983 to 1986, Dow and Monsanto accounted for virtually all of the domestic shipments of bulk aspirin. Id. at A-14.

indicators have generally declined. Based on overall trends, we find a reasonable indication that the domestic industry is materially injured. 25/ 26/

Reasonable indication of material injury by reason of allegedly unfairly traded imports

In determining whether a domestic industry is materially injured "by reason of" imports, the Commission is to consider, among other factors, the volume of imports of the merchandise subject to investigation, and the effect of imports on the domestic industry and domestic prices. 27/ 28/

25/ Commissioner Stern does not regard it as analytically useful or appropriate to consider the question of material injury completely separate from the question of causation. See Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 at 18-19 (Dec. 1985) (Additional Views of Chairwoman Stern).

26/ Commissioner Eckes believes that the Commission is to make a finding regarding the question of material injury in each investigation. See Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 at 20-21 (Dec. 1985) (Additional Views of Commissioner Eckes).

27/ 19 U.S.C. § 1677(7)(B).

28/ Vice Chairman Brunsdale and Commissioner Stern believe that the magnitude of dumping and subsidy margins is one factor, among others, that may be considered in determining whether imports are a cause of material injury. Vice Chairman Brunsdale notes that the petitioner has alleged dumping margins ranging from 33 to 117 percent and a subsidy margin of approximately 35 percent. Report at A-2. She finds these alleged margins sufficiently high to support an affirmative determination in this preliminary investigation. For a discussion of her views on the relevance of margins to causation analysis, see Heavy-Walled Rectangular Carbon Steel Pipes and Tubes from Canada, Inv. No. 731-TA-254 (Final), USITC Pub. 1808 at 13-14 (1986) (Views of Chairwoman Stern, Vice Chairman Liebler and Commissioner Brunsdale). She notes, however, that large margins are not by themselves sufficient to reach an affirmative decision. See Certain Ethyl Alcohol from Brazil, Inv. No.

(Footnote continued on next page)

The volume and value of bulk aspirin imports from Turkey increased sharply from 1983-85. During that period, imports measured by volume increased from slightly over 100,000 pounds to more than 1 million pounds, an increase from 4.9 percent to 23.8 percent of total U.S. imports. ^{29/} The increase continued in interim 1986 to 32.3 percent of imports. Measured by value, Turkish imports increased from \$128,000 in 1983 to over \$1.2 million in 1985, and continued to rise in January-September 1986 to more than \$1.3 million. The unit value of Turkish imports declined from 1983 to 1984 and then remained constant in 1985. ^{30/} Although it experienced a slight increase in interim 1986, it was still below the 1983 unit value.

Apparent domestic consumption of bulk aspirin (including consumption in both the open and captive markets of both domestically produced and imported bulk aspirin) declined during the 1983-85 period, decreasing 17 percent by volume and 24 percent by value. ^{31/} Domestic consumption of bulk aspirin increased in interim 1986 by 16.4 percent over the previous interim period. ^{32/} When assessed in terms of apparent open market consumption and apparent captive consumption, the same trends were apparent, with consumption

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701-TA-239 (Final), USITC Pub. 1818 at 15-16 (1986) (Views of the Commission).

^{29/} Report at A-19.

^{30/} *Id.* at A-22, Table 12.

^{31/} *Id.* at A-22, Table 13.

^{32/} *Id.* at A-21.

generally declining and then increasing slightly in interim 1986. ^{33/} ^{34/}

Measured by quantity, Turkish bulk aspirin imports as a ratio of domestic consumption increased from 0.3 percent in 1983 to 3.9 percent in 1985 and continued to rise in interim 1986, to 4.7 percent. ^{35/} Measured by value, Turkish imports as a ratio of overall domestic consumption increased from 0.2 percent in 1983 to 2.6 percent in 1985, and again rose in interim 1986, to 3.4 percent. ^{36/} When Turkish imports are considered as a share of open market consumption only, the import penetration ratios are slightly higher.

The Commission obtained weighted average prices for the three forms of domestically produced bulk aspirin--crystal, compound, and pharmaceutical. Domestic prices for all three forms declined sharply during the investigatory

^{33/} Respondents argued that the domestic industry was materially injured by a shift in demand away from aspirin, and in favor of aspirin substitutes such as acetaminophen and ibuprofen. Also, recently publicized data have linked aspirin to Reyes syndrome. The Commission, however, is prohibited from weighing causes in a title VII investigation. See, Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong., 1st Sess. 57-58 (1979). The Commission standard for an affirmative preliminary determination was affirmed recently by the Court of Appeals for the Federal Circuit in *American Lamb Co. v. United States*, 785 F.2d 994 (Fed. Cir. 1986).

^{34/} Vice Chairman Brunsdale notes while the Commission may not weigh causes of material injury, it is required by the legislative history to consider whether material injury has resulted from factors other than unfair imports. See S. Rep. No. 249, 96th Cong., 1st Sess. 57-58 (1979). Thus, if the evidence were to show that the material injury in this case is entirely attributable to the shift in consumer spending away from aspirin, the Commission would be obligated to reach a negative determination. The evidence was insufficient to permit Vice Chairman Brunsdale to reach such a conclusion in this preliminary investigation, but she will reconsider the causation issue if this investigation proceeds to a final phase. See Additional Views of Vice Chairman Brunsdale, infra.

^{35/} Report at A-22.

^{36/} Id. at A-22, Table 13.

period. ^{37/} Although import prices fluctuated during the investigatory period, they did so within a narrow range of price points and were at all times significantly below domestic prices for bulk aspirin in similar form. ^{38/} The Commission also obtained evidence of lost sales to Turkish imports in these preliminary investigations. ^{39/ 40/}

For these reasons, we find a reasonable indication that the domestic bulk aspirin industry is materially injured by reason of allegedly LTFV and subsidized imports from the Republic of Turkey. ^{41/}

^{37/} Id. at A-25-A-26.

^{38/} Id. at A-26-A-27.

^{39/} Id. at A-28 and A-30.

^{40/} Vice Chairman Brunsdale's affirmative determination is not based on evidence of underselling and lost sales. See n.3, supra.

^{41/} Vice Chairman Brunsdale notes that one issue she will consider if this investigation proceeds to a final phase is whether there is a world market for bulk aspirin, and whether the predominant effect in the United States of dumping by Turkish producers and subsidization by the Turkish government would be to displace bulk aspirin imported from other countries from the U.S. market. See Additional Views of Vice Chairman Brunsdale, infra.

ADDITIONAL VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

Acetylsalicylic Acid (Aspirin) from Turkey

Investigations Nos. 701-TA-283 and 731-TA-364 (Preliminary)

December 15, 1986

For the reasons stated in the majority opinion, I find a reasonable indication that the domestic industry producing acetylsalicylic acid (aspirin) is materially injured by reason of allegedly subsidized and dumped imports of bulk aspirin from Turkey. I write separately to call attention to two issues that I intend to explore in greater depth if these investigations proceed to a final phase. The first is the degree of substitutability in demand among aspirin, acetaminophen, and ibuprofen and the consequences of this for the Commission's analysis of like product and causation in this case. The second is whether there is a world market for bulk aspirin in which

dumping by Turkish producers and subsidization by the Turkish government cannot significantly affect either the U.S. price or U.S. production of aspirin, but rather serves primarily to displace aspirin imported from other countries from the U.S. market. I discuss these issues below.

Substitutability

The record in these investigations makes clear that aspirin, acetaminophen, and ibuprofen are close substitutes in the over-the-counter analgesic pain reliever market.¹ Though acetaminophen and ibuprofen are more expensive than aspirin,² consumption of aspirin has declined in recent years while consumption of the other two has increased. The size of the overall market for the three drugs remained basically constant from 1984 to 1985, but aspirin's share of the market declined from 51.5 percent to 45.9 percent, while acetaminophen's share increased from 42.8 percent to 44.9 percent and ibuprofen's share

¹ E.g., Report at A-3, A-21, and A-23.

² Id. at 3.

increased from 5.7 percent to 9.2 percent .³

In view of this development, I would find it necessary in a final investigation to consider whether there is a single like product in this case consisting of all three pain relievers. I recognize that the statutory definition of "like product" suggests that if there is domestic production of an article identical to the article subject to investigation, the Commission is to treat the identical article as the like product.⁴ Our application of the statute must be informed, however, by the legislative history, which admonishes us not to adopt overly restrictive like-product definitions.⁵

In these preliminary investigations, I conclude that the record contains sufficient evidence to support petitioner's

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Id. at A-21 .

⁴
See 19 U.S.C. sec. 1677(10) ("The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to investigation . . .").

⁵
See S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979) ("The requirement that a product be 'like' the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation.")

allegation that the like product is bulk aspirin. The record discloses that the chemical composition of aspirin is different from that of acetaminophen and ibuprofen, and that, as a result, aspirin has somewhat different characteristics. Unlike the other two drugs, aspirin irritates the stomach lining of some users.⁶ In further contrast to the other two drugs, aspirin has been linked with the development of Reye's Syndrome in children. On the other hand, recent medical research has indicated that aspirin, unlike acetaminophen and ibuprofen, may be of therapeutic value in the treatment of stress and certain cardiovascular problems.⁷

Though I find this evidence persuasive, I nevertheless will revisit the like product issue if these investigations proceed to a final phase. In particular, I will consider whether aspirin, acetaminophen, and ibuprofen, notwithstanding their differences, are such close substitutes that examination of aspirin alone would cause us to ignore the effects of the alleged unfair practices on producers of the other two products or otherwise result in a distorted impression of conditions in the domestic industry.

⁶
Id. at A-3.

⁷
Id.

Even if I do not change my like product determination in the final phase of these investigations, there will remain the question of whether a shift in consumer spending away from aspirin and toward acetaminophen and ibuprofen is the exclusive cause of material injury to the domestic industry. We are, of course, forbidden by the legislative history to weigh causes of material injury, but the same legislative history requires us to consider whether material injury has resulted from factors other than unfair imports.⁸

In this case, the record makes clear that increased purchases of other pain relievers relative to aspirin has been a significant cause of injury to domestic producers of bulk aspirin.⁹ In the final phase of investigation, my causation analysis will focus principally on whether unfair imports from Turkey are also a cause of material injury, or whether the material injury in this case is entirely attributable to other

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See S. Rep. No. 249, 96th Cong., 1st Sess. 57-58 (1979) ("Current law does not, nor will section 705, contemplate that the effects from the subsidized imports be weighed against the effects associated with other factors Of course, in examining the overall injury to a domestic industry, the ITC will consider information which indicates that harm is caused by factors other than subsidized imports.")

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See Report at A-21 and A-23.

factors such as changing consumer spending patterns. I stress that it will not be enough for petitioner to show that the domestic industry is worse off than it would be but for the subject imports--for, in general, an increase in the supply of a product as a result of imports always works to the detriment of domestic producers. The question is whether the harm that can be attributed to the subject imports rises to the level of material injury. Were it otherwise, the Commission would be compelled to reach affirmative determinations in all cases where the domestic industry is experiencing material injury and imports are entering the U.S. market. Such an interpretation would render the statutory causation requirement nugatory.

World Market

The record in these investigations discloses that the United States imports bulk aspirin from many countries and that the amount of aspirin imported from any one country varies greatly over time.¹⁰ This raises the question whether there is a world market for bulk aspirin. If there is such a market, it is extremely unlikely that a relatively small producer like Turkey

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See Report at A-20.

could accomplish anything by subsidizing and dumping exports to the United States beyond displacing other sources of foreign supply from the U.S. market. In particular, it is unlikely that a Turkey would be able to significantly affect the price or the level of production of bulk aspirin in the U.S.¹¹

Import data collected in the course of these investigations reveal trends consistent with the import displacement that one would expect to find if there were a world market for bulk aspirin. For example, while imports from Turkey rose from 238,000 pounds in 1984 to 1,067,000 pounds in the first nine months of 1986, imports from France fell from 1,239,000 pounds to 40,000 pounds over the same period.¹² In order to understand the degree to which the supply of bulk aspirin in the U.S. market is driven by world market conditions, I will require additional information about major producers in other countries such as West Germany, France, China, and possibly Japan. Specifically, I would like to examine data on total production and capacity in these countries. If the data indicate that these countries dwarf Turkey as producers of this product, then it is likely that

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See Tubeless Steel Disc Wheels from Brazil, Inv. No. 731-TA-335 (Preliminary), USITC Pub. 1986 at 16 (1986) (Additional Views of Vice Chairman Brunsdale).

12

See Report at A-20.

Turkey would be able to exert only minimal influence on world prices.

DISSENTING VIEWS OF CHAIRMAN LIEBELER

Certain Acetylsalicylic Acid from Turkey
Invs. Nos. 731-TA-364 and 701-TA-283 (Preliminary)

I determine that there is no reasonable indication than an industry in the United States is materially injured or threatened with material injury, by reason of imports of acetylsalicylic acid (Aspirin) from Turkey which are allegedly being sold at less than fair value and are receiving benefit of subsidy.¹

I concur with the majority in their definitions of the like product and the domestic industry, and their discussion of the condition of the industry. Because my views on causation differ from those of the majority, I offer these dissenting views.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a preliminary investigation, the Commission must determine

1

Material retardation was not an issue in these investigations and will not be discussed further.

that there is a reasonable indication that the dumped or subsidized imports cause or threaten to cause material injury to the domestic industry producing the like product. The Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material injury, and whether any injury or threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds a reasonable indication of both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one must resort to the legislative history in order to interpret the relevant sections of the this import relief law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful meaning are subject to such statutory interpretation.²

2

C. Sands, Sutherland Statutory Construction § 45.02
(4th ed., 1985.).

The statutory language used for both parts of the analysis is ambiguous. "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."³ As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would otherwise prevail. If a downward effect on price, accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down were all that were required for an affirmative determination, there would be no need to inquire further into causation.

3

19 U.S.C. § 1977(7)(A)(1980).

But the legislative history shows that the mere presence of LTFV imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

[T]he ITC will consider information which indicates that harm is caused by factors other⁴ than the less-than-fair-value imports.

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."⁵

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination of the ITC with respect to causation, is under current law, and will be, under section 735, complex and difficult, and is a matter for the judgment of the

4

Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 75 (1979).

5

Id.

ITC."⁶ Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a

⁷
United States industry.

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

[T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the

6

Id.

7

Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

U.S. market, even though the price of the
imported product is lower than its home market
8
price.

This "complex and difficult" judgment by the
Commission is aided greatly by the use of economic and
financial analysis. One of the most important assumptions
of traditional microeconomic theory is that firms attempt
to maximize profits.⁹ Congress was obviously familiar
with the economist's tools: "[I]mporters as prudent
businessmen dealing fairly would be interested in
maximizing profits by selling at prices as high as the
10
U.S. market would bear."

An assertion of unfair price discrimination should be
accompanied by a factual record that can support such a
conclusion. In accord with economic theory and the
legislative history, foreign firms should be presumed to
behave rationally. Therefore, if the factual setting in

8

Id.

9

See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45
(12th ed. 1985); W. Nicholson, Intermediate Microeconomics
and Its Application 7 (3d ed. 1983).

10

Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d
Sess. 179.

which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."¹¹

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit

11

Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

an affirmative finding under the law interpreted in light
 of the cited legislative history.¹²

The stronger the evidence of the following . . .
 the more likely that an affirmative determination
 will be made: (1) large and increasing market
 share, (2) high dumping margins, (3) homogeneous
 products, (4) declining prices and (5) barriers
 to entry to other foreign producers (low
 elasticity of supply of other imports).¹³

The statute requires the Commission to examine the volume
 of imports, the effect of imports on prices, and the
 general impact of imports on domestic producers.¹⁴ The
 legislative history provides some guidance for applying
 these criteria. The factors incorporate both the
 statutory criteria and the guidance provided by the
 legislative history. Each of these factors is evaluated
 in turn.

Causation analysis

Examining import penetration is important because
 unfair price discrimination has as its goal, and cannot

12

Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19
 (1985) (Additional Views of Vice Chairman Liebler).

13

Id. at 16.

14

19 U.S.C. § 1677(7)(B)-(C) (1980 & cum. supp. 1985).

take place in the absence of, market power. The market penetration of imports of the imports under investigation increased from 0.3 percent in 1983 to 0.8 percent in 1984 and 3.9 percent in 1985. Import penetration for January through September 1986 increased to 4.7 percent compared to 3.8 percent in the corresponding period of the previous year.¹⁵ Import penetration is increasing, but it is very small and inconsistent with a finding of market power, a necessary condition for an affirmative determination.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more likely it is that the product is being sold below the competitive price¹⁶ and the more likely it is that the domestic producers will be adversely affected. In a preliminary investigation, the Commerce Department has not yet had time to calculate any margins. I therefore typically rely on the margins alleged by petitioner. In

15

Report at Table 13. The penetration figures presented here are measured on a quantity basis. I note that the trend in import penetration is the same when measured on a value basis.

16

See text accompanying note 8, supra.

this case, petitioner calculated dumping margins on total exports to the United States of bulk aspirin, irrespective of form or grade. The alleged margins ranged from 33.1 percent to 116.7 percent.¹⁷ These margins range from moderate to large.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic producers. Evidence presented in the staff report indicates that purchasers find the quality of the domestic and imported products to be similar. Responses to Commission questionnaires indicate that the quality of bulk aspirin is judged most commonly on its purity, color, and lot-to-lot consistency. Bulk aspirin, whether of foreign or domestic origin, must meet United States Pharmacopoeia (USP) standards in order for it to be used in products for human consumption. While these characteristics will vary between batches and among producers, most firms familiar with the Turkish product have found it to be acceptable for most uses, and have

17

The alleged margins ranged from 75.6 percent to 116.7 percent for Bayer, 55.1 to 86.0 percent for Atabay, and 33.1 percent to 63.2 percent for Proses. Report at A-2.

found that it does regularly meet USP standards.¹⁸ I
find that these products are homogeneous.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. Prices for the domestic product have exhibited a downward trend during the period of
¹⁹
investigation.

The fifth factor is foreign supply elasticity (barriers to entry). If there is low foreign elasticity of supply (or barriers to entry) it is more likely that a producer can gain market power. Imports from countries other than Turkey were significant and almost doubled as a
²⁰
portion of apparent consumption from 1983 to 1985. I
conclude that barriers to entry are low.

These factors must be considered in each case to reach a sound determination. Market share is increasing but

¹⁸
Report at A-25.

¹⁹
Report at Table 14.

²⁰
Report at Table 13.

very low. Domestic prices are declining. The products are homogeneous. The alleged margins range from moderate to large. While these three factors are not inconsistent with an affirmative determination, they are outweighed by the lack of market power as evidenced by the low barriers to entry and small market share of Turkish imports.

Threat of material injury

With respect to potential threat of material injury, the Turkish producers were operating at 76.6 percent of capacity in 1985. The United States already receives 63 percent of Turkish exports of the merchandise subject to investigation.²¹ This information indicates that the ability to generate additional aspirin for export or divert, to the United States, aspirin currently being exported to countries other than the United States is limited. Furthermore, there is no information on the record in these investigations that the Turkish producers intend to increase their capacity or divert production to the United States. I conclude that there is no reasonable indication that injury by reason of the subject imports is

21

Report at table 11.

"real and imminent"²² threat of material injury.

Conclusion

Therefore, I conclude that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of acetylsalicylic acid (aspirin) from Turkey which are allegedly being sold at less than fair value and receiving benefit of subsidy.

²²

19 U.S.C. § (7) (F) (ii) (cum. supp. 1986).

Main body of handwritten text, consisting of several lines of cursive script. The text is mostly illegible due to fading and blurring.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On October 31, 1986, petitions were filed with the U.S. International Trade Commission and U.S. Department of Commerce on behalf of Monsanto Company, St. Louis, MO, alleging that subsidized and less-than-fair-value (LTFV) imports of bulk acetylsalicylic acid (aspirin) from Turkey are being sold in the United States and that an industry in the United States is materially injured and threatened with material injury by reason of such imports.

Accordingly, effective October 31, 1986, the Commission instituted countervailing duty investigation No. 701-TA-283 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and antidumping investigation No. 731-TA-364 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register on November 7, 1986 (51 FR 40524). 1/ The public conference was held in Washington, DC, on October 20, 1986, 2/ and the vote was held on December 10, 1986. The applicable statute directs the Commission to notify Commerce of its preliminary determinations within 45 days after the date of the filing of the petitions, or by December 15, 1986.

Bulk acetylsalicylic acid (aspirin) has not been the subject of any other investigation conducted by the Commission.

Nature and Extent of Alleged Subsidies
and Sales at LTFV

There is no information relating to the nature and extent of the alleged subsidies and sales at LTFV other than the allegations of the petitioner. With respect to subsidies, the petitioner cited various Turkish programs including interest rebates, income tax allowances, customs duty exemptions, and export incentives which it believes have conferred subsidies on manufacturers of the subject product. 3/ The petitioner identified 3 Turkish firms which produce and export bulk acetylsalicylic acid to the United States: Bayer Turk Kimya Sanayi ve Ticaret (Bayer Turkey), Atabey Kimya Sanayi ve Ticaret A.S. (Atabey), and Proses Kimya Sanayi ve Ticaret (Proses).

1/ Copies of the Commission's and Commerce's notices instituting the investigations are shown in app. A.

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

3/ Each program on which Commerce is initiating an investigation is identified in its notice of institution of countervailing-duty investigation (app. A).

A fourth producer, Ilkim Kimya Maddler Sanyı ve Ticaret A.S. (Ilkim), is not believed to be exporting bulk aspirin to the United States. For those programs on which it was able to estimate a value, the petitioner calculated a total net subsidy rate for all firms of approximately 35 percent.

On the basis of highest and lowest home-market prices in Turkey and average unit export value, FAS Turkey, 1/ to the United States for 1985 and January-August 1986, the petitioner calculated dumping margins on total exports to the United States of bulk acetylsalicylic acid, irrespective of form or grade. The alleged margins ranged from 75.6 percent to 116.7 percent for Bayer, 55.1 percent to 86.0 percent for Atabay, and 33.1 percent to 63.2 percent for Proses, or an average of between 54.2 percent and 88.6 percent for all three firms combined.

The Product

Description and uses

The product subject to the petitioner's complaint--bulk acetylsalicylic acid (aspirin)--is aspirin 2/ which contains no active additives 3/ in quantities to be of any therapeutic value and which is not in tablet, capsule, or similar forms for direct human consumption. According to the Encyclopedia of Chemical Technology, 3rd edition, aspirin is the most widely used therapeutic drug in the world, used principally for the relief of mild to moderate pain, such as that associated with headaches, arthritis, and tooth aches. In the light of recent scientific findings, it has also been used in treating stress and certain cardiovascular problems.

To produce bulk aspirin, salicylic acid is mixed with acetic anhydride, yielding, after various proprietary processes, a liquid consisting of water, acetic acid, and aspirin. The acetic acid, removed by centrifuge, is either returned to acetic anhydride producers for credit or sold, and the water is removed by drying. Bulk aspirin, in the form of white crystals, remains. At this point the aspirin can be packaged and sold. Usually, however, it is screened and packaged according to granular size. Four standard "mesh" sizes are available: 20, 40, 60, and 80. There are no uses for which a specific mesh size is absolutely required; however, most buyers prefer consistency in granular size to facilitate processing and thus specify mesh size, or at least a range in size, when purchasing. Alternatively to being screened for granular size, bulk aspirin may be ground into a fine powder (pharmaceutical form) or combined with small amounts of inactive substances (compound form) such as starch, lactose, cellulose, or coloring materials, which facilitate further processing by buyers. (The addition of starch, for example, imparts a cohesive factor to the aspirin, which makes it easier to process into tablets). Different concentrations of each of these additives are available. Because of the additional processing, both the pharmaceutical form and the

1/ The transaction value of imports at the foreign port of exportation.

2/ Aspirin is a white, odorless, crystalline powder of organic derivation, having the formula C H O C H CO H.

2 3 2 6 4 2

3/ Active additives are additives which have a medicinal or therapeutic effect.

compound form of bulk aspirin sell at a premium price, although the pharmaceutical form has not been sold in the United States in large quantities. The crystalline form accounts for about * * * percent of the bulk aspirin sold by U.S. producers in the United States and for well over half that imported from Turkey. Most of the remaining product, from both U.S. producers and Turkey, is compounded with a 10 percent concentration of starch.

At least two products, ibuprofen and acetaminophen, can be used in place of aspirin for the relief of mild to moderate pain. Unlike aspirin, neither of these products has an irritating effect on the lining of the stomach. According to the petitioner, acetaminophen's share of the pain-relieving market has remained at about 33 percent in the last three years, while ibuprofen's share has increased from less than 1 percent to about 8 percent. 1/ Aspirin's share has declined accordingly. The petitioner believes that the effect these products have had on bulk aspirin prices, however, has been minimal since 1) consumers are relatively unresponsive to price differences between pain-relieving drugs and 2) bulk acetaminophen and ibuprofen are from 2 to 5 times more expensive than bulk aspirin.

U.S. tariff treatment

Bulk aspirin is currently provided for in item 410.72 of the Tariff Schedules of the United States (TSUS), a classification which includes all aspirin, regardless of form or type of additive. The column 1 (most-favored-nation) rate of duty for this item is 12.1 percent ad valorem. 2/ As of January 1, 1987, this rate will be reduced to 10.1 percent ad valorem, the last in a series of duty reductions granted in the Tokyo round of the Multilateral Trade Negotiations. The special duty rate, applicable to imports

1/ Other sources indicate that acetaminophen's share has increased from 39 percent to 45 percent in this period and that ibuprofen's share in 1986 was as high as 15 percent (see post-conference brief of White and Case, app. 13 and 14). Relative shares of total U.S. production and imports of these 3 drugs, compiled from official statistics of the U.S. Department of Commerce and from confidential data reported in the Commission's Synthetic Organic Chemical summary, are more in line with the latter sources. For a further discussion of U.S. consumption of these drugs, see the section of this report entitled "U.S. consumption and market penetration of imports".

2/ The rates of duty in col. 1 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(d) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply if preferential tariff treatment is sought and granted to products of developing countries under the GSP or the Caribbean Basin Economic Recovery Act (CBERA), or to products of Israel or of least developed developing countries (LDDC's) as provided under the special rates of duty column.

from Turkey under the Generalized System of Preferences (GSP), is free. ^{1/} The United States Trade Representative (USTR) is currently conducting an investigation to determine whether imports from Turkey of the subject product should continue to receive duty-free treatment. USTR's decision is due in January 1987.

U.S. Channels of Distribution

Most bulk aspirin sold in the United States by U.S. and foreign producers is sold either to unrelated chemical-products distributors or directly to pharmaceutical processors, which convert it into tablet or capsule form, add other active ingredients in some cases, and/or otherwise prepare it for human consumption. Aspirin is not consumed in bulk form.

U.S. Producers

In addition to the petitioner, which produces bulk aspirin at a single plant in St. Louis, MO, 3 other firms manufacture bulk aspirin in the United States: Dow Chemical, U.S.A. (Dow), at a single plant in Midland, MI; Norwich-Eaton, at a single plant in Norwich, NY; and Sterling Drug, at a single plant in Trenton, NJ. ^{2/} The production at Dow's plant will be *** when a new bulk aspirin plant, under construction since 1984, becomes ***. The petitioner and Dow account for about * * * percent of U.S. production and virtually all open-market sales in the last 4 years. Norwich-Eaton, which began producing for the open market in September of this year, and Sterling Drug processed nearly all of the material they produced into forms for direct human consumption. Over 100 firms, in addition to Norwich-Eaton and Sterling Drug, process bulk aspirin into forms for direct human consumption. All of the above-named firms are large multinational corporations and manufacture many chemical products other than aspirin, although not with the same equipment used to produce bulk aspirin. From the point at which salicylic acid is mixed with acetic anhydride to the point at which bulk aspirin is packaged, each producer's plant is devoted exclusively to the subject product. None of these firms produces acetic anhydride and only Monsanto, Dow, and Sterling produce salicylic acid.

U.S. Importers

At least a dozen firms, located mainly in New York and New Jersey, have imported bulk aspirin from Turkey since 1983. The largest are * * * together

^{1/} The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after Jan. 1, 1976 and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

^{2/} Dow and Norwich-Eaton are in support of the petition. Sterling Drug is taking no position with regard to these investigations.

accounting for about * * * percent of imports in 1983-86. * * * are large chemical distributors serving most of the United States. All * * * companies also import bulk aspirin from countries other than Turkey.

Consideration of Alleged Material Injury

The following sections, compiled from responses to the Commission's questionnaire by all 4 producers of bulk aspirin in the United States, represent 100 percent of domestic production and/or shipments during the period for which data were collected, except employment, for which data on Norwich-Eaton's plant are not currently available.

U.S. production, capacity, and capacity utilization

U.S. producers' capacity, utilized exclusively for bulk aspirin production, remained at 44.7 million pounds annually from 1983 through September 1986 (table 1). Dow's new plant, which is scheduled to begin producing in commercial quantities by * * *, has a capacity of about * * * pounds and is not included in table 1. Its old plant, with an annual capacity of * * * pounds, will be * * *.

U.S. production declined by 20.3 percent from 1983 to 1985 and then increased by 10.6 percent from January-September 1985 to January-September 1986. Correspondingly, capacity utilization fell from 69.4 percent in 1983 to 55.3 percent in 1985 and then rose from 61.3 percent in January-September 1985 to 66.8 percent in January-September 1986. * * *. None of the other producers reported any unusual circumstances which might have resulted in a loss in production. About 17 percent of U.S. production is converted to pharmaceutical form, 41 percent to compound form (mostly with starch) and the remainder, or about 42 percent, remains in crystalline form. As a share of production, each form has not changed appreciably in recent years. Of the bulk aspirin that is converted into the pharmaceutical form, less than 2 percent is sold on the open market. The remainder, * * *, is internally consumed in the production of tablets.

U.S. producers' intracompany consumption, domestic shipments, and exports

From January 1983 to September 1986, about * * * of U.S. producers' bulk aspirin production--i.e., * * * --was internally consumed in the production of tablets. The remainder was either sold domestically to unrelated purchasers or exported, mostly to foreign subsidiaries. From 1983 to 1985, U.S. producers' domestic shipments declined from * * * pounds, valued at * * *, to * * * pounds, valued at * * *, or by * * * percent (table 2). From January-September 1985 to January-September 1986, domestic shipments increased by * * * percent. In an effort to penetrate the open market, Norwich-Eaton began selling * * * quantities to domestic buyers in September of this year.

Table 1

Bulk aspirin: U.S. production, average practical capacity, and capacity utilization, by firms, 1983-85, January-September 1985, and January-September 1986

| Item and firm | 1983 | 1984 | 1985 | January-September-- | |
|-----------------------------------------|--------|--------|--------|---------------------|-------------------|
| | | | | 1985 | 1986 |
| Production: | | | | | |
| Monsanto....1,000 pounds.. | *** | *** | *** | *** | *** |
| Dow.....do.... | *** | *** | *** | *** | *** |
| Sterling Drug.....do.... | *** | *** | *** | *** | *** |
| Norwich-Eaton.....do.... | *** | *** | *** | *** | *** |
| Total.....do.... | 31,018 | 28,827 | 24,698 | 20,558 | 22,385 |
| Average capacity: | | | | | |
| Monsanto <u>2</u> /.1,000 pounds.. | *** | *** | *** | *** | *** |
| Dow <u>2</u> /.....do.... | *** | *** | *** | *** | *** |
| Sterling Drug <u>4</u> /.....do.... | *** | *** | *** | *** | *** |
| Norwich-Eaton <u>5</u> /.....do.... | *** | *** | *** | *** | *** |
| Total.....do.... | 44,700 | 44,700 | 44,700 | 33,525 | <u>3</u> / 33,525 |
| Ratio of production to capacity: | | | | | |
| Monsanto.....percent.. | *** | *** | *** | *** | *** |
| Dow.....do.... | *** | *** | *** | *** | *** |
| Sterling Drug.....do.... | *** | *** | *** | *** | *** |
| Norwich-Eaton.....do.... | *** | *** | *** | *** | *** |
| Total.....do.... | 69.4 | 64.5 | 55.3 | 61.3 | <u>3</u> / 66.8 |

1/ * * *.

2/ Capacity based on operating the firm's facilities 168 hours per week, 52 weeks per year.

3/ Does not include the capacity of Dow's new plant, scheduled to begin full production in * * *, which will add about * * * pounds to Dow's capacity. Its old plant, with a capacity of * * * pounds, will be * * *.

4/ Capacity based on operating the firm's facilities 40 hours per week, 48 weeks per year.

5/ Capacity based on operating the firm's facilities 126 hours per week, 50 weeks per year.

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

Table 2

Bulk aspirin: U.S. producers' intracompany consumption, domestic shipments, and exports, by firm, 1983-85, January-September 1985, and January-September 1986

| Item and firm | 1983 | 1984 | 1985 | January-September-- | |
|---------------------------|------|------|------|---------------------|------|
| | | | | 1985 | 1986 |
| Quantity (1,000 pounds) | | | | | |
| Intracompany consumption: | | | | | |
| Sterling Drug..... | *** | *** | *** | *** | *** |
| Norwich-Eaton..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Domestic shipments: | | | | | |
| Monsanto..... | *** | *** | *** | *** | *** |
| Dow..... | *** | *** | *** | *** | *** |
| Norwich-Eaton..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Exports: | | | | | |
| ***..... | *** | *** | *** | *** | *** |
| ***..... | *** | *** | *** | *** | *** |
| ***..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Value (1,000 dollars) | | | | | |
| Domestic shipments: | | | | | |
| Dow..... | *** | *** | *** | *** | *** |
| Norwich-Eaton..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Exports: | | | | | |
| ***..... | *** | *** | *** | *** | *** |
| ***..... | *** | *** | *** | *** | *** |
| ***..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |

See footnotes at end of table.

Table 2

Bulk aspirin: U.S. producers' intracompany consumption, domestic shipments, and exports, by firm, 1983-85, January-September 1985, and January-September 1986--Continued

| Item and firm | 1983 | 1984 | 1985 | January-September-- | |
|------------------------|------|------|------|---------------------|------|
| | | | | 1985 | 1986 |
| Unit value (per pound) | | | | | |
| Domestic shipments: | | | | | |
| Monsanto..... | *** | *** | *** | *** | *** |
| Dow..... | *** | *** | *** | *** | *** |
| Norwich-Eaton..... | *** | *** | *** | *** | *** |
| Average..... | *** | *** | *** | *** | *** |
| Exports: | | | | | |
| ***..... | *** | *** | *** | *** | *** |
| ***..... | *** | *** | *** | *** | *** |
| ***..... | *** | *** | *** | *** | *** |
| Average.....do.... | *** | *** | *** | *** | *** |

1/ * * *.

2/ * * *.

3/ Not available.

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

Export shipments, which increased from * * * percent of total shipments in 1983 to * * * percent in 1985, increased by 11.3 percent from 1983 to 1985 and then declined by 2.6 percent from January-September 1985 to January-September 1986. Unit sales values per pound, also shown in table 2, declined after 1984.

Inventories

From 1983 to 1985, U.S. open-market producers' end-of-period inventories increased from over * * * pounds, or * * * percent of total shipments, to nearly * * * pounds, or * * * percent of total shipments (table 3). From January-September 1985 to January-September 1986, the trend * * *. The net result was a * * * percent decline in inventories and a * * * percentage-point drop in the ratio of inventories to shipments.

Employment

The average number of production and related workers producing bulk aspirin in the United States, with the exception of those at Norwich-Eaton's plant, increased by 4.8 percent from 1983 to 1985 and by 13.1 percent from January-September 1985 to January-September 1986, largely as a result of the

Table 3
 Bulk aspirin: U.S. open-market producers' end-of-period inventories, by firm,
 1983-85, January-September 1985, and January-September 1986

| Item and firm | 1983 | 1984 | 1985 | January-September-- | |
|-------------------------------------------------------------------------------------|------|------|------|---------------------|---------------|
| | | | | 1985 | 1986 |
| Inventories: | | | | | |
| Monsanto....1,000 pounds.. | *** | *** | *** | *** | *** |
| Dow.....do.... | *** | *** | *** | *** | *** |
| Total.....do.... | *** | *** | *** | *** | *** |
| Ratio of inventories to total shipments during the preceding period: | | | | | |
| Monsanto.....percent.. | *** | *** | *** | <u>1</u> /*** | <u>1</u> /*** |
| Dow.....do.... | *** | *** | *** | <u>1</u> /*** | <u>1</u> /*** |
| Average.....do.... | *** | *** | *** | <u>1</u> /*** | <u>1</u> /*** |

1/ Annualized.

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

hiring for Dow's new plant, which has been under construction since 1984 (table 4). Hours worked by these workers increased correspondingly. * * *. Workers at bulk aspirin plants are not engaged in producing any other product. Because of declining production and/or increasing hours worked, productivity, in terms of output per hour worked, declined for U.S. producers from 1983 to 1985. From January-September 1985 to January-September 1986, the trend * * * as shown in table 4. For the most part, total compensation paid to production and related workers producing bulk aspirin, hourly compensation, and unit labor costs have increased in recent periods, at least in the aggregate, as shown in table 5.

Table 4

Average number of production and related workers producing bulk aspirin in U.S. establishments other than Norwich-Eaton's, hours worked by such workers, and output per hour worked, by firm, 1983-85, January-September 1985, and January-September 1986

| Item and firm | 1983 | 1984 | 1985 | January-September-- | |
|--------------------------------------------------------------------------|------|------|------|---------------------|------|
| | | | | 1985 | 1986 |
| Average number of production and related workers producing bulk aspirin: | | | | | |
| Monsanto..... | *** | *** | *** | *** | *** |
| Dow..... | *** | *** | *** | *** | *** |
| Sterling Drug..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Hours worked by production and related workers producing bulk aspirin: | | | | | |
| Monsanto.....1,000 hours.. | *** | *** | *** | *** | *** |
| Dow.....do..... | *** | *** | *** | *** | *** |
| Sterling Drug.....do..... | *** | *** | *** | *** | *** |
| Total.....do..... | *** | *** | *** | *** | *** |
| Output (production) of bulk aspirin per hour worked: | | | | | |
| Monsanto....1,000 pounds.. | *** | *** | *** | *** | *** |
| Dow.....do..... | *** | *** | *** | *** | *** |
| Sterling Drug.....do..... | *** | *** | *** | *** | *** |
| Average.....do..... | *** | *** | *** | *** | *** |

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

Table 5

Total compensation and average hourly compensation paid to production and related workers producing bulk aspirin in U.S. establishments other than Norwich-Eaton's and unit labor cost of such production, by firm, 1983-85, January-September 1985, and January-September 1986

| Item and firm | 1983 | 1984 | 1985 | January-September-- | |
|------------------------------------------------------------------------------------|------|------|------|---------------------|------|
| | | | | 1985 | 1986 |
| Total compensation paid to production and related workers producing bulk aspirin: | | | | | |
| Monsanto...1,000 dollars.. | *** | *** | *** | *** | *** |
| Dow.....do.... | *** | *** | *** | *** | *** |
| Sterling Drug.....do.... | *** | *** | *** | *** | *** |
| Total.....do.... | *** | *** | *** | *** | *** |
| Hourly compensation paid to production and related workers producing bulk aspirin: | | | | | |
| Monsanto..... | *** | *** | *** | *** | *** |
| Dow..... | *** | *** | *** | *** | *** |
| Sterling Drug..... | *** | *** | *** | *** | *** |
| Average..... | *** | *** | *** | *** | *** |
| Unit labor cost of producing bulk aspirin: | | | | | |
| Monsanto.....per pound.. | *** | *** | *** | *** | *** |
| Dow.....do.... | *** | *** | *** | *** | *** |
| Sterling Drug.....do.... | *** | *** | *** | *** | *** |
| Average.....do.... | *** | *** | *** | *** | *** |

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

Financial experience of U.S. producers

The financial experience of Monsanto and Dow, which accounted for virtually all domestic shipments of bulk aspirin from January 1983 to September 1986, are discussed below.

Operations of Monsanto.--Net sales of the subject product accounted for * * to * * * percent of Monsanto's overall establishment sales during the period under investigation. Therefore, consistent with Commission guidelines, overall establishment income-and-loss data are used for operations producing the subject product. The remaining * * * to * * * percent of overall establishment sales include salicylic acid, which is mostly used in the production of bulk aspirin, and acetic acid, a byproduct of the production process.

Net sales increased by * * * percent from * * * in 1983 to * * * in 1984 (table 6). In 1985 net sales were * * *, a decrease of * * * percent from 1984. For the interim period ended September 30, 1986, net sales were * * *, an increase of * * * percent from the * * * for the 1985 corresponding period. Operating income was * * * in 1983, * * * in 1984, * * * in 1985, * * * in interim 1985, and * * * in interim 1986. Operating income margins, as a percent of sales, were * * * in 1983, * * * in 1984, * * * in 1985, * * * in interim 1985, and * * * in interim 1986. The sharp decline in operating income in * * * is primarily due to lower selling prices and lower volume.

Operations of Dow.--The firm produces only the subject product at its bulk aspirin plant. Although construction of its new plant was completed in early 1986, the plant has not yet produced for commercial sales. Net sales of bulk acetylsalicylic acid fell * * * percent from * * * in 1983 to * * * in 1984 (table 7). In 1985, net sales were * * *, a decrease of * * * percent from 1984. For the interim period ended September 30, 1986, net sales were * * * an increase of * * * percent from * * * in interim 1985. Operating income was * * * in 1983, * * * million in 1984, * * * in 1985, * * * in interim 1985 and * * * in interim 1986. Operating income margins, as a percent of sales, were * * * in 1983, * * * in 1984, * * * in 1985, * * * in interim 1985 and * * * in interim 1986.

The combined operations of Dow and Monsanto are presented in table 8. Also, income-and-loss data for both companies on a dollars-per-pound sold basis are presented in table 9. Combined operating income margins were over * * * percent for 1983 and 1984. * * *.

Investment in productive facilities.--The investment in productive facilities employed in the production of bulk aspirin is shown in table 10. The investment in such facilities, valued at cost, which was * * * as of the end of 1983, rose to * * * at the end of 1984, and to * * * at the end of 1985. Dow's investment in its new plant accounted for * * *. The book value of such assets was * * * as of September 30, 1986.

Table 6

Income-and-loss experience of Monsanto on the operations of its establishment producing bulk aspirin, accounting years 1983-85, and interim periods ended September 30, 1985, and September 30, 1986 1/

| Item | 1983 | 1984 | 1985 | Interim period ended Sept. 30-- | |
|----------------------------------------------------|------|------|------|------------------------------------|------|
| | | | | 1985 | 1986 |
| Net sales.....1,000 dollars.. | *** | *** | *** | *** | *** |
| Cost of goods sold.....do.... | *** | *** | *** | *** | *** |
| Gross profit.....do.... | *** | *** | *** | *** | *** |
| General, selling, and admin- istrative expenses | | | | | |
| 1,000 dollars.. | *** | *** | *** | *** | *** |
| Operating income.....do.... | *** | *** | *** | *** | *** |
| Depreciation and amortization | | | | | |
| 1,000 dollars.. | *** | *** | *** | *** | *** |
| Ratio to net sales of-- | | | | | |
| Cost of goods sold...percent.. | *** | *** | *** | *** | *** |
| Gross profit.....do.... | *** | *** | *** | *** | *** |
| General, selling, and administrative expenses | | | | | |
| percent.. | *** | *** | *** | *** | *** |
| Operating income or (loss) | | | | | |
| percent.. | *** | *** | *** | *** | *** |

1/ This table represents the establishment data provided by the company. The subject product accounted for * * * to * * * percent of total establishment net sales during the period under investigation.

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

Table 7

Income-and-loss experience of Dow on its operations producing bulk aspirin, accounting years 1983-85, and interim periods ended September 30, 1985, and September 30, 1986

| Item | 1983 | 1984 | 1985 | Interim period ended Sept. 30--1/ | |
|----------------------------------------------------|------|------|------|--------------------------------------|------|
| | | | | 1985 | 1986 |
| Net sales.....1,000 dollars.. | *** | *** | *** | *** | *** |
| Cost of goods sold <u>1/</u>do.... | *** | *** | *** | *** | *** |
| Gross profit.....do.... | *** | *** | *** | *** | *** |
| General, selling, and admin- istrative expenses | | | | | |
| 1,000 dollars.. | *** | *** | *** | *** | *** |
| Operating income.....do.... | *** | *** | *** | *** | *** |
| Depreciation and amortization | | | | | |
| 1,000 dollars.. | *** | *** | *** | *** | *** |
| Ratio to net sales of-- | | | | | |
| Cost of goods sold...percent.. | *** | *** | *** | *** | *** |
| Gross profit.....do.... | *** | *** | *** | *** | *** |
| General, selling, and administrative expenses | | | | | |
| percent.. | *** | *** | *** | *** | *** |
| Operating income.....do.... | *** | *** | *** | *** | *** |

1/ * * *.

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

Table 8

Income-and-loss experience of Monsanto and Dow on the operations of their establishments producing bulk aspirin, accounting years 1983-85, and interim periods ended September 30, 1985, and September 30, 1986

| Item | 1983 | 1984 | 1985 | Interim period ended Sept. 30-- | |
|-----------------------|------|------|------|------------------------------------|------|
| | | | | 1985 | 1986 |
| Value (1,000 dollars) | | | | | |
| Net sales: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Gross profit: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Operating income: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Percent of net sales | | | | | |
| Gross profit: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Weighted average..... | *** | *** | *** | *** | *** |
| Operating income: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Weighted average..... | *** | *** | *** | *** | *** |

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

Table 9

Income-and-loss experience on a per pound basis of Monsanto and Dow on the operations of their establishments producing bulk aspirin, accounting years 1983-85, and interim periods ended September 30, 1985, and September 30, 1986

(Sales dollars per of pound sold)

| Item | 1983 | 1984 | 1985 | Interim period ended Sept. 30-- | |
|----------------------------------------------------|------|------|------|------------------------------------|------|
| | | | | 1985 | 1986 |
| Net sales 1/: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Weighted average..... | *** | *** | *** | *** | *** |
| Cost of goods sold | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Weighted average..... | *** | *** | *** | *** | *** |
| Gross profit: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Weighted average..... | *** | *** | *** | *** | *** |
| General, selling and adminis- trative expenses: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Weighted average..... | *** | *** | *** | *** | *** |
| Operating income: | | | | | |
| Dow Chemical..... | *** | *** | *** | *** | *** |
| Monsanto Co..... | *** | *** | *** | *** | *** |
| Weighted average..... | *** | *** | *** | *** | *** |

1/ Sales quantities (in thousands of pounds):

| <u>Period</u> | <u>Dow</u> | <u>Monsanto</u> | <u>Total</u> |
|---------------------|------------|-----------------|--------------|
| 1983..... | *** | *** | *** |
| 1984..... | *** | *** | *** |
| 1985..... | *** | *** | *** |
| January-September-- | | | |
| 1985..... | *** | *** | *** |
| 1986..... | *** | *** | *** |

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

Table 10
Bulk aspirin: U.S. producers' end-of-period valuation of fixed assets

(In thousands of dollars)

| | 1983 | 1984 | 1985 | January-September-- 1985 | 1986 |
|----------------|------|------|------|-----------------------------|------|
| Original cost: | | | | | |
| Dow..... | *** | *** | *** | *** | *** |
| Monsanto..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |
| Book value: | | | | | |
| Dow..... | *** | *** | *** | *** | *** |
| Monsanto..... | *** | *** | *** | *** | *** |
| Total..... | *** | *** | *** | *** | *** |

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

Capital expenditures.--Capital expenditures for facilities used in the production of bulk aspirin rose from * * * in 1983 to * * * in 1985. * * *. Capital expenditures are shown in the following tabulation (in thousands of dollars):

| <u>Period</u> | <u>Capital expenditures</u> | | |
|---------------------|-----------------------------|-----------------|--------------|
| | <u>Dow</u> | <u>Monsanto</u> | <u>Total</u> |
| 1983..... | *** | *** | *** |
| 1984..... | *** | *** | *** |
| 1985..... | *** | *** | *** |
| January-September-- | | | |
| 1985..... | *** | *** | *** |
| 1986..... | *** | *** | *** |

Research and development expenses.--Research and development (R&D) expenses for the two producers rose from * * * in 1983 to * * * in 1985. During the interim periods of 1985 and 1986, R&D expenses increased from * * * to *** respectively. These data are shown in the following tabulation (in thousands of dollars):

| <u>Period</u> | <u>Research and development expenses</u> | | |
|---------------------|------------------------------------------|-----------------|--------------|
| | <u>Dow</u> | <u>Monsanto</u> | <u>Total</u> |
| 1983..... | *** | *** | *** |
| 1984..... | *** | *** | *** |
| 1985..... | *** | *** | *** |
| January-September-- | | | |
| 1985..... | *** | *** | *** |
| 1986..... | *** | *** | *** |

Capital and investment.--The companies were asked to describe and explain the potential negative effects, if any, of imports of bulk aspirin from Turkey on their firm's growth, investment, and ability to raise capital. Excerpts from their responses are shown below.

Dow

* * * * *

Monsanto

* * * * *

Consideration of Alleged Threat of Material Injury

In the examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the nature of the subsidy, the rate of increase of imports and market penetration of such imports, probable suppression and/or depression of U.S. producers' prices, the capacity of producers in the exporting country to generate exports (including the existence of underutilized capacity) and the potential for product shifting, the availability of export markets other than the United States, and U.S. importers' inventories. Import, price, and market penetration trends for bulk aspirin are discussed in the sections immediately following. Information on the nature of the subsidies is presented in the section entitled, "Nature and Extent of Alleged Subsidies and Sales at LTFV". A discussion of importers' inventories and foreign capacity and exports, to the extent such information is available, is presented below.

Data received from U.S. importers, which account for over 80 percent of the imports from Turkey, show that most bulk aspirin imported from Turkey has either been shipped or processed shortly after importation. After increasing from * * * pounds in 1983 to * * * pounds in 1985, inventories declined from * * * pounds as of September 30, 1985 to * * * pounds as of September 30, 1986.

According to counsel for the Republic of Turkey, all of the bulk aspirin Turkey exports to the United States is produced by Bayer Turkey, Atabay, and Proses. The capacity, production, and exports of these firms for 1983, 1984, and 1985 are shown in table 11. Together, their capacity to produce bulk aspirin remained unchanged at about 3 million pounds throughout the period. Production, however, increased from 1.7 million pounds, or 54.3 percent of capacity, in 1983 to 2.4 million pounds, or 76.6 percent of capacity, in 1985. As a share of production, exports increased from 54.6 percent to 97.8 percent in this period, while the United States share of these exports increased from 14.5 percent to 63.1 percent. * * *.

Table 11

Bulk aspirin: Bayer Turkey's, Atabay's, and Proses' capacity, production, and exports, 1983-85

| Item | 1983 | 1984 | 1985 |
|-------------------------------------------------------|-------|-------|-------|
| Capacity.....1,000 pounds.. | 3,090 | 3,090 | 3,090 |
| Production <u>1/</u>do.... | 1,679 | 2,290 | 2,368 |
| Capacity utilization.....percent.. | 54.3 | 74.1 | 76.6 |
| Exports to-- | | | |
| United States.....1,000 pounds.. | 133 | 249 | 1,463 |
| All other.....do.... | 783 | 1,302 | 854 |
| Total.....do.... | 916 | 1,551 | 2,317 |
| Share of production that is exported.....percent.. | 54.6 | 67.7 | 97.8 |
| Share of total exports to-- | | | |
| United States.....percent.. | 14.5 | 16.1 | 63.1 |
| All other.....do.... | 85.5 | 83.9 | 36.9 |
| Total.....do.... | 100.0 | 100.0 | 100.0 |

1/ Based on figures reported for capacity utilization.

Source: Compiled from data submitted to the Commission by counsel for the Republic of Turkey (letter to the Commission dated November 26, 1986).

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

U.S. imports

From 1983 to 1985, total U.S. imports of bulk aspirin more than doubled from over 2 million pounds, valued at \$2.8 million, to more than 4.2 million pounds, valued at \$5.8 million. The trend reversed in January-September 1986 when imports declined by about 2 percent from January-September 1985 (table 12). Imports from Turkey increased from 101,000 pounds, or 4.9 percent of imports, in 1983 to over 1 million pounds, or 23.8 percent of imports, in 1985, and then from 748,000 pounds, or 22.2 percent of imports, in January-September 1985 to 1.1 million pounds, or 32.3 percent of imports, in January-September 1986. Other large and/or increasing sources of imports in recent years are FR Germany, France, Spain, and China. Unit values per pound, also shown in table 12, are lowest for China, Yugoslavia, Romania, and Turkey.

Table 12

Bulk aspirin: U.S. imports, by source, 1983-85, January-September 1985, and January-September 1986

| Source | 1983 | 1984 | 1985 | January-September-- | |
|-------------------------------------|--------|--------|--------|---------------------|--------|
| | | | | 1985 | 1986 |
| Quantity (1,000 pounds) | | | | | |
| West Germany..... | 881 | 1,251 | 1,481 | 1,116 | 845 |
| France..... | 368 | 1,239 | 941 | 941 | 40 |
| Turkey..... | 101 | 238 | 1,001 | 748 | 1,067 |
| Spain..... | 0 | 1 | 330 | 240 | 387 |
| Romania..... | 250 | 138 | 144 | 73 | 40 |
| China..... | 75 | 379 | 148 | 93 | 775 |
| Yugoslavia..... | 0 | 105 | 86 | 79 | 80 |
| All other ^{1/} | 371 | 215 | 74 | 76 | 68 |
| Total ^{1/} | 2,046 | 3,566 | 4,205 | 3,366 | 3,302 |
| Value (1,000 dollars) ^{2/} | | | | | |
| West Germany..... | 1,289 | 1,922 | 2,259 | 1,673 | 1,398 |
| France..... | 494 | 1,761 | 1,362 | 1,362 | 63 |
| Turkey..... | 128 | 290 | 1,220 | 901 | 1,335 |
| Spain..... | - | 1 | 479 | 344 | 533 |
| Romania..... | 295 | 176 | 180 | 92 | 44 |
| China..... | 75 | 427 | 165 | 103 | 473 |
| Yugoslavia..... | - | 140 | 97 | 91 | 86 |
| All other ^{1/} | 524 | 348 | 81 | 80 | 95 |
| Total ^{1/} | 2,805 | 5,065 | 5,843 | 4,646 | 4,027 |
| Unit value (per pound) | | | | | |
| West Germany..... | \$1.46 | \$1.54 | \$1.52 | \$1.50 | \$1.65 |
| France..... | 1.34 | 1.42 | 1.45 | 1.45 | 1.56 |
| Turkey..... | 1.27 | 1.22 | 1.22 | 1.20 | 1.25 |
| Spain..... | - | 1.54 | 1.45 | 1.43 | 1.38 |
| Romania..... | 1.18 | 1.27 | 1.25 | 1.25 | 1.10 |
| China..... | .99 | 1.13 | 1.11 | 1.11 | .61 |
| Yugoslavia..... | - | 1.33 | 1.13 | 1.14 | 1.07 |
| All other ^{1/} | 1.41 | 1.62 | 1.09 | 1.05 | 1.40 |
| Average ^{1/} | 1.37 | 1.42 | 1.39 | 1.38 | 1.22 |

^{1/} Does not include Sweden, Japan (except for January-September 1986), United Kingdom (except for 1983-84), Dominican Republic, Italy (except 1984), Denmark, Singapore, Jamaica, and Mexico, all of which exported to the United States aspirin in other than bulk form.

^{2/} C.i.f. value, i.e., landed cost at the point of importation.

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. consumption and market penetration

From 1983 to 1985, U.S. consumption of bulk aspirin declined by 17.1 percent (table 13). It is generally agreed that aspirin has lost sales volume to products containing ibuprofen and acetaminophen, which are increasingly used as substitutes for aspirin for the relief of pain. Data compiled from official statistics of the U.S. Department of Commerce and data reported in the Commission's Synthetic Organic Chemicals summary indicate that the overall "market" for these 3 drugs, computed by adding total U.S. production ^{1/} and imports of each, changed by less than 1 percent from 1984 to 1985. As a share of this market, however, ibuprofen and acetaminophen increased from 5.7 percent to 9.2 percent and from 42.8 percent to 44.9 percent, respectively, while aspirin declined from 51.5 percent to 45.9 percent. Some of the decline in aspirin consumption may also be attributed to information published by the Federal Center for Disease Control in late 1984 and in other publications which associated aspirin with the development of Reye's Syndrome in children between the ages of 5 and 16 with chicken pox or flu. Warning labels were required on bottles of aspirin in early 1985. According to the petitioner, however, children only account for about 7 percent of the total market for aspirin.

Reversing its earlier trend, consumption of bulk aspirin increased by 16.4 percent from January-September 1985 to January-September 1986. There have been recent findings that aspirin, unlike other pain-relieving drugs, may be of therapeutic value in the treatment of stress and certain cardiovascular problems. The use of aspirin in this context may account for part of the increase in consumption.

As a share of consumption, imports increased from 6.5 percent in 1983 to 16.2 percent in 1985, and then fell from 17.2 percent in January-September 1985 to 14.5 percent in January-September 1986, as a result of both declining imports (largely from West Germany and France) and increasing U.S. production (table 13). At the same time, imports from Turkey increased from 0.3 percent to 3.9 percent, and from 3.8 percent to 4.7 percent, respectively. As a share of open-market consumption, imports from Turkey also increased, as shown in table 13.

Prices

The price data collected in these investigations show domestic prices declining throughout the period of investigation. This movement is the result of a number of interrelated factors including changes in the availability of substitutes, changes in the demand for aspirin, and changes in the nature of competition in the aspirin and analgesics market.

As discussed earlier in the report, the presence of aspirin substitutes in the market has increased over time as production and sales of acetaminophen and ibuprofen have risen. Figures 1 and 2 show the long-term trends in production of aspirin, acetaminophen, and ibuprofen and more recent sales

^{1/} U.S. producers' domestic shipments of ibuprofen and acetaminophen (apart from total shipments) are not available.

Table 13
Bulk aspirin: Apparent U.S. consumption and ratio of imports to consumption, 1983-85, January-September 1985, and January-September 1986

| Period | Apparent U.S. consumption 1/ | Ratio (percent) of imports to consumption-- | | | Apparent U.S. open-market consumption 2/ | Ratio (percent) of imports to consumption-- | | Total |
|------------|------------------------------|---------------------------------------------|---------------------|-------------------------|------------------------------------------|---------------------------------------------|---------------------|-------|
| | | For Turkey | For other countries | For all other countries | | For Turkey | For other countries | |
| | | Quantity (1,000 pounds) | | | | | | |
| 1983..... | 31,293 | 0.3 | 6.2 | 6.5 | *** | *** | *** | *** |
| 1984..... | 28,510 | 0.8 | 11.7 | 12.5 | *** | *** | *** | *** |
| 1985..... | 25,931 | 3.9 | 12.3 | 16.2 | *** | *** | *** | *** |
| Jan.-Sept. | | | | | | | | |
| 1985..... | 19,580 | 3.8 | 13.4 | 17.2 | *** | *** | *** | *** |
| 1986..... | 22,796 | 4.7 | 9.8 | 14.5 | *** | *** | *** | *** |
| | | Value (1,000 dollars) 3/ | | | | | | |
| 1983..... | 61,966 | 0.2 | 3.1 | 3.3 | *** | *** | *** | *** |
| 1984..... | 57,139 | 0.5 | 8.4 | 8.9 | *** | *** | *** | *** |
| 1985..... | 46,864 | 2.6 | 9.9 | 12.5 | *** | *** | *** | *** |
| Jan.-Sept. | | | | | | | | |
| 1985..... | 35,375 | 2.5 | 10.6 | 13.1 | *** | *** | *** | *** |
| 1986..... | 39,251 | 3.4 | 6.9 | 10.3 | *** | *** | *** | *** |

1/ Total imports plus U.S. producers' domestic shipments and intracompany consumption.

2/ Total imports plus U.S. producers' domestic shipments.

3/ C.I.F. value.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from Official statistics of the U.S. Department of Commerce.

trends for these three products. The data in figure 1 show that aspirin production tended to remain above * * * pounds per year until 1981; after that, production exceeded * * * pounds only in 1984. The production of acetaminophen showed a rising trend between 1973 and 1983, when production rose in nearly every year for which data are available. Since 1983 acetaminophen production has been flat. The production of ibuprofen has increased slightly since 1983, when it first entered the market. Figure 2 compares U.S. market sales of domestically-produced analgesics, and shows that sales of aspirin declined fairly consistently from 1980, while sales of acetaminophen and ibuprofen rose throughout the 1980-85 period. In addition, Monsanto is a producer of both aspirin and acetaminophen, and its production data for each of these products is presented for the period 1980-85 in figure 3. These data show that at the firm level production of aspirin was adjusted downward to * * * pounds per year, while acetaminophen production increased to * * * pounds per year beginning in 1982.

The growing acceptability of these substitutes to consumers is shown by the shifting market shares of aspirin and aspirin substitutes. Data for 1984 and 1985 show that aspirin's share of the analgesics market has declined by more than 5 percentage points, while the shares captured by acetaminophen and ibuprofen have risen accordingly. 1/ By the end of 1985, 54.1 percent of analgesic consumption was devoted to aspirin substitutes. Part of the decline in consumption of aspirin also may be a result of publicity surrounding Reye's Syndrome, beginning in 1984. This reduced demand for aspirin has probably exerted a downward influence on price, at least through 1985.

The domestic merchant market for bulk aspirin also may be undergoing a change due to the entry of Norwich-Eaton into the market. The additional bulk material marketed by Norwich-Eaton may put some pressure on established producers to lower prices, especially if Norwich intends to sell its product for less than what Dow and Monsanto are selling theirs. 2/ However, since Norwich-Eaton entered the market only recently, it is unlikely that their presence has had much, if any, impact on domestic prices for bulk aspirin yet.

The market for aspirin may also be experiencing an increase in demand, and hence upward pressure on prices, due to preliminary reports that aspirin consumption may be linked to reduced incidence of cardiovascular problems. However, this linkage has not yet been reliably established by medical studies. It remains to be seen what effect this medical evidence will have on demand for aspirin in the long term. 3/

1/ Import and export data for acetaminophen and ibuprofen are not available for years prior to 1984, therefore consumption can only be calculated for 1984 and 1985.

2/ * * *.

3/ Monsanto has testified that medical studies will not have conclusive evidence about the connection between aspirin consumption and the incidence of heart attack/stroke for another 3 to 5 years (testimony of Terrence Stewart, representing Monsanto Company at the public hearing on the President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences, (TA-503(a)-13 and 332-238), September 29-30, 1986, tr. at 60).

Figures 1,2, and 3 contain
business confidential information

In addition to gathering pricing data the Commission questionnaires also requested that producers and importers comment on questions involving the quality and substitutability of bulk aspirin.

The questionnaire responses indicate that the quality of bulk aspirin is judged most commonly on its purity, color, and lot-to-lot consistency. Bulk aspirin, whether of domestic or foreign origin, must meet United States Pharmacopoeia (USP) standards in order for it to be used in products for human consumption. While these characteristics will vary between batches and among producers, most firms familiar with the Turkish product have found it to be acceptable for most uses, and that it does regularly meet USP standards.

As mentioned on page A-2, bulk aspirin in crystalline form is sold in a variety of granule (mesh) sizes, and buyers tend to prefer certain mesh sizes, even though the various sizes can be substituted for one another. The questionnaire data tend to corroborate this. Most responses indicate that users have preferences among mesh sizes, and some report that processing would be slowed if they had to use less preferred mesh sizes, but that these other sizes could be used if necessary. Users' different preferences for mesh size is not reflected in pricing, however, as all mesh sizes of crystalline bulk aspirin sell for the same price.

The Commission gathered quarterly pricing data on three different types of aspirin products for the period January 1984 through September 1986. Domestic producers were requested to provide f.o.b. and delivered selling prices to their largest customers for 100 percent crystalline bulk aspirin, bulk aspirin containing 10 percent starch, and pharmaceutical grade 100 percent bulk aspirin. The Commission requested that their sales to distributors and end users be reported separately. Importers (including both distributors and processors) were requested to provide prices for the same three products. Importers who resell the bulk aspirin were requested to provide their selling prices to distributors and end users; importers who process bulk aspirin into forms for human consumption were requested to provide their purchase prices.

Domestic prices--The following table (table 14) presents the weighted-average prices for the three different domestic products sold to processors. Both producers selling bulk aspirin to the merchant market reported prices for these three products. Prices for all three products generally show a downward trend over the period of investigation. The price of 100 percent crystalline aspirin increased during 1984, and after declining in January-March 1985, was fairly constant through the remainder of the year. The price declined further in January-March and in April-June 1986 before recovering slightly in July-September 1986. Overall, the price of 100 percent crystalline aspirin declined * * * percent between January-March 1984 and July-September 1986.

The price of bulk aspirin containing 10 percent starch also showed a general decline, although it moved irregularly during the period of investigation. During 1984 the price ranged between * * * and * * * per pound, and then declined during January-March 1985 to * * * per pound. During 1985 the price moved between * * * and * * * per pound. It declined again in

Table 14

Bulk aspirin: U.S. producers' f.o.b. selling prices, by quarters, January 1984-September 1986.

| Period | 100% Crystalline | 10% Starch | 100% Pharmaceutical grade |
|----------------|---------------------|------------|---------------------------------|
| | -----Per pound----- | | |
| 1984: | | | |
| Jan.-Mar..... | *** | *** | *** |
| Apr.-June..... | *** | *** | *** |
| July-Sept..... | *** | *** | *** |
| Oct.-Dec..... | *** | *** | *** |
| 1985: | | | |
| Jan.-Mar..... | *** | *** | *** |
| Apr.-June..... | *** | *** | *** |
| July-Sept..... | *** | *** | *** |
| Oct.-Dec..... | *** | *** | *** |
| 1986: | | | |
| Jan.-Mar..... | *** | *** | *** |
| Apr.-June..... | *** | *** | *** |
| July-Sept..... | *** | *** | *** |

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

January-March 1986 to * * * per pound, and rose to * * * per pound in July-September 1986. In net terms, the price of aspirin containing 10 percent starch declined * * * percent between January-March 1984 and July-September 1986.

The price of pharmaceutical grade aspirin was * * * to * * * cents per pound higher than that of 100 percent crystalline aspirin. It also declined irregularly throughout the period under investigation. The price for pharmaceutical grade rose from January-March through July-September 1984, and then began to decline in October-December 1984. The decline generally continued through April-June 1986. The price recovered somewhat in July-September 1986. Overall, the price of pharmaceutical grade aspirin declined * * * percent from January-March 1984 to July-September 1986.

Import prices.--Importers of Turkish bulk aspirin reported prices for both 100 percent crystalline aspirin and aspirin containing 10 percent starch. However, because of the limited number of data points, price comparisons are possible for only the 100 percent crystalline product sold to processors. The price of the Turkish product showed no particular trend over the period of investigation (table 15). During 1984 it showed a net increase, followed by declines in 1985. The Turkish product was lower priced than the domestic product in every quarter, although the margin of underselling declined between 1984 and 1986, due to the price of domestic aspirin declining more rapidly than the price of the imported material. During 1984 the price of Turkish 100 percent crystalline aspirin was * * * to * * * percent lower

Table 15

Bulk aspirin: Domestic producers' and importer's f.o.b. prices for U.S.-produced and Turkish 100 percent crystalline bulk aspirin, by quarters, January 1984-September 1986

| Period | Domestic | Turkish |
|----------------|---------------------|---------|
| | -----Per pound----- | |
| 1984: | | |
| Jan.-Mar..... | *** | *** |
| Apr.-June..... | *** | *** |
| July-Sept..... | *** | *** |
| Oct.-Dec..... | *** | *** |
| 1985: | | |
| Jan.-Mar..... | *** | *** |
| Apr.-June..... | *** | *** |
| July-Sept..... | *** | *** |
| Oct.-Dec..... | *** | *** |
| 1986: | | |
| Jan.-Mar..... | *** | *** |
| Apr.-June..... | *** | *** |
| July-Sept..... | *** | *** |

1/ Only one observation reported.

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

than the price of domestic material. In 1985 the margin was between * * * and * * * percent and in 1986 it was * * * to * * * percent.

Transportation costs.--Bulk aspirin is packaged in drums and inland shipping takes place by truck. All the producers and importers responding to Commission questionnaires reported that shipping charges are minimal, amounting to less than 5 percent of the total delivered price of the product. Practice varies as to whether the producer/importer or the customer pays the shipping charges.

Exchange rates.--Quarterly data reported by the International Monetary Fund indicate that during January 1983-September 1986 the nominal value of the Turkish lira depreciated relative to the U.S. dollar in each consecutive interval by an overall 71.4 percent (table 16). In response to significantly higher levels of inflation in Turkey relative to those in the United States over the 15-quarter period, the estimated real value of the Turkish currency depreciated only 15.8 percent against the dollar--significantly less than the apparent depreciation of 71.4 percent represented by the nominal exchange rate.

Lost sales and lost revenues

Monsanto and Dow alleged lost sales totalling * * * pounds of bulk aspirin, valued at * * *, to imports from Turkey from January 1985 through May 1986. Two firms--* * *--are alleged to account for about 85 percent of these alleged sales. Two others--* * *--account for the remainder. All four of these firms are large processors of pharmaceutical and chemical products, and all but * * * could be reached in connection with the allegations.

Monsanto and Dow alleged lost sales to * * * and * * * of * * * pounds, valued at * * *, and * * * pounds, valued at * * *, respectively. Included in each company's allegations for 1986 is a sale of * * *. * * * informed the staff that both companies had alleged the same lost sale. * * * reported that it typically requests bids on bulk aspirin from both domestic producers and importers, and that it does business with a variety of sources. While * * * did not deny that the * * * sale had been lost to the domestic industry to imports from Turkey, the company indicated that the price at which Monsanto and Dow believed * * * had purchased the Turkish material understated the actual price paid.

* * *. * * * estimates that it purchased approximately * * * pounds of bulk aspirin from Turkey in 1985, about * * * of its purchases of imports that year. * * * also estimates that these Turkish imports were valued, on average, at * * * per pound. Interim trade data for 1986 show that * * * estimates it purchased * * * pounds of crystalline bulk aspirin from Turkey in * * *, at an average unit value of * * * per pound.

Monsanto alleged two lost sales, one of * * * pounds in 1985 and one of * * * pounds in 1986, to * * *. The staff contacted * * * to discuss the allegations, but was informed that * * * does not purchase imported bulk aspirin.

Monsanto also alleged that it had lost sales and revenues to import sources other than Turkey, but that those transactions were based on the price of Turkish bulk aspirin. The staff contacted * * * in this regard, but the representative of * * * did not recall purchasing bulk aspirin from any source at the "Turkish" price alleged by Monsanto.

Table 16

Exchange rates: 1/ Nominal exchange-rate equivalents of the Turkish lira in U.S. dollars, real exchange-rate equivalents, and producer price indicators in the United States and Turkey, 2/ indexed by quarters, January 1983-September 1986

| Period | U.S. Producer Price Index | Turkish Producer Price Index | Nominal- exchange- rate index | Real- exchange- rate index ^{3/} -----US dollars per lira---- |
|----------------------|---------------------------------|------------------------------------|-------------------------------------|--------------------------------------------------------------------------------|
| 1983: | | | | |
| January-March..... | 100.0 | 100.0 | 100.0 | 100.0 |
| April-June..... | 100.3 | 106.2 | 91.5 | 96.9 |
| July-September..... | 101.3 | 113.2 | 82.6 | 92.3 |
| October-December.... | 101.8 | 123.4 | 74.5 | 90.4 |
| 1984: | | | | |
| January-March..... | 102.9 | 140.3 | 62.6 | 85.4 |
| April-June..... | 103.6 | 156.5 | 55.8 | 84.3 |
| July-September..... | 103.3 | 168.0 | 50.1 | 81.5 |
| October-December.... | 103.0 | 187.7 | 46.0 | 83.9 |
| 1985: | | | | |
| January-March..... | 102.9 | 207.1 | 41.3 | 83.1 |
| April-June..... | 103.0 | 222.6 | 37.4 | 80.9 |
| July-September..... | 102.2 | 234.4 | 36.0 | 82.5 |
| October-December.... | 102.9 | 254.2 | 34.7 | 85.8 |
| 1986: | | | | |
| January-March..... | 101.3 | 271.2 | 32.2 | 86.1 |
| April-June..... | 99.4 | 282.3 | 28.8 | 81.9 |
| July-September..... | 99.0 | ^{4/} 291.5 | 28.6 | ^{4/} 84.2 |

1/ Exchange rates expressed in U.S. dollars per Turkish lira.

2/ Producer price indicators--intended to measure final product prices--are based on average quarterly indexes presented in line 63 of the International Financial Statistics.

3/ The indexed real exchange rate represents the nominal exchange rate adjusted for the relative economic movement of each currency as measured here by the Producer Price Index in the United States and Turkey. Producer prices in the United States decreased 1.0 percent during the period January 1983 through September 1986 compared with a 191.5-percent increase in Turkey during the same period.

4/ Estimated.

Source: International Monetary Fund, International Financial Statistics, November 1986.

Note.--January-March 1983=100.0.

Dow and Monsanto both alleged lost sales to * * * in 1985 and 1986. Dow alleged it had lost a sale of * * * pounds of bulk aspirin to Turkish aspirin in * * *. 1895. * * * reported that at that time it was shopping for prices for its annual requirement, and that it made no commitment to any source to buy at any quoted price. In addition, * * * did not purchase the * * * pounds from any single source. Monsanto alleged lost sales of * * * pounds each (valued at * * *) in 1985 and 1986 to * * *, but * * * indicated it did not buy Turkish material in either case.

Monsanto also alleged lost revenues on three transactions with * * * one each in 1984, 1985, and 1986. The staff attempted to contact the company, but was unable to get a response.

APPENDIX A

COMMERCE'S AND COMMISSION'S FEDERAL REGISTER NOTICES

that an industry in the United States is materially injured, or is threatened with material injury, or establishment of an industry in the United States is materially retarded, by reason of imports from Turkey of the subject merchandise which is alleged to be sold in the United States at less than fair value.

As provided in sections 703(a) and 733(a) of the act, the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by December 15, 1986.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: October 31, 1986.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on October 31, 1986, by Monsanto Co., St. Louis, Missouri.

Participation in the Investigations

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

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 202.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the

investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on November 20, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-523-0296) not later than November 17, 1986, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before November 25, 1986, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must 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).

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

INTERNATIONAL TRADE COMMISSION

(Investigations Nos. 701-TA-283 and 731-TA-364 (Preliminary))

Certain Acetylsalicylic Acid (Aspirin) From Turkey

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-283 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Turkey of acetylsalicylic acid (aspirin), containing no additives other than starch, and not imported in tablets, capsules, or similar forms for direct human consumption, provided for in item 410.72 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Turkey.

The Commission also gives notice of the institution of preliminary antidumping investigation No. 731-TA-364 (Preliminary) under section 733(a) of the act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication

Issued: November 3, 1986.
Kenneth R. Mason,
Secretary.
[FR Doc. 86-25141 Filed 11-6-86; 8:45 am]
BILLING CODE 7030-02-M

International Trade Administration**[A-489-602]****Initiation of Antidumping Duty Investigation; Acetylsalicylic Acid (Aspirin) From Turkey****AGENCY:** International Trade Administration, Import Administration Commerce.**ACTION:** Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether acetylsalicylic acid (aspirin) from Turkey is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 15, 1986, and we will make ours on or before April 9, 1987.

EFFECTIVE DATE: November 28, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson or Steven Lim, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-5288 or (202) 377-5332.

SUPPLEMENTARY INFORMATION:**The Petition**

On October 31, 1986, we received a petition in proper form filed by Monsanto Company on behalf of the U.S. industry producing aspirin. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Turkey are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing injury, or threaten material injury, to a U.S. industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on aspirin from Turkey and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether aspirin from Turkey is being, or is likely to be, sold in the United States at less than fair value.

Scope of Investigation

The product covered by this investigation is acetylsalicylic acid (aspirin), containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material) and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the *Handbook of Non-Prescription Drugs*, 8th edition, American Pharmaceutical Association, and is not in tablet, capsule or similar forms for direct human consumption. This product is currently classified under item 410.72 of the *Tariff Schedules of the United States (TSUS)*.

United States Price and Foreign Market Value

Petitioner calculated United States price based on Bureau of Census import statistics. Petitioner based foreign market value on the home market prices of Turkish producers.

Based on this method of comparison, petitioner alleged dumping margins ranging from 33 percent to 83 percent.

After analysis of petitioner's allegations and supporting data, we conclude that a formal investigation is warranted.

Notification of ITC

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

Preliminary Determination by ITC

The ITC will determine by December 15, 1986, whether there is a reasonable indication that imports of aspirin from Turkey are causing material injury, or threaten material injury, to a U.S. industry. If its determination is negative, the investigation will terminate;

otherwise, it will proceed according to the statutory and regulatory procedures.

Gilbert E. Kaplan,
Deputy Assistant Secretary for Import Administration.

November 20, 1986.

[FR Doc. 86-26658 Filed 11-26-86; 8:45 am]

BILLING CODE 3510-05-M

[C-489-603]**Initiation of Countervailing Duty Investigation; Acetylsalicylic Acid (Aspirin) From Turkey****AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of acetylsalicylic acid (aspirin) from Turkey, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the United States International Trade Commission (ITC) of this action, so that it may determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 15, 1986, and we will make ours on or before January 28, 1987.

EFFECTIVE DATE: November 28, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION:**The Petition**

On October 31, 1986, we received a petition in proper form from the Monsanto Company with respect to aspirin from Turkey. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Turkey of aspirin receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). In addition, the petition alleges that such

imports materially injure, or threaten material injury to, the U.S. industry.

Since Turkey is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation and the ITC is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on aspirin from Turkey and have found that it meets the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Turkey of aspirin receive benefits which constitute subsidies within the meaning of the Act. If our investigations proceed normally, we will make our preliminary determination on or before January 26, 1987.

Scope of Investigation

The product covered by this investigation is acetylsalicylic acid (aspirin), containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material) and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the *Handbook of Non-Prescription Drugs*, 8th edition, American Pharmaceutical Association, and is not in tablet, capsule or similar forms for direct human consumption. This product is currently provided for in item 410.72 of the *Tariff Schedules of the United States*.

Allegations of Subsidies

The petition lists a number of practices by the Government of Turkey which allegedly confer subsidies on the manufacturers, producers, or exporters in Turkey of aspirin. We are initiating an investigation on the following alleged programs:

- General Incentives Program:
- Interest Rebates
- Credit for Operational Requirements
- Preferential Interest Rates on Loans of Foreign Origin
- Income and Corporation Tax Allowance

- Accelerated Depreciation
- Re-evaluation of Fixed Assets
- Customs Duty Exemptions
- Customs Duty Exemptions on Physically Incorporated Raw Materials
- Customs Duty Deferrals
- Exemptions From Taxes on Payments to Foreign Suppliers
- Foreign Exchange Allocation Scheme
- Authorization to Seek Foreign Financing
- Employee Wage and Salary Tax Exemption
- Other Tax Exemptions
- Preferential Export Financing
- Export Tax Rebate and Supplemental Tax Rebate
- Exemptions on Loan Fees
- Export Revenue Tax Deduction
- Resource Utilization Support Fund
- Premium to Support Investment
- Incentive Premium for Domestically Obtained Capital Goods

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 15, 1986 whether there is a reasonable indication that imports of aspirin from Turkey materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 702(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary of Import Administration.

November 20, 1986.

[FR Doc. 86-26769 Filed 11-28-86; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF WITNESSES AT THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

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

Subject: Bulk Acetylsalicylic Acid (Aspirin)
from Turkey

Inv. Nos.: 701-TA-283 (Preliminary) and 731-TA-364
(Preliminary)

Date and time: November 20, 1986 - 9:30a.m.

Sessions will be held in connection with the investigations in room 264 of the United States International Trade Commission, 701 E Street, N.W., Washington, DC.

In support of the imposition of countervailing
and/or antidumping duties:

Stewart & Stewart--Counsel
Washington, DC
on behalf of

Monsanto Company

Barbara M. McManis, Corporate Counsel

Michael L. Marcum, Manager of Acetyl-
salicylic Acid Division

Clifford E. Powell, Director of Planning

Eugene Stewart)--OF COUNSEL

In opposition to the imposition of countervailing
and/or antidumping duties:

White & Case--Counsel
Washington, DC
on behalf of

The Republic of Turkey

John J. McAvoy)--OF COUNSEL

MWM Chemical Corporation
New York, NY

John Heinig, Vice President

