# BENZYL PARABEN FROM JAPAN

Determination of the Commission in Investigation No. 731-TA-462 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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# UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

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### UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-462 (Final)

#### BENZYL PARABEN FROM JAPAN

### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines,<sup>2</sup> pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that the establishment of an industry in the United States is materially retarded by reason of imports from Japan of benzyl p-hydroxybenzoate (benzyl paraben), provided for in subheading 2918.29.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

# Background

The Commission instituted this investigation effective October 9, 1990, following a preliminary determination by the Department of Commerce that imports of benzyl paraben from Japan were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. § 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the <u>Federal Register</u> of October 24, 1990 (55 F.R. 42912). The hearing was held in Washington, DC, on December 18, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

<sup>&</sup>lt;sup>1</sup> The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(h)).

<sup>&</sup>lt;sup>2</sup> Vice Chairman Brunsdale dissenting.

# VIEWS OF COMMISSIONERS LODWICK, ROHR, AND NEWQUIST<sup>1</sup>

On the basis of the record developed in this final investigation, we determine that the establishment of an industry has been materially retarded by reason of imports of benzyl paraben from Japan that the Department of Commerce has determined to have been sold in the United States at less than fair value.<sup>2</sup>

#### I. Like product and domestic industry

# A. <u>General legal principles</u>

To determine whether an industry is materially injured, the Commission must first find the appropriate "like product" and "domestic industry." Like product is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."<sup>3</sup> The Commission applies "like" and "most similar in characteristics and uses" on a case-by-case basis.<sup>4</sup>

The Commission generally considers a number of factors in analyzing like product issues including: (1) physical characteristics, (2) uses,

(3) interchangeability of products, (4) channels of distribution, (5) customer

<sup>2</sup> The record in this investigation consists, primarily, of information gathered from one producer, one importer, and two purchasers. Much of the data relied upon by the Commission in making its determination is business proprietary information and, therefore, cannot be fully discussed.

<sup>3</sup> 19 U.S.C. § 1677(10).

<sup>&</sup>lt;sup>1</sup> Acting Chairman Brunsdale dissents from the Commission's determination that the material retardation of the unestablished benzyl paraben industry is by reason of the subject imports. Acting Chairman Brunsdale joins the Commission's discussion of like product, domestic industry, related party, establishment of the domestic industry, and material retardation of the unestablished industry. <u>See</u> Dissenting Views of Acting Chairman Brunsdale, <u>infra</u>.

<sup>&</sup>lt;sup>4</sup> <u>Associacion Colombiana De Exportadores de Flores v. United States</u>, 12 CIT \_\_\_\_\_, 693 F. Supp. 1165, 1169 (1988) (<u>ASOCOLFLORES</u>) (like product issue essentially one to be based on the unique facts of each case).

or producer perceptions, (6) common manufacturing facilities and production employees, (7) production processes, and (8) price.<sup>5</sup> No single factor is necessarily dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation. The Commission may find a like product to be broader than the imported article described in Commerce's scope of investigation,<sup>6</sup> or it may find two or more like products corresponding to the imported article or articles.<sup>7</sup> The Commission has not found minor variations to be a sufficient basis for a separate like product analysis but, rather, has looked for clear dividing lines among possible like products.<sup>8</sup>

#### B. The article subject to investigation

The Department of Commerce has defined the imported product subject to investigation as "benzyl p-hydroxybenzoate (benzyl paraben)."<sup>9</sup> Benzyl P-hydroxybenzoate, known as benzyl paraben, is an ester that was used as a

<sup>7</sup> See, e.g., American NTN Bearing Manufacturing Corp. v. United States, 14 CIT \_\_\_\_\_, 739 F. Supp. 1555, 1560 n.6. (1990) ("ITC may determine during the course of its investigation that class or kind of merchandise defined by ITA as being within the scope of ITA's investigation may consist of more than one like product. ITC can reach this result despite the finding by ITA that only one class or kind of merchandise is covered by ITA's investigation.")

<sup>8</sup> <u>Polyethylene Terephthalate Film. Sheet. and Strip from Japan. the Republic of Korea. and Taiwan</u>, Invs. Nos. 731-TA-458 through 460 (Preliminary), USITC Pub. 2292 (June 1990) at 5-6; <u>ASOCOLFLORES</u>, 693 F. Supp. at 1168-69; S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

<sup>9</sup> 55 Fed. Reg. 48880 (Nov. 23, 1990).

<sup>&</sup>lt;sup>5</sup> <u>See, e.g., Certain Laser Light-Scattering Instruments from Japan</u>, Inv. No. 731-TA-455 (Preliminary), USITC Pub. 2282 (May 1990) at 7.

<sup>&</sup>lt;sup>6</sup> See, e.g., Chrome-Plated Lug Nuts from the People's Republic of China and <u>Taiwan</u>, Invs. Nos. 731-TA-474 and 475 (Preliminary), USITC Pub. 2342 (Dec. 1990); <u>Generic Cephalexin Capsules from Canada</u>, Inv. No. 731-TA-423 (Final), USITC Pub. 2211 (Aug. 1989) at 5-10; <u>Shock Absorbers and Parts. Components.</u> <u>and Subassemblies Thereof from Brazil</u>, Inv. No. 731-TA-421 (Preliminary), USITC Pub. 2128 (Sept. 1988) at 10-16.

disinfectant until lower priced substitutes became available.<sup>10</sup> It is a white crystalline powder presently used almost exclusively as a developer in coating formulas used to produce thermal facsimile (fax) paper. The developer in the coating formula is encapsulated in microscopic granules. These granules activate similarly encapsulated granules of dye when appropriately heated by a thermal fax machine. Benzyl paraben is sold in one grade, 99 percent pure.<sup>11</sup>

# C. <u>Analysis</u>

In the preliminary investigation, the Commission determined that the like product included only benzyl paraben, and not other domestically produced developer chemicals.<sup>12</sup> The record in this final investigation continues to show that other developer chemicals are not like benzyl paraben. They have distinct physical characteristics, are used in distinct chemical processes and so are not operationally interchangeable,<sup>13</sup> cannot be produced on the same production line,<sup>14</sup> and are not similarly priced.<sup>15</sup> For these reasons, we determine that the like product in this investigation includes only domestically produced benzyl paraben.

Accordingly, we also define the unestablished domestic industry as the sole U.S. producer of benzyl paraben, ChemDesign Corporation.<sup>16</sup>

<sup>10</sup> Benzyl paraben's chemical formula is  $C_{14}H_{12}O_3$ .

<sup>13</sup> Report at A-3.

<sup>14</sup> Report at A-2 n.8.

<sup>15</sup> <u>Compare</u> Report at A-3 n. 11 <u>with</u> Report at A-14-A-18.

<sup>16</sup> <u>See</u> discussion below determining that the U.S. benzyl paraben industry is not yet established.

<sup>&</sup>lt;sup>11</sup> Report at A-2-A-4, A-37.

<sup>&</sup>lt;sup>12</sup> <u>Benzyl Paraben from Japan</u>, Inv. No. 731-TA-462 (Preliminary), USITC Pub. 2303 (Aug. 1990) at 5-8.

# A. <u>General legal principles</u>

The related parties provision of the statute enables the Commission to exclude a domestic producer from the domestic industry, in appropriate circumstances:

(B) Related parties. When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term "industry" may be applied in appropriate circumstances by excluding such producers from those included in that industry.<sup>17</sup>

Application of the related parties provision is within the Commission's discretion based on the facts presented in each case.<sup>18</sup>

B. <u>Analysis</u>

Petitioner ChemDesign is a U.S. corporation that began producing benzyl paraben in 1985. It produced benzyl paraben through 1986, stopped production in 1987 and 1988, resumed production in June 1989, and stopped production again in 1990. During the first production hiatus, in 1987 and 1988, ChemDesign supplied its customers with benzyl paraben purchased from

<sup>&</sup>lt;sup>17</sup> 19 U.S.C. § 1677(4)(B). For example, if the producer is "related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer" appropriate circumstances for exclusion may exist. S. Rep. No. 249, 96th Cong., 1st Sess. 83 (1979).

<sup>&</sup>lt;sup>18</sup> Empire Plow Co. v. United States, 1: CIT 847, 850, 675 F. Supp. 1348, 1352 (1987). Factors the Commission has examined in determining whether appropriate circumstances exist to exclude a company from the domestic industry include: (1) the percentage of domestic production attributable to the importing producer, (2) the reasons that the U.S. producer has decided to import the product subject to the investigation, to benefit from the LTFV sales or subsidies, or to enable it to continue producers vis-a-vis the rest of the industry, i.e. whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. No. 2150 (Jan. 1989) at 15.

respondent Ueno, the importer of the product from Japan currently subject to investigation, and another importer.<sup>19</sup>

In the preliminary investigation, the Commission determined not to exclude ChemDesign from the domestic industry as a related party under section 771(4)(B) of the statute because: 1) ChemDesign, as the sole U.S. producer of benzyl paraben, accounts for all U.S. production of benzyl paraben making its data essential to the Commission's injury analysis in this investigation,<sup>20</sup> 2) it was necessary for ChemDesign to rely on imports in order to maintain its relationship with its primary purchaser during its production hiatus,<sup>21</sup> and 3) ChemDesign's purchase and sale of imported benzyl paraben is not reflected in ChemDesign's establishment or benzyl paraben income-and-loss data.<sup>22</sup> <sup>23</sup> In this final investigation, we determine to include ChemDesign within the unestablished domestic industry for these same reasons.

## III. Material retardation

### A. <u>General legal principles</u>

Under the material retardation standard in a final investigation, the Commission determines whether "the establishment of a domestic industry is materially retarded by reason of the subject imports."<sup>24</sup> The statute does not indicate how the Commission should apply this provision. The Commission has stated that "the establishment of any new industry is so inherently unique

<sup>22</sup> Report at A-9 n.38.

<sup>23</sup> <u>Benzyl Paraben from Japan</u>, USITC Pub. 2303 at 10.

<sup>24</sup> 19 U.S.C. § 1673d(b).

<sup>&</sup>lt;sup>19</sup> Report at A-6; Hearing Tr. at 16.

<sup>&</sup>lt;sup>20</sup> Report at A-5.

<sup>&</sup>lt;sup>21</sup> Report at A-6; Hearing Tr. at 16.

that material retardation must always be examined on a case by case basis."<sup>25</sup> In prior investigations, the Commission has determined first whether a domestic industry is already "established," and, if the industry is not "established," then determined whether the performance of the unestablished U.S. industry has been materially retarded by the LTFV imports.<sup>26</sup> If, however, the industry is "established," the material retardation standard is not applicable, and the Commission focuses on the standards of material injury and threat of material injury.<sup>27</sup>

## B. <u>Analysis</u>

## 1. Whether the domestic benzyl paraben industry is established

The fact that there is some domestic production does not preclude the possibility that the domestic industry may not be established. In cases in which domestic companies have begun production, the Commission has examined whether domestic producers have stabilized their operations.<sup>28</sup> In the preliminary investigation, we determined that there was a reasonable indication that the U.S. benzyl paraben industry was not stabilized, and therefore, not established because: 1) domestic production of benzyl paraben had been intermittent, 2) ChemDesign's benzyl paraben operations had not yet

<sup>28</sup> <u>Codfish</u>, USITC Pub. 1711 at 4.

<sup>&</sup>lt;sup>25</sup> <u>Certain Dried Salted Codfish from Canada</u>, Inv. No. 731-TA-199 (Preliminary), USITC Pub. 1571 (Sept. 1984) at 6.

<sup>&</sup>lt;sup>26</sup> <u>Certain Dried Salted Codfish from Canada</u>, Inv. No. 731-TA-199 (Final), USITC Pub. 1711 (July 1985), <u>aff'd</u>, <u>BMT Commodity Corp. v. United States</u>, 11 CIT 524, 667 F. Supp. 880 (1987), <u>aff'd</u>, 852 F.2d 1285 (Fed. Cir. 1988), <u>cert</u>. <u>denied</u>, 109 S.Ct. 1120 (1989).

<sup>&</sup>lt;sup>27</sup> <u>Certain Copier Toner from Japan</u>, Inv. No. 731-TA-373 (Preliminary), USITC Pub. 1960 (Mar. 1987) at 10 n.26; <u>Pressure Sensitive PCV Battery Covers from</u> <u>West Germany</u>, Inv. No. 731-TA-452 (Preliminary), USITC Pub. 2265 (Mar. 1990) at 11, n.22; <u>Fresh Chilled Atlantic Salmon From Norway</u>, Invs. Nos. 701-TA-302, 731-TA-454, USITC Pub. 2272 (Apr. 1990) at 15, n.39.

reached a breakeven point, and 3) it did not appear that ChemDesign's benzyl paraben operations were significantly aided by its other operations. We also stated our intention to closely reexamine this question in any final investigation.<sup>29</sup>

In assessing whether new industries have stabilized their operations in prior investigations, the Commission has looked at several aspects of domestic operations including: 1) the date production began, 2) whether production has been steady or start-and-stop, 3) the size of domestic production compared to the size of the domestic market as a whole, 4) whether the domestic industry has reached a "break even point", and 5) whether the activities involve the establishment of a new industry or are merely a new product-line of an established firm.<sup>30</sup>

In this final investigation, we determine that U.S. production of benzyl paraben has not stabilized and that there is, therefore, no established benzyl paraben industry.

First, domestic production of benzyl paraben has again been discontinued. ChemDesign initially produced benzyl paraben in the United States from March 1985 to May 1986, a period of 15 months. ChemDesign began production once again in June 1989,<sup>31</sup> but shut down its benzyl paraben production line in

<sup>29</sup> <u>Benzyl Paraben from Japan</u>, USITC Pub. 2303 at 15-16.

<sup>31</sup> Report at A-5.

<sup>&</sup>lt;sup>30</sup> <u>Atlantic Salmon</u>, USITC Pub. 2272 at 15-16; <u>Battery Covers</u>, USITC Pub. 2265 at 12-13; <u>Lime Oil from Peru</u>, Inv. No. 303-TA-16 (Preliminary), USITC Pub. 1723 (July 1985) at 8, n.19.

1990. ChemDesign is currently supplying its customers from inventory.<sup>32 33</sup>

The second factor indicating that the domestic industry is not established is that ChemDesign's benzyl paraben operations did not reach a breakeven point during the latest period for which the Commission has information, interim period 1990.<sup>34</sup> The breakeven point of firms within an industry is that level of sales at which total revenues and total expenses are equal. Where possible, the breakeven point is calculated by dividing total fixed costs and expenses by the unit contribution margin (which is equal to the unit sales price minus the unit variable costs.) <sup>35</sup> ChemDesign would have had to sell a significant quantity of benzyl paraben at a price higher than the currently prevailing market price in order to breakeven during interim period 1990.

While petitioner's share of the domestic benzyl paraben market has increased dramatically since production began in 1989, the domestic market currently consists of a small number of purchasers. Further, we note that petitioner is supplying its purchasers out of inventories because it has ceased production of benzyl paraben. For these reasons, we do not believe that petitioner's market share is particularly indicative of whether the industry is established.

<sup>32</sup> Report at A-7; Hearing Tr. at 23.

<sup>33</sup> The fact that there is no current production of benzyl paraben does not mean that there is no U.S. industry. ChemDesign states it will recommence production in early 1991 if an antidumping order is imposed. Petitioner's prehearing brief at 19; Hearing Tr. at 21, 24 (statement of Mr. Brooks). <u>See Codfish</u>, USITC Pub. 1722 at 6-9 (the Commission found that the establishment of the U.S. salted codfish industry was materially retarded where production of salted codfish was suspended after two years with an intent to resume production pending the resolution of the antidumping investigation).

<sup>34</sup> Report at A-9-A-10.

<sup>35</sup> <u>Certain All-Terrain Vehicles from Japan</u>, Inv. No. 731-TA-388 (Preliminary), USITC Pub. 2071 (March 1988) at A-15.

The last factor that the Commission has examined is whether or not the "start-up" industry is truly a new industry or is more in the nature of a new product introduced by an established industry. In the preliminary investigation, the Commission determined that, although ChemDesign was an established company, it did not appear that ChemDesign's benzyl paraben operations had derived significant benefit from its other arguably "established" operations.<sup>36</sup> We have not discovered anything in this final investigation to suggest that we change this conclusion.

In sum, ChemDesign is the only domestic producer of benzyl paraben. No production of benzyl paraben is currently taking place, although ChemDesign is committed to resuming production given the imposition of an antidumping order. Further, ChemDesign's benzyl paraben operations have not yet reached a breakeven point and its benzyl paraben operations do not seem to have derived significant benefit from ChemDesign's other operations. For these reasons, we determine that the U.S. benzyl paraben industry is not yet established.

# 2. Whether establishment of the benzyl paraben industry is being retarded by LTFV imports of benzyl paraben from Japan

Having determined that the domestic benzyl paraben industry is not established, we also determine that the establishment of this industry has been materially retarded by reason of imports of benzyl paraben from Japan.

#### a. <u>Material retardation</u>

Nor in

In prior investigations, the Commission has examined a number of factors in order to determine whether the performance of the domestic industry reflects the normal start-up condition of a company entering a difficult market or whether the performance is worse than could be expected. These

<sup>&</sup>lt;sup>36</sup> <u>Benzyl Paraben from Japan</u>, USITC Pub. 2303 at 14.

factors have included: (1) domestic production, (2) shipments, (3) capacity utilization, (4) inventories, (5) financial condition, (6) employment, (7) projected performance compared to actual performance, and (8) other market conditions.<sup>37 38 39</sup>

The record in this final investigation indicates that ChemDesign's benzyl paraben operations have encountered major difficulties. ChemDesign is not currently producing benzyl paraben. Consequently, all benzyl paraben production workers have been assigned to the production of other ChemDesign products.<sup>40</sup> In addition, ChemDesign has been unable to breakeven on its benzyl paraben operations.<sup>41</sup> Further, despite strong demand for benzyl paraben over most of the period of investigation, ChemDesign has been unable to sell sufficient quantities of benzyl paraben to meet its fixed and variable costs. Its performance, therefore, is worse than what could be expected.<sup>42</sup> For these reasons, we determine that the establishment of the U.S. benzyl

<sup>37</sup> <u>Codfish</u>, USITC Pub. 1711 at 6-7; <u>Copier Toner</u>, USITC Pub. 1960 at 10-12.

<sup>38</sup> We do not discuss the viability of ChemDesign's benzyl paraben production in this final determination. Neither 19 U.S.C. § 1673d(b)(1) nor its legislative history mandates that the Commission assess the viability of an industry when assessing material retardation. <u>See BMT Commodity Corp. v.</u> <u>United States</u>, 11 CIT 524, 667 F. Supp. 880 (1987), <u>aff'd</u>, 852 F.2d 1285 (Fed. Cir. 1988), <u>cert</u>. <u>denied</u>, 109 S.Ct. 1120 (1989) (indicating that consideration of viability at inception was relevant in that case, but that consideration of future viability must take into account the effects of LTFV imports). Further, this issue was not raised by any party to this investigation.

<sup>39</sup> To the extent that the preliminary determination suggested that viability of an unestablished industry was a relevant consideration, Commissioner Newquist questions the utility of considering viability outside the context of causation, where the difficulties of an unestablished industry may be attributed to other causal factors without any contribution to those difficulties by the LTFV imports.

<sup>40</sup> Report at A-7-A-8; Hearing Tr. at 24.

<sup>41</sup> Report at A-9-A-10; Hearing Tr. at 22.

<sup>42</sup> <u>Benzyl Paraben from Japan</u>, USITC Pub. 2303 at 16-17 & n.47.

paraben industry is materially retarded.<sup>43</sup>

b. <u>Causation</u>

### 1) General principles

In material retardation investigations, as in any other antidumping investigation, the Commission is to determine whether the material injury or material retardation is "by reason of" the imports subject to investigation.<sup>44</sup> Accordingly, we believe that the existing law on causation of material injury is also applicable to causation of material retardation. Thus, the Commission may take into account information concerning other causes of harm to the domestic industry, but it is not to weigh causes.<sup>45</sup> The Commission need not determine that imports are the principal or a substantial cause of material retardation.<sup>46</sup> Rather, the imports need only be a cause of material retardation.<sup>47</sup>

<sup>43</sup> Useful period-to-period comparison of ChemDesign's production, capacity, capacity utilization, and shipments information is not possible in this investigation because the periods of production within each time period examined by the Commission vary significantly.

44 19 U.S.C. § 1673d(b).

<sup>45</sup> See, e.g., <u>Citrosuco Paulista S.A. v. United States</u>, 12 CIT \_\_\_\_\_, 704 F. Supp. 1075, 1101 (1988); S. Rep. No. 249, 96th Cong. 1st Sess. 57-58, 74 (1979); H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979) ("Current law does not... contemplate that the effects from the subsidized [or LTFV] imports be weighed against the effects associated with other factors (<u>e.g.</u>, the volume and prices of nonsubsidized [LTFV] imports, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry) which may be contributing to overall injury to an industry.")

<sup>46</sup> "Any such requirement has the undesirable result of making relief more difficult to obtain for industries facing difficulties from a variety of sources; industries that are often the most vulnerable to less-than-fair-value imports." S. Rep. No. 249, 96th Cong., 1st Sess. 74-75 (1979).

<sup>47</sup> <u>See</u> LMI-La Metalli Industriale, S.p.A. v. United States, 13 CIT \_\_\_\_, 712 F. Supp. 959, 971 (1989) <u>citing</u> British Steel Corp. v. United States, 8 CIT 86, (continued...)

# 2) <u>Analysis</u>

Petitioner's argument regarding causation in this investigation rests on its assertion that the establishment of the domestic benzyl paraben industry has been materially retarded by lost sales to Japanese imports to its primary customer and the price depression that resulted from these lost sales.<sup>48</sup>

We have considered the volume of LTFV imports and the penetration by these imports into the U.S. benzyl paraben market. We find the import volumes to be significant despite their decline, noting that such a decline may be expected when a domestic producer comes on-line and takes over a portion of the market share previously held entirely by imports.<sup>49</sup> Moreover, while the purchases of the Japanese product by ChemDesign's primary purchaser were modest in terms of absolute volume, the volume of sales lost to the subject imports would have been a quantity sufficient to allow ChemDesign to nearly reach its breakeven point.<sup>50</sup>

We also find that the LTFV imports depressed U.S. prices for benzyl paraben. Benzyl paraben is typically sold on a spot basis, in monthly or quarterly lots, with a small number of purchasers and a small number of suppliers involved. The price is negotiated at the time of the transaction.<sup>51</sup> ChemDesign sold benzyl paraben to its primary purchaser in the second half of

<sup>48</sup> Petitioner's prehearing brief at 11-15.

<sup>49</sup> Report at A-13-A-14.

<sup>50</sup> <u>Compare</u> Report at A-10 <u>with</u> Report at A-17.

<sup>51</sup> Report at A-16.

<sup>&</sup>lt;sup>47</sup>(...continued)

<sup>593</sup> F. Supp. 405, 413 (1984); <u>Citrosuco</u>, 704 F. Supp. at 1101; Hercules, Inc. v. United States, 11 CIT 710, 743, 673 F. Supp. 454, 479 (1987); <u>see also</u> Maine Potato Council v. United States, 9 CIT 293, 299, 613 F. Supp. 1237, 1244 (1985) (The Commission must reach an affirmative determination if it finds that imports are more than a "<u>de minimis</u>" cause of injury.)

1989 at a negotiated price. Towards the end of the year, ChemDesign's primary purchaser, however, bought some benzyl paraben from Japan at a price that was significantly lower than the price originally obtained by ChemDesign in July 1989.<sup>52</sup> Beginning in late 1989, the price that ChemDesign received from its primary domestic purchaser was also significantly lowered.

Prices have remained at these depressed levels. While information on the quantity of LTFV imports and inventories is business proprietary and cannot, therefore, be publicly discussed, the benzyl paraben market is such that the availability of LTFV imports maintains downward pressure on prices as purchasers may quickly change suppliers if the domestic producer attempts to increase its prices for benzyl paraben.<sup>53</sup> Thus, the LTFV imports have had a negative impact on the producer of benzyl paraben, contributing to its inability to sell sufficient quantities of benzyl paraben at or above the price needed to breakeven.

We recognize that other factors have contributed to the price reduction and lost sales volume suffered by the domestic producer of benzyl paraben. The only significant commercial use of benzyl paraben is as an ingredient used in the manufacture of coated thermal fax paper.<sup>54</sup> The demand for benzyl paraben largely depends on the demand for this paper. Further, the demand for paper coated with benzyl paraben is affected both by competition from thermal fax paper coated with other developer chemicals and by competition from plain paper fax machines.<sup>55</sup> While demand for fax paper remains high, domestic

<sup>&</sup>lt;sup>52</sup> Report at A-17-A-18.

<sup>&</sup>lt;sup>53</sup> Report at A-12, A-14.

<sup>&</sup>lt;sup>54</sup> Report at A-3.

<sup>&</sup>lt;sup>55</sup> Competition in the thermal fax paper market has forced fax paper producers to rely on technological improvements to reduce production costs. The record (continued...)

demand for benzyl paraben declined during the latter part of the investigatory period.

Despite the difficulties posed to ChemDesign by these factors and conditions of trade, we, nevertheless, determine that the LTFV imports are a cause of material retardation of the establishment of the U.S. benzyl paraben industry. ChemDesign has been unable to sell sufficient quantities of its benzyl paraben at the price needed to meet its fixed and variable costs and establish its operations due, in part, to LTFV imports. For this reason, we determine the establishment of the U.S. industry producing benzyl paraben has been materially retarded by reason of LTFV imports of benzyl paraben from Japan.

<sup>&</sup>lt;sup>55</sup>(...continued)

in this final investigation indicates that, in general, the trend among fax paper producers is away from benzyl paraben towards alternative coating processes. Report at A-3. Use of such alternative coating processes reduces the cost of fax paper production, improves product quality, and decreases demand for benzyl paraben. Report at A-32-A-35.

Dissenting Views of Acting Chairman Anne E. Brunsdale Benzyl Paraben from Japan Investigation No. 731-TA-462 (Final)

. . . . . . . . .

February 5, 1991

Based on the evidence gathered in this investigation, I dissent from the Commission's finding that the establishment of the domestic industry producing benzyl paraben is materially retarded by reason of dumped imports from Japan. I join in the Commission's determination of like product, domestic industry, and related parties, and I agree that the domestic benzyl paraben industry is not established and, therefore, that material retardation is the appropriate issue for the Commission to consider. I reach a different conclusion, however, on whether the establishment of the domestic industry is materially retarded by reason of the dumped imports.

# Material Retardation by Reason of Dumped Imports

In assessing material retardation, the Commission is required to evaluate all relevant economic factors within the context of conditions of competition that are distinctive to the domestic industry.<sup>1</sup> Specifically, we are instructed to consider in each case (1) the volume of imports of the merchandise that is the subject of the investigation, (2) the effect of those imports

<sup>&</sup>lt;sup>1</sup> While 19 U.S.C. 1677(7)(C)(iii) applies to material injury, it is the Commission's opinion that it is applicable to our material retardation analysis as well.

on prices in the United States for the like products, and (3) the impact of those imports on domestic producers of the like product.<sup>2</sup>

I do not interpret the statute in such a way that the mere presence of dumped imports establishes a causal relationship between dumped imports and the industry's failure to become established. Rather, the failure of the industry to become established must be <u>by reason of</u> the dumped imports, as dictated by the statute. The Commission is instructed not to attribute retardation caused by other factors, such as decline in demand for the like product, to the dumped imports. This would be tantamount to a default on the Commission's obligation to establish causation.

During the period of investigation, there was a substantial decline in demand for the like product and there were important technological innovations in the downstream fax paper and fax machine industries. Given the changing conditions of competition, careful analysis is required to determine whether, absent the dumped imports, the benzyl paraben industry would have become established, or whether dumped imports, though present in the market, were not the cause of material retardation.

The domestic industry in this case consists of one firm, petitioner ChemDesign; the subject imports were produced by one Japanese firm, Ueno. There are few domestic customers and few producers of fair imports. This gives the Commission a chance to

<sup>2</sup> 19 U.S.C. 1677(7)(B)(i).

consider information provided by all the relevant parties in a way that is usually not possible. On the other hand, because there are so few market participants, much of the industry information is confidential. I regret that I will be unable to present the details of my analysis in this opinion.<sup>3</sup>

Industry Background and Analysis. As the majority opinion discusses, the only significant use of benzyl paraben is in the production of thermal fax paper. Therefore, developments in that industry are crucial to the analysis of this case. In particular, the evidence must be evaluated in light of a marked decline in demand for benzyl paraben by thermal fax paper producers during the relevant period in this case.<sup>4</sup>

The thermal fax paper industry is highly competitive. Three factors have combined to pressure domestic thermal fax paper manufacturers both to lower costs and to improve the quality of their fax paper in recent years. First, manufacturers have introduced plain paper fax machines that do not require thermal paper. As the use of these machines becomes more widespread, thermal fax paper accounts for a declining share of the fax paper market.<sup>5</sup> Second, there has been a substantial reduction in the

<sup>5</sup> Report at A-14 - A-15.

<sup>&</sup>lt;sup>3</sup> For the benefit of those who have the confidential version of the staff report, I will refer to particular passages in that report in footnotes throughout this opinion.

<sup>&</sup>lt;sup>4</sup> Although data were collected for a three-year period, Chemdesign only resumed production of benzyl paraben in June 1989. See Views of the Commission Majority at 6.

price of imported thermal fax paper. This has put pressure on domestic manufacturers to meet the competition's price or risk losing market share. Finally, the thermal fax paper industry now has significant excess capacity, since capacity growth has surpassed the growth in demand in recent years.<sup>6</sup>

While thermal fax paper could be considered a commodity product, different manufacturers produce their paper with different formulations -- some of which do not require benzyl paraben. During the period of investigation, there was a trend away from formulations that use benzyl paraben for cost saving and quality enhancing reasons.<sup>7</sup> This has put pressure particularly on those thermal fax paper producers that continue to use benzyl paraben to lower costs.<sup>8</sup>

These producers lowered their costs in a number of ways. These included finding a cheaper coating formulation that does not include benzyl paraben<sup>9</sup>, finding an alternative supplier that charges lower prices for benzyl paraben, or convincing the existing supplier to lower its benzyl paraben price. Petitioner ChemDesign's benzyl paraben business has been hurt by all three types of actions. However, ChemDesign contends that dumped

<sup>&</sup>lt;sup>6</sup> Report at A-4.

<sup>&#</sup>x27; Many producers say that other formulations produce paper of superior quality. Report at A-15.

<sup>&</sup>lt;sup>8</sup> Report at A-46.

<sup>&</sup>lt;sup>9</sup> This may involve substantial research and development and some manufacturers have found perfecting alternative formulations to be quite difficult. See Report at A-46.

imports are the crux of the problem.

Petitioner contends that it was adversely affected by dumped imports in two ways. First, its primary customer sought an alternative supplier and bought some dumped imports rather than use the domestic product exclusively. Second, that customer was then able to use the low price of the dumped imports to pressure petitioner to lower its price. Low prices for benzyl paraben combined with fewer sales to its primary customer led the domestic industry to fare badly before it was actually established.<sup>10</sup>

The evidence in the record shows that while petitioner did lose sales to respondent, the quantity was limited. Indeed, I do not believe that the industry could be considered established even if petitioner had made those extra sales to its primary customer.<sup>11</sup> The more important questions are would ChemDesign (1) have made additional sales to other customers and (2) have been able to charge a higher price for benzyl paraben, had it not been for the dumped imports. The evidence shows that the answer to both these questions is no. Therefore, I conclude that dumped imports did not cause material retardation of the domestic industry.

The record suggests that, in the absence of the dumped imports, ChemDesign would not have made significant sales to

<sup>&</sup>lt;sup>10</sup> The record shows that ChemDesign had unrealistic expectations about its sales potential. See Report at A-21, Petitioner's Posthearing Brief at 6.

<sup>&</sup>lt;sup>11</sup> See Table 12, Report at A-17.

other domestic thermal paper manufacturers. A purchaser of large quantities of imported benzyl paraben, other than the petitioner's primary customer, expressed a strong preference, for reasons unrelated to price, to continue purchasing from its current chemical supplier that carries the Japanese product. In addition, I am persuaded that this purchaser would have been reluctant to switch suppliers for additional reasons that must be kept confidential, and, if the purchaser had switched suppliers, it would have turned to a firm other than ChemDesign.<sup>12</sup>

The evidence in this case also suggests that ChemDesign would not have been able to increase its price, particularly not to the level at which it sold benzyl paraben in 1989. Downstream producers of thermal fax paper cut production back substantially in late 1989 following a surge in imports. Beginning at that time, there was an across-the-board fall in demand for all chemicals, including benzyl paraben, used by domestic thermal fax paper producers.<sup>13</sup> As demand for a product declines, one expects its price to decline as well.

In addition, foreign producers of benzyl paraben in countries other than Japan were actively seeking sales to domestic thermal fax paper producers at prices that were comparable to the price of the dumped imports.<sup>14</sup> Finally, at a

<sup>&</sup>lt;sup>12</sup> See Report at A-21 footnote 70.

<sup>&</sup>lt;sup>13</sup> See Testimony of Richard E.T. Brooks, Chief Executive Officer at ChemDesign, Hearing Transcript, p. 40.

<sup>&</sup>lt;sup>14</sup> See Report at A-52.

higher price, producers would have likely switched to formulas that did not use benzyl paraben.<sup>15</sup> Therefore, if petitioner had tried to raise the price of benzyl paraben, it would have lost customers to fair imports, or it would have forced its customers to discontinue the use of benzyl paraben.

I conclude, therefore, that the establishment of the domestic industry producing benzyl paraben was not materially retarded by reason of dumped imports from Japan.

Economic Analysis. Because of the small number of market participants and the level of detail provided in the staff report in this case, I was able to present in the above causation analysis the underlying reasons for my determination without discussing the economic analysis that I usually highlight in my opinions. This does not mean that my traditional approach is not useful in this case or that I have abandoned it, even temporarily.

Economic tools can be used to organize and evaluate the evidence on the record here as in other cases in such a manner that the impact of dumped imports can be assessed in a rigorous fashion. Specifically, I analyze (1) the degree to which overall demand for benzyl paraben responds to changes in price, (2) the degree to which the subject imports, the domestic like product, and fair imports are substitutable, and (3) the degree to which

<sup>15</sup> See Report at A-46.

domestic supply responds to changes in price.<sup>16</sup>

(1) Import Penetration and Dumping Margins. In determining the effect of dumped imports on the domestic industry, two additional factors are particularly important--the share of the domestic market accounted for by the unfairly traded imports and the size of the dumping margin. The greater the share of unfairly traded imports, the more likely it is that a change in the price of these imports will alter the quantity demanded for domestic products and fairly traded imports. And the higher the dumping margin, the more likely it is that the unfairly traded imports will adversely affect the domestic industry. In this case both the import penetration and the dumping margin are high. The import penetration is confidential, but the Commerce Department found the dumping margin during the period from January to June 1990 to be 126 percent, based on petitioner's

<sup>&</sup>lt;sup>16</sup> For a more thorough discussion of my analysis, see <u>Internal</u> Combustion Forklift Trucks from Japan, Inv. No. 731-TA-377 (Final), USITC Pub. 2082 (May 1988), at 66-83 (Additional Views of Vice Chairman Anne E. Brunsdale); see also Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Invs. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 (December 1987), at 23-32 (Additional Views of Vice Chairman Anne E. Brunsdale); Cold-Rolled Carbon Steel Plates and Sheets from Argentina, Inv. No. 731-TA-175 (Final) (Second Remand), USITC Pub. 2089 (June 1988), at 31-51 (Additional Views of Vice Chairman Anne E. Brunsdale). The Court of International Trade has also discussed with approval the use of elasticities. See Copperweld Corp. v. United States, No. 86-03-00338, slip op. 88-23, at 45-48 (Ct. of Int'l Trade, February 24, 1988); USX Corp. v. United States, 12 CIT\_\_\_\_, slip op. 88-30, at 19 (March 15, 1988): Alberta Pork Producers' Marketing Board v. United States, 11 CIT \_\_\_\_\_, 669 F.Supp. 445, 461-65 (1987).

estimates of 50-126 percent.<sup>17</sup>

(2) <u>Substitutability</u>. Drawing a conclusion as to the substitutability of the domestic like product and the unfairly traded import is vital to determining whether material retardation in a Title VII case is by reason of dumped imports.<sup>18</sup> The greater the substitutability between the domestic like product and the subject imports, the more likely that even small price changes will induce customers to switch suppliers, and therefore the greater the impact of import sales on sales of the domestic like product, all other things being equal.

The issue of substitutability is a bit complicated in this case. While the chemical itself is basically a commodity product, business relationships and supplier location appear to be quite important in the decisions of purchasers. In fact, there are a number of instances where purchasers bought more expensive chemicals because they preferred to buy from a particular supplier. Because we have so much information in this case, we can basically rank different purchaser's preferences for

<sup>&</sup>lt;sup>17</sup> Respondent refused to respond to Commerce's request for information.

<sup>&</sup>lt;sup>18</sup> Substitutability can be determined by examining the elasticity of substitution, an economic concept defined as the percentage change in the ratio of the quantities of two products demanded divided by the percentage change in their relative price. A positive elasticity of substitution indicates that goods are substitutes. The higher the elasticity of substitution, the closer the goods are as substitutes. For a more explicit definition of the elasticity of substitution, see <u>Forklift</u> <u>Trucks</u>, <u>supra</u>, note 4, at 75-76; <u>Color Picture Tubes</u>, <u>supra</u>, note 4, at 25-26.

the dumped imports, the domestic like-product, and fairly traded imports.

The staff, basing its conclusions primarily on physical characteristics, estimates that dumped imports and the domestic like product are close substitutes.<sup>19</sup> I disagree. There is evidence that certain large purchasers of the dumped imports would have been reluctant to switch suppliers and would not have chosen to purchase the domestic like product if its relative price declined. While confidentiality prevents me from being more specific, I believe that purchasers can be divided into two groups (a segmented market) -- those that consider the products to be close substitutes and would be willing to switch for a small change in price and those that would not be willing to switch for a small change in price.<sup>20</sup> By weighing the sales of the two groups I conclude that overall substitutability is limited.<sup>21</sup>

Fair imports and dumped imports are likely to be closer substitutes than the domestic like product and dumped imports. I base this on confidential information. This would also mitigate

<sup>&</sup>lt;sup>19</sup> Staff estimates the elasticity of substitution to be between 3 and 5. See Elasticities Memo, Inv-0-015 at 11. Neither party offered comments on this point.

<sup>&</sup>lt;sup>20</sup> The substitutability of the domestic like product and the import may be higher than it was over the period of the investigation. Report at A-21.

<sup>&</sup>lt;sup>21</sup> See Memo to Acting Chairman Brunsdale from the International Economist, INV-0-120. I believe that the elasticity of substitution, based on the segmented market, is at the lower end of the 1.3 to 3.3 range estimated by staff.

any negative effects of dumping.

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(3) Aggregate Price Effects. To evaluate the effect of dumped imports on the demand for benzyl paraben, it is necessary to judge how consumers would respond to a change in benzyl paraben prices.<sup>22</sup> The effect of dumped imports on the domestic industry would be mitigated if a price decline led to a relatively large increase in purchases, since in that event a greater portion of the increased sales of imports would result from market expansion rather than from decreased domestic producer's sales.

As discussed above, demand for benzyl paraben is derived from the demand for thermal fax paper that uses a benzyl paraben coating. Benzyl paraben accounts for a small percent of the cost of thermal coated fax paper. Therefore, one would not expect that the quantity demanded would be particularly responsive to changes in price. However, there are some additional factors to be considered in this case.

While there is no direct substitute for benzyl paraben, thermal fax paper can be produced using other chemicals. The various thermal fax papers are very close substitutes. The market for thermal fax paper is highly competitive and those producers

<sup>&</sup>lt;sup>22</sup> This economic concept is known as the elasticity of demand. To be more exact, the elasticity of demand is defined as the percentage change in the quantity of a good demanded divided by the percentage change in its price, all other things being equal. If demand is elastic (that is, the elasticity of demand is greater than 1), consumers will increase their total expenditures on a product when its price falls.

using the benzyl paraben formula are under intense price pressure. Therefore, it is unlikely the thermal paper producers using benzyl paraben would be able to pass on even a small cost increase to their customers. In addition, an increase in benzyl paraben prices may induce all thermal fax paper manufacturers to discontinue its use.

un phys.

Staff concludes that the quantity of benzyl paraben demanded is affected moderately by changes in price and I think their reasoning is basically sound.<sup>23</sup> There is some price, however, at which customers would change their formulations and simply stop buying benzyl paraben.<sup>24</sup>

(4) <u>The Supply of Domestic Benzyl Paraben.</u> In order to assess the effect of dumping on the domestic volume of production and the prevailing price, one must ascertain how the domestic industry and the fairly traded imports would respond to an increase in the price of benzyl paraben.<sup>25</sup>

Generally, if the quantity of domestic output is not

<sup>24</sup> The ability of manufacturers to switch to an alternative formulation means that there is a discontinuity in the demand curve at the point, when producers switch.

<sup>25</sup> This economic concept, the elasticity of supply, is defined as the percentage change in the quantity of a good supplied divided by the percentage change in its price, all other things being equal.

<sup>&</sup>lt;sup>23</sup> Staff estimates the elasticity of demand to be between 1 and 2. See Elasticities Memo at 11-12. Petitioner suggests an elasticity of between .5 and .8. I would expect that petitioner's estimate or the low end of staff's estimate to be plausible estimates for small price changes.

responsive to price changes--that is, if a slight change in price causes domestic firms to increase the quantity they produce by only a small amount--then dumping would have little effect on domestic output, but a relatively large effect on domestic prices. On the other hand, if domestic firms are highly responsive to price increases, then dumping would have more of an effect on the volume of output than on domestic prices. The supply response can be evaluated by looking at the extent of excess capacity, the ease with which capacity could be added or reduced, the availability of alternative markets, and the ease of entry and exit from the U.S. market. Staff estimates that domestic supply would be quite responsive to price changes.<sup>26</sup> Evidence on the record supports staff's estimate.

# <u>Conclusion</u>

For reasons that are outlined above, I conclude that the establishment of the domestic industry producing benzyl paraben is not materially retarded by reason of dumped imports from Japan. Benzyl paraben is a declining industry, as thermal fax paper manufacturers discontinue its use. The domestic industry's failure to become established is tied directly to technological changes that allowed fax paper manufacturers to produce better quality paper for a lower price using other chemicals. In addition, the intense competition in the thermal fax paper market

<sup>&</sup>lt;sup>26</sup> Staff estimates the domestic supply elasticity to be between 5 and 7. See Elasticities Memo, p. 7. Respondent and Petitioner offer no comments on domestic elasticity of supply.

combined with the availability of low-priced fair imports preclude ChemDesign from charging its primary customer substantially higher prices. Finally, certain purchasers of benzyl paraben expressed a preference for dealing with other suppliers.
# INFORMATION OBTAINED IN THE INVESTIGATION

## Introduction

Following a preliminary determination by the U.S. Department of Commerce (Commerce) that imports of benzyl p-hydroxybenzoate (benzyl paraben)<sup>1</sup> from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV), the U.S. International Trade Commission, effective October 9, 1990, instituted investigation No. 731-TA-462 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's final investigation and of the public hearing 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 October 24, 1990 (55 F.R. 42912).<sup>2</sup> The hearing was held in Washington, DC, on December 18, 1990.<sup>3</sup>

Commerce made its final LTFV determination on November 23, 1990 (55 F.R. 48879). The Commission held its vote on January 28, 1991 and notified Commerce of its final injury determination on February 5, 1991.

## Background

This investigation results from a petition filed by ChemDesign, Inc., Fitchburg, MA, on June 29, 1990, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of benzyl paraben from Japan and the United Kingdom. In response to that petition the Commission instituted investigations Nos. 731-TA-462 and 463 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C § 1673b(a)) and, on August 13, 1990, determined that there was a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports of the subject merchandise from Japan (55 F.R. 34626, August 23, 1990).<sup>4</sup>

<sup>4</sup> On July 16, 1990, the petitioner submitted a letter to the Department of Commerce withdrawing those portions of the petition that related to imports from the United Kingdom. Accordingly, the Commission discontinued its investigation with respect to the United Kingdom (investigation No. 731-TA-463 (Preliminary)) and published a notice in the <u>Federal Register</u> to that effect on Aug. 1, 1990 (55 F.R. 31245).

<sup>&</sup>lt;sup>1</sup> Benzyl paraben is provided for in subheading 2918.29.50 of the Harmonized Tariff Schedule of the United States.

 $<sup>^2</sup>$  A copy of the Commission's <u>Federal Register</u> notice is presented in app. A.

 $<sup>^3</sup>$  A list of witnesses appearing at the hearing is presented in app. B.

# Nature and Extent of the Sales at LTFV

In its petition, ChemDesign identified one producer in Japan--Ueno Fine Chemicals Industry, Ltd., Osaka--that has exported the subject product to the United States. On the basis of a home-market price for Ueno and prices paid by unrelated customers in the United States during January-June 1990, the petitioner calculated dumping margins ranging from 50.0 percent to 125.7 percent.

Because Ueno refused to respond to Commerce's request for information, Commerce determined that the best information available was the information submitted by the petitioner. On November 23, 1990, Commerce informed the Commission of its final determination of sales at LTFV; it found the margin to be 126 percent.<sup>5</sup>

## The Product

## Description

The subject product, known as the benzyl ester of 4-hydroxybenzoic acid (benzyl p-hydroxybenzoate or, more commonly, benzyl paraben) is a white crystalline powder commercially sold as 99+ percent pure with a melting point between 110 and 113°C. No significant difference is reported between the imported and the domestic product.

# Manufacturing processes

Benzyl paraben can be manufactured by a simple esterification<sup>6</sup> reaction between benzyl alcohol and p-hydroxybenzoic acid, normally followed by one or more purification steps. None of the producers of benzyl paraben, domestic or foreign, is known to produce either precursor chemical.<sup>7</sup> The manufacturing processes used by different producers of benzyl paraben may differ in detail as to the catalyst used and the time, temperature, or other conditions of reaction, although none of these factors would be expected to have a significant effect on either the product quality or the cost of manufacture.

Most producers of benzyl paraben use a modified process from that described above,<sup>8</sup> in which the p-hydroxybenzoic acid is first esterified with methyl alcohol, followed by the displacement of the methyl alcohol by benzyl alcohol and the regeneration of methyl alcohol. This indirect route most likely avoids the potential problem of self-esterification of p-hydroxybenzoic

<sup>7</sup> \* \* \*.

<sup>8</sup> \* \* \*.

 $<sup>^{5}</sup>$  A copy of Commerce's final determination is presented in app. A.

<sup>&</sup>lt;sup>6</sup> An ester, such as benzyl paraben, is formed by the reaction of an organic acid and an alcohol. Such a reaction is called "esterification."

acid, may more easily make a higher purity product, and may offer economies of scale if the producer were also manufacturing other paraben esters.<sup>9</sup>

<u>Uses</u>

The only significant commercial use of benzyl paraben is as an ingredient in the manufacture of coated thermal printing paper, where benzyl paraben competes with other chemical products. Coated thermal printing paper is used for facsimile machines, product labels and, to a much lesser extent, for computer output printers and a variety of scientific instruments and medical devices. In each of these applications, thermal printing competes with other printing technologies.

# Substitute products

As described below, many other chemicals can be used to perform the function of benzyl paraben in the formulated heat-sensitive coatings on thermal printing paper. Few manufacturers of thermal printing paper use benzyl paraben-based systems. For a variety of reasons, the trend is toward imaging systems based on chemicals other than benzyl paraben. The thermal printing coatings are formulated systems in which direct substitution is seldom feasible if acceptable product performance is to be maintained. For example, bisphenol-A, a large-volume,<sup>10</sup> inexpensive<sup>11</sup> chemical with other major uses,<sup>12</sup> is regarded as a substitute product in a functional sense, but not as a direct substitute. Bisphenol-A cannot simply be substituted in the same proportions for benzyl paraben. In addition, other aspects of the formulation and the coating manufacturing process would require significant modification and adjustment. Many other chemicals can be used as developers and sensitizers.<sup>13</sup> The extent of the usage of these other chemicals in commercial formulations is not definitely known.<sup>14</sup> For more information, see appendix C.

<sup>13</sup> \* \* \*.

<sup>14</sup> \* \* \*.

<sup>&</sup>lt;sup>9</sup> \* \* \*.

<sup>&</sup>lt;sup>10</sup> U.S. production is more than 1 billion pounds per year according to U.S. International Trade Commission, <u>Synthetic Organic Chemicals: United States</u> <u>Production and Sales, 1989</u>, USITC Publication 2338, December 1990.

<sup>&</sup>lt;sup>11</sup> Approximately \$0.90-0.95 per pound, delivered in hopper cars. <u>Chemical</u> <u>Marketing Reporter</u>, Dec. 14, 1990. Thermal printing paper coaters likely would pay more than these bulk prices because they buy in smaller quantities.

<sup>&</sup>lt;sup>12</sup> Principally in making polycarbonate resins (U.S. bisphenol-A consumption--660 million pounds per year) and epoxy resins (300 million pounds per year). Approximately 60 percent of U.S. production is used captively to make these and other resins. The other 40 percent is sold in the merchant market.

#### <u>U.S. tariff treatment</u>

Benzyl paraben is provided for in subheading 2918.29.50 of the Harmonized Tariff Schedule of the United States (previously provided for in item 404.47 of the former Tariff Schedules of the United States), a residual classification which includes other chemical compounds (nonenumerated carboxylic acids with phenol function and their derivatives). The column 1general (most-favored-nation) rate of duty for this subheading, applicable to imports from Japan, is 3.7 cents per kilogram (1.68 cents per pound) plus 17.9 percent ad valorem.

# U.S. Market

Developments in the markets for fax machines and fax paper drive demand for benzyl paraben and competing products.<sup>15</sup> Rapid technological advances, most of which emanate from a handful of Japanese firms, typify both markets. Fax machine prices have declined substantially in recent years, while fax machine performance capabilities have improved tremendously. The fax paper market is a swiftly changing one, as fax machine makers introduce increasing numbers of plain paper machines and thermal paper manufacturers strive to reduce production costs and improve end-product quality. Fax paper manufacturers have had to keep pace with vigorous technological change in the face of intense import competition,<sup>16</sup> overcapacity,<sup>17</sup> and falling prices.<sup>18</sup>

These competitive pressures in the market for fax paper have, in turn, affected the suppliers of chemicals to the fax paper producers. For example, Richard Brooks of ChemDesign testified before the Commission that "[d]emand fell in the United States for the domestic producers for all chemicals right across the board...[S]tarting in late '89...for a period of three, four or five months...all of the thermal producers were really hurt bad and demand dropped for all chemicals, not just benzyl paraben."<sup>19</sup> Mr. Brooks currently

 $^{17}$  \* \* estimates that U.S. production capacity for thermal paper is currently 2-3 time fax paper shipments. \* \* \*.

 $^{18}$  \* \* estimates that fax paper prices have fallen roughly 30 percent in the last year. \* \* \*. \* \* considers 30 percent a conservative estimate of the decline in fax paper prices. \* \* \*. \* \* \*.

<sup>19</sup> Hearing transcript, p. 40. Mr. Brooks attributed this downturn to "a tremendous influx of dumped thermal paper from Japan into the United States."

<sup>&</sup>lt;sup>15</sup> App. D contains a more detailed discussion of these markets.

<sup>&</sup>lt;sup>16</sup> \* \* \* maintains that pressure from Japanese imports of fax paper is hurting the profitability of the industry. \* \* \*. On numerous other occasions, other market participants have confirmed this view.

While fax paper imports from Japan generally remained between 25 million to 35 million square meters per month in 1989 and 1990, official import statistics show that the unit value of these imports fell 34 percent between December 1989 and September 1990. See app. E.

sees the thermal paper makers recovering and ChemDesign's sales to them returning to "a more normal growth pattern."<sup>20</sup>

#### **U.S.** Producers

The petitioner--ChemDesign, Inc., Fitchburg, MA--is the only known domestic producer of benzyl paraben. ChemDesign produces benzyl paraben at a single plant location in Fitchburg, MA on a production train exclusively dedicated to that product. Following a \*\*\* investment in the required equipment, the company began the manufacture of benzyl paraben in January 1985, but ceased production in May 1986 after allegedly encountering price undercutting by Ueno.<sup>21</sup> <sup>22</sup> After investing an additional \*\*\* in an effort to reduce production costs, the petitioner resumed production in June 1989. In the interim, it purchased imported benzyl paraben from Japan and \* \* \*.

In addition to benzyl paraben, ChemDesign produces a range of specialty chemicals at its Fitchburg and Marinette, WI sites. ChemDesign manufactures \* \* \* products on a toll or custom basis; it sells roughly \*\*\* of its products, including benzyl paraben, on the merchant market.

#### Foreign Producers and U.S. Importers

Ueno and a producer in the United Kingdom--Nipa Laboratories, Ltd., Mid Glamorgan, England--account for virtually all known U.S. imports of benzyl paraben. Ueno imported its benzyl paraben through Kanematsu (USA), Inc., New York, NY until early 1989. Since then, it has imported through its U.S. subsidiary, Ueno Fine Chemicals Industry (USA), Inc., New York, NY. Nipa Laboratories shipped some imports of benzyl paraben directly from its U.K. production facility, but its U.S. subsidiary, Nipa Laboratories (USA), Inc., Wilmington, DE, handles most import shipments. The U.S. importers add no value to the subject product.

In the past few years, Sanfu Chemicals, Taiwan, has exported \* \* \* of benzyl paraben to the United States through Dastech International, Inc., Great Neck, NY.<sup>23</sup> Also, Sharon Laboratories, Inc., an Israeli producer, has \* \* \* benzyl paraben in the United States through its U.S. representative, Chorchem, Inc., Rochelle Park, NY. \* \* \*.<sup>24</sup>

<sup>21</sup> ChemDesign alleged that Ueno reduced its price from \*\*\* to \*\*\*. Petition, p. 14. Ueno claimed that its initial price corresponded to sample quantities shipped to \*\*\* by air freight; its subsequent price corresponded to commercial quantities that it sold to \*\*\* after \*\*\* approved its samples. Conference transcript, p. 99.

<sup>22</sup> \* \* \*.

<sup>23</sup> \* \* \*.

24 \* \* \*.

<sup>&</sup>lt;sup>20</sup> Hearing transcript, p. 41.

# U.S. Market and Channels of Distribution

Currently, \* \* \* purchases benzyl paraben in commercial quantities. \* \* uses the chemical in its fax paper coating formula. \* \*  $*.^{25}$  \* \* \* bought \* \* benzyl paraben during the period of the investigation. \* \*  $*.^{26}$ Both \* \* \* and \* \* \* are large producers of thermal imaging paper for the fax market; \* \* \* is not a major player in the thermal paper market. The figures for apparent consumption contained in table 1 reflect \* \* \* demand for benzyl paraben.

Table 1 Benzyl paraben: U.S.-produced domestic shipments, shipments of imports, and apparent U.S. consumption, 1987-89, January-September 1989, and January-September 1990

\* \* \*. \* \* \*. \* \* \*. \* \* \*<sup>27</sup> and \* \* \*.<sup>28</sup> coupled with \* \* \*.<sup>29</sup> \* \* \*.

\*

At least four other firms in the United States manufacture large quantities of thermal imaging paper, including fax paper; these firms include: Appleton Papers, Inc., Kanzaki Specialty Papers, Inc., Ricoh Electronics Corp., and the 3M Company.<sup>30</sup> None of these companies, however, is known to currently use coating formulas that require benzyl paraben.<sup>31</sup>

For much of the period of investigation, ChemDesign acted as a distributor of benzyl paraben. When ChemDesign ceased the production of benzyl paraben in 1986, it began to buy product from Ueno and \* \* and resell it to \* \* \*. ChemDesign purchased the subject chemical from these firms, \* \* \* and resold it \* \* \*. \* \* \*.<sup>32</sup>

\*

\*

<sup>30</sup> SRI International, Specialty Chemicals, "Reprographic Chemicals, Worldwide", p. 99, October 1989. According to this report, \* \* \* and \* \* \* accounted for \*\*\* percent and \*\*\* percent, respectively, of U.S. thermalimaging paper capacity at the end of 1989. The other firms cited accounted for \*\*\* percent of total capacity.

<sup>31</sup> \* \* \*. \* \* \*.

 $^{32}$  \* \*\*. App. F contains \* \* \* which addresses \* \* \*'s purchases of benzyl paraben, its thermal paper coating research efforts, the cost and effectiveness of benzyl paraben and bisphenol-A, and \* \* \*'s relationship with ChemDesign.

<sup>&</sup>lt;sup>25</sup> \* \* \*.

<sup>26 \* \* \*.</sup> 

<sup>27 \* \* \*.</sup> 

<sup>&</sup>lt;sup>28</sup> \* \* \*.

<sup>&</sup>lt;sup>29</sup> \* \* \*.

Ueno sells most of its benzyl paraben imports through Nagase America Corp., New York, NY. Nagase is an import/export and distribution firm which markets products in the chemical and plastics industries.

# Consideration of the Alleged Material Injury and Material Retardation

In the preliminary investigation, the Commission determined that there was a reasonable indication that the establishment of the domestic benzyl paraben industry was being materially retarded by LTFV imports from Japan. In its opinion in that investigation, the Commission indicated that it would consider in any final investigation information relating to the following factors: (1) the characteristics of the domestic production of benzyl paraben, (2) whether the domestic industry has reached a breakeven point, and (3) the size of domestic production compared to the size of the domestic market as a whole.<sup>33</sup> The following section contains the available information on these factors.

ChemDesign is the only known domestic producer of benzyl paraben. Accordingly, the following information supplied by ChemDesign covers 100 percent of U.S. production and employment in the domestic industry. Table 2 contains data on ChemDesign's production of benzyl paraben.

Table 2 Benzyl paraben: ChemDesign's production, capacity, shipments, and inventories, 1987-89, January-September 1989, and January-September 1990

\* \* \* \* \* \* \*

ChemDesign registered no production in 1987 or 1988, because it resumed benzyl paraben production in June 1989. \* \* \*. \* \* \*. In \* \* \* 1990, ChemDesign shut down its benzyl paraben production train and \* \* \*.

ChemDesign has witnessed growth in its exports of benzyl paraben. \* \*  $*^{34}$  \* \* \*. The company estimates that it will export \* \* \* in 1990.<sup>35</sup>

\* \* \*. \* \* \*.<sup>36</sup> \* \* \*. \* \* \*.

ChemDesign bases its employment estimates (table 3) on a total of \*\*\* production workers required to run the benzyl paraben production process. After halting production in \* \* \*, the company reassigned all \*\*\* workers to

 $^{35}$  App. G contains a letter to the Commission from Steve Borgeson of ChemDesign which details ChemDesign's export sales and expected sales.  $^{36}$  \* \* \*

<sup>&</sup>lt;sup>33</sup> \* \* \*.

<sup>34 \* \* \*.</sup> 

other tasks. It anticipates returning them to benzyl paraben production in the event that an antidumping order is issued.

## Table 3

ChemDesign's employment and compensation data for production and related workers producing benzyl paraben, 1987-89, January-September 1989, and January-September 1990

\* \* \* \* \* \* \*

# Financial experience of ChemDesign

ChemDesign Corp., the sole U.S. producer of benzyl paraben, provided usable income-and-loss data on its overall establishment operations and on its operations producing benzyl paraben.

\* \* \*. A breakdown of the net sales for company, establishment, and benzyl paraben is shown below (in thousands of dollars):

# <u>Item</u>

#### <u>Net sales</u>

Company	39,553
Establishment	***
Benzyl paraben	· <b>**</b> *

Overall establishment operations.--Income-and-loss data for the establishment in which benzyl paraben is produced are presented in table 4. \* \* \* \* \* \* \* \* \* \* \* \* \* \*

\* \* \*. \* \* \*. \* \* \*.

Table 4 Income-and-loss experience of ChemDesign on the overall operations of its establishment within which benzyl paraben is produced, 1987-89, January-September 1989, and January-September 1990

\* \* \* \* \* \*

\*

<u>Verification of data</u>.--Commission staff verified data for ChemDesign on November 14 and 15, 1990. As a result, changes in both trade and financial data have been made to the original questionnaire. These areas include revisions in inventory, production, employment, depreciation, and SG&A<sup>37</sup> data. The SG&A expenses were re-allocated based on sales in lieu of the asset-based approach submitted by the petitioner in the preliminary investigation.

<sup>&</sup>lt;sup>37</sup> Selling, general, and administrative expenses.

<u>Operations on benzyl paraben</u>.--Since the company did not sell any of its own production of benzyl paraben in 1987, 1988, or for the first five months of 1989, income-and-loss data are not presented for those periods.<sup>38</sup> Such data for 1989 and the two January-September periods are shown in table 5.<sup>39</sup> \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

ChemDesign's income-and-loss experience for benzyl paraben on a dollarsper-pound basis is presented in table 6. \* \* \*.

Table 5 Income-and-loss experience of ChemDesign on its operations producing benzyl paraben, 1989, January-September 1989, and January-September 1990

Table 6

\*

Per-pound income-and-loss experience of ChemDesign on its operations producing benzyl paraben, 1989, January-September 1989, and January-September 1990

\* \* \* \* \* \* \*

<u>Breakeven analysis</u>.--The breakeven point for a firm is that level of sales at which total revenues and total expenses are equal. Profits result when sales exceed this level, and losses occur when this point is not achieved. Therefore, a net loss indicates that a firm did not reach breakeven and net income indicates that a firm surpassed the breakeven point. This particular breakeven analysis is based on net income data due to the lack of reliable and comparable financial data on production.

\* \* \*. \* \* \* data for January-September 1990 are most appropriate for computing the current breakeven point.

The per-unit contribution margin is the excess of sales over variable expenses on a per-unit basis. The breakeven point in production (pounds) is the volume equal to fixed costs divided by the per-unit contribution margin. The following elements were used in computing the breakeven point for the nine-month period ended September 30, 1990:

<sup>&</sup>lt;sup>38</sup> The company purchased and resold benzyl paraben through a separate affiliate between 1987 and the first part of 1989.

<sup>&</sup>lt;sup>39</sup> It should be noted that the three accounting reporting periods for benzyl paraben cover different time frames, i.e., the 1989 fiscal year covers 7 months (June-December), "January-September" 1989 covers 4 months (June-September), and January-September 1990 covers 9 months. As a result of the above variations, period-to-period comparability may not be reliable.

The calculations above show that ChemDesign did not reach a breakeven point on its benzyl paraben sales in 1990. ChemDesign would have had to sell an additional \*\*\* pounds of benzyl paraben at an average price of \*\*\* per pound to breakeven.

<u>Investment in productive facilities</u>.--ChemDesign's reported investment in property, plant, and equipment and return on investment are shown in table 7. Returns on investment are not shown for benzyl paraben because 1989 operations were not for a complete year and partial period rates of return may not be reliable.

# Table 7 Value of assets and return on assets of ChemDesign as of the end of accounting years 1987-89, January-September 1989, and January-September 1990

\* \* \* \* \* \* \*

<u>Capital expenditures</u>.--ChemDesign's capital expenditures for benzyl paraben are shown in table 8. During the period that ChemDesign was not producing benzyl paraben (1987 through May 1989), capital expenditures were nevertheless allocated to benzyl paraben because the production train that would eventually be used to produce benzyl paraben benefitted from these expenditures. Expenditures include funds in connection with environmental compliance.

Table 8 Capital expenditures by ChemDesign, 1987-89, January-September 1989, and January-September 1990

\* \* \* \* \* \* \*

<u>Research and development expenses</u>.--ChemDesign's research and development expenses are shown in the tabulation below (in thousands of dollars):

\* \* \* \* \* \* \*

<u>Capital and investment</u>.--The Commission asked ChemDesign to describe any actual or potential negative effects of imports of benzyl paraben from Japan on its growth, investment, ability to raise capital, or existing development efforts (including efforts to develop a derivative or improved version of benzyl paraben). ChemDesign's response is presented in appendix H. Consideration of the Alleged Threat of Material Injury

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors<sup>40</sup>--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (Particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise.

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 706 and 736, are also used to produce the merchandise under investigation,

 $<sup>^{40}</sup>$  Section 771(7)(F)(ii) of the act (19 U.S.C. 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and,

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>41</sup>

The following section entitled "Consideration of the Causal Relationship Between the LTFV Imports and the Alleged Material Injury" presents available information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above), and appendix H contains information on the effects of imports of the subject merchandise on the U.S. producer's existing development and production efforts (item (X)). Available information on U.S. inventories of the subject product (item (V)), foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII), above), and any other threat indicators, if applicable (item (VII) above), follows. The Commission has no information regarding any dumping findings/remedies in other countries.

Table 9 contains data from Commission questionnaires on U.S. importers' inventories of benzyl paraben.

Table 9 Benzyl paraben: End-of-period inventories of imports from Japan and other sources, 1987-89, January-September 1989, and January-September 1990

> \* \*

Throughout 1987, 1988, and most of 1989, Ueno (USA) sold, or committed for sale, most imports before they entered the United States from Ueno (Japan). The \* \* \* in inventories in 1989 and 1990 reflects ChemDesign's resumption of benzyl paraben production. ChemDesign effectively \* \* \* imports

<sup>&</sup>lt;sup>41</sup> Section 771(7)(F)(iii) of the act (19 U.S.C. 1677(7)(F)(iii)) further provides that, in antidumping investigations, "...the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

from Japan and the United Kingdom by discontinuing its purchases from importers and by selling product of its own manufacture to \* \* \*.

At least one firm other than Ueno--Yoshitomi Pharmaceuticals Industries, Ltd., Osaka--is known to produce benzyl paraben in Japan. Yoshitomi \* \* \* and exports none of its product.<sup>42</sup>

Table 10 provides information on Ueno (Japan)'s production, capacity, inventories, domestic shipments, and exports of benzyl paraben.

Table 10 Benzyl paraben: Ueno's production capacity, inventories, production, and shipments, 1987-89, January-September 1989, and January-September 1990

\* \* \* \* \* \* \*

\* \* \*. \* \* \*. \* \* \*.

Ueno contends that the market for benzyl paraben is shrinking.<sup>43</sup> Ueno's \* \* \* shipments of benzyl paraben have declined \* \* \*; \* \* \*. \* \* \*. \* \* \*. \* \* \*. \* \* \*. \* \* \*.

Ueno's production of benzyl paraben has also fallen sharply. \* \* \*. \* \* \*: \* \* \*.<sup>44</sup>

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

#### U.S. imports

Table 11 provides import data for benzyl paraben from 1987 to September 1990. Since the Harmonized Tariff Schedule includes benzyl paraben in a basket category, the table relies on importers' questionnaire responses. Only two companies, Ueno in Japan and Nipa in the United Kingdom, have exported to the United States in commercial volumes since 1987. Each firm responded to the Commission's importer questionnaire in full. In addition, Dastech International \* \* \* provided the Commission with information on its \* \* \* imports from Taiwan.<sup>45</sup>

 $^{42}$  \* \* \*. The U.S. embassy in Tokyo confirmed that Yoshitomi is not an exporter of benzyl paraben.

<sup>45</sup> \* \* \*.

<sup>&</sup>lt;sup>43</sup> Mr. Katsuyama, Conference transcript, pp. 87-89.

<sup>&</sup>lt;sup>44</sup> \* \* \*.

Table 11

Benzyl paraben: U.S. imports from Japan and all other sources, 1987-89, January-September 1989, and January-September 1990

\* \* \* \* \* \* \* \* \* \* \* \*. \* \* \*. \* \* \*. \* \* \*. \* \* \*. \* \* \*.

# U.S. consumption and market penetration

The following tabulation shows the U.S. and Japanese market shares (in percent) for benzyl paraben based on the quantity and the value of U.S.produced domestic shipments and shipments of imports from Japan:

		<u>Share of</u>	U.S. apparent	consumption		
		Based on quantity		Based	<u>on value</u>	
		<u>U.S.</u>	Japan	<u>U.S.</u>	<u>Japan</u>	
*	*	*	*	*	*	*

The figures show the \* \* \* level of Japanese market penetration in 1987, 1988, and 1989, the years in which ChemDesign did not produce benzyl paraben at all or first began production. Figures for 1990 show that ChemDesign has captured \* \* \* of the domestic market. In fact, Japan's market share \* \* \* throughout the period of investigation--from \*\*\* percent in 1987 to \*\*\* percent in 1989 (based on quantity). In the interim periods, it \* \* \*. The market penetration figures based on value show a similar pattern.

## **Prices**

<u>Market characteristics</u>.--Since the main application of benzyl paraben is in the production of thermal papers used in fax machines, the demand for benzyl paraben largely depends on the demand for this paper. In turn, the demand for paper coated with benzyl paraben is greatly affected by competition from thermal papers with other chemical-based coatings and also by competition from reprographic systems that use non-thermal paper.<sup>46</sup>

The overall demand for fax paper is expected to grow significantly during the next five years. However, industry sources anticipate a continuing shift from thermal to non-thermal fax paper. Originally, only large-use customers bought non-thermal fax machines since these machines were much more expensive than thermal fax machines. More recently the price differential

<sup>&</sup>lt;sup>46</sup> Such as laser fax machines.

between thermal and non-thermal fax machines has narrowed, allowing smaller use customers to take advantage of the less expensive plain fax paper. As a result, the demand for thermal fax paper is expected to increase less rapidly than the demand for plain fax paper.<sup>47</sup>

However, an increase in demand for thermal fax paper will not necessarily translate into an equivalent increase in demand for benzyl paraben. \* \* \*.<sup>48</sup> \* \* \*.

\* \* \* . \* \* \* . \* \* . \* \* . \* \* . \* \* . \* \* . \* \* \* . \* \* \* . \* \* \* . \* \* \* . \* \* \* . \* \* . \* \* \* . \* \* \* . \* \* \* . \* \* . \* \* . \* \* . \* \* . \* \* . \* \* . \* \* . \* \* . \* \* . \* \* . \* \*

While the cost and quality of different thermal coating formulas may vary, U.S. purchasers of benzyl paraben report that in most instances domestic and Japanese benzyl paraben are of similar quality.<sup>58</sup> Domestic and imported benzyl paraben are manufactured to the same specifications. In fact, from January 1987 to June 1989, ChemDesign purchased Japanese and \* \* \* benzyl paraben and resold it to \* \* \*. \* \* \*.

ChemDesign currently sells U.S.-produced benzyl paraben in the U.S. market to \* \* \* on an f.o.b. basis from its plant in Fitchburg, MA. Ueno

<sup>47</sup> Representatives of \* \* \* predict that the overall market for thermal fax paper will continue to be strong during the next five years, largely because of increased sales of cheaper thermal fax machines for personal use and a large maintenance market, i.e., sales of thermal fax paper for use in thermal fax machines already in place. However, \* \* \* agree that plain-paper fax machines (such as laser jet fax machines) are becoming a factor in the marketplace. \* \* \*.

\* \* projects that, during 1990-94, the demand for all fax paper will increase by 189 percent, whereas the demand for thermal fax paper will increase by 135 percent. The discrepancy between all fax paper demand growth and thermal fax paper demand growth reflects a projected fall in the market share of thermal fax paper from 92 percent in 1990 to 77 percent in 1994. \* \* \*

<sup>48</sup> \* \* \*.

<sup>49</sup> A detailed breakout of the estimated relative chemical costs of the benzyl paraben and bisphenol-A formulas is presented in app. C.

generally sells the Japanese product on an f.o.b. basis from its warehouse in Hawthorne, NJ, \* \* \*. U.S.-produced and imported benzyl paraben are typically sold on a spot basis.<sup>59</sup> Sales of benzyl paraben are made on a monthly or quarterly basis, and prices for both U.S.-produced and imported benzyl paraben are negotiated at the time of the transaction. \* \* \*. Sales terms for benzyl paraben are net 30 days.

ChemDesign and Ueno reported that U.S. inland freight costs are about \*\*\* percent of net U.S. f.o.b. selling prices. ChemDesign, Ueno, \* \* \* indicated that the cost of U.S. inland freight was not an important factor in customers' sourcing decisions. The U.S. product is shipped in 100-pound quantities and the imported product is shipped in 50-kilogram quantities (about 110 pounds). Fiber drums are used to ship both domestic and imported benzyl paraben and are usually discarded by the end users.<sup>60</sup> Container costs average less than \*\*\* percent of selling prices of both the domestic and subject imported products.

\* \* \*.<sup>61</sup> \* \* \*.

Questionnaire price data.--The U.S. producer and importers were requested to report net U.S. f.o.b. and delivered selling prices and total quantities of benzyl paraben sold in the United States and imported from Japan.<sup>62</sup> The price data were requested for the largest sale of the specified product to end users and to distributors, by quarters, during January 1987-September 1990. ChemDesign was also asked to provide pricing data for its sales of imported benzyl paraben from Japan.

ChemDesign reported selling prices of U.S.-produced benzyl paraben to \* \*, but only for the periods beginning in mid-1989 when the firm restarted production of the product after a 3-year hiatus. ChemDesign also reported selling prices of the Japanese-produced benzyl paraben that it bought from Ueno and resold to \* \*  $*.^{63}$ 

<sup>62</sup> ChemDesign accounted for all domestic shipments of the U.S.-produced product during the period of investigation. During the same period, Ueno accounted for 100 percent of the total reported quantity of U.S. imports of benzyl paraben from Japan. \* \* \*.

<sup>63</sup> ChemDesign was unable to separate its sales of Japanese benzyl paraben from its sales of \* \* \* benzyl paraben. ChemDesign's estimates of the quantity of Japanese benzyl paraben sold to \* \* \* are based on the amount of Japanese benzyl paraben that it bought from Ueno. ChemDesign sold both the Japanese and \* \* \* benzyl paraben \* \* \*.

<sup>&</sup>lt;sup>59</sup> ChemDesign attempted to negotiate a benzyl paraben requirements contract with \* \* \*.

<sup>&</sup>lt;sup>60</sup> The empty fiber drums range in weight from 7 to 12 pounds. The responding U.S. producer, importers, and one end user \* \* \* reported in their questionnaires that they did not consider the drums a factor in selling benzyl paraben.

<sup>&</sup>lt;sup>61</sup> \* \* \*.

Ueno reported prices of its imported Japanese benzyl paraben sold directly to \* \* \* and prices of imported benzyl paraben sold to ChemDesign and to Nagase.<sup>64</sup> Nagase reported prices of its Japanese benzyl paraben sold to \* \* \*.

<u>Price trends</u>.--Price trends based on net U.S. f.o.b. selling prices of ChemDesign's domestically-produced benzyl paraben from July 1989 through September 1990 and the Japanese product imported and sold by Ueno to end users are shown in table 12. Price trends of sales by Ueno to distributors are shown in table 13.

Table 12 Net U.S. f.o.b. selling prices to end users of U.S.-produced and imported Japanese benzyl paraben, by quarters, July 1989-September 1990

\* \* \* \* \* \*

\*

\*

Table 13 Selling prices to distributors of imported Japanese benzyl paraben on an f.o.b. U.S. point-of-shipment basis, by quarters, January 1987-September 1990

\*

\*

generally \* \* \* during the period reported.

+

Quarterly prices to end users of the U.S.-produced product \* \* \* during the periods reported, \* \* \* prices of the imported Japanese product to end users \* \* \* in the two quarters in late 1989 and early 1990 for which data were available. ChemDesign's selling prices of the Japanese benzyl paraben to \* \* \* during the periods reported. Prices for sales of imported Japanese

benzyl paraben to U.S. distributors, primarily ChemDesign and Nagase,

\*

\*

ChemDesign's reported prices of its U.S.-produced benzyl paraben sold to \* \* \* (table 12). \* \* \* negotiated price concessions from its suppliers of benzyl paraben during the third quarter of 1989 in order to meet competition from lower-priced thermal paper.<sup>65</sup>

Ueno's prices of Japanese benzyl paraben sold to \* \* \* during the fourth quarter of 1989 and the first quarter of 1990, the only periods in which direct sales to \* \* \* were reported (table 12). Ueno's prices to its distributor customers, ChemDesign and Nagase, \* \* \* during the period of

<sup>&</sup>lt;sup>64</sup> Nagase acted as a sales agent--taking title to, but not possession of, the imported benzyl paraben--whereas ChemDesign shipped the imported product to its Fitchburg, MA plant before selling it. Throughout the discussion, both companies will be referred to as distributors of the imported product. <sup>65</sup> \* \* \*

investigation. During January 1987-September 1989, Ueno's quarterly selling prices to ChemDesign \* \* \*. $^{66}$  Similarly, Ueno's selling prices to Nagase \* \* \*. \* \* \*. $^{67}$ 

<u>Price comparisons</u>.--Price comparisons between U.S.-produced and imported benzyl paraben products at the first level of sale to end users were developed from net f.o.b. selling prices reported by the U.S. producer and importer. Two quarterly price comparisons were possible based on ChemDesign's sales of its U.S.-produced product and Ueno's sales of Japanese product.<sup>68</sup> The imported product was priced \* \* \* than the domestic product by margins of \*\*\* percent during October-December 1989 and \*\*\* percent during January-March 1990 (table 14).

#### Table 14

Net U.S. f.o.b. selling prices to end users of benzyl paraben produced in the United States and imported from Japan, and margins of under/(over) selling, by quarters, October 1989-March 1990

\* \* \* \* \* \* \*

#### \* \* \*. \* \* \*. \* \* \*. \* \* \*. \* \* \*.

Most of the sales volume during the period of investigation consisted of sales at a second level by distributors to end users. ChemDesign acted as a distributor of imported Japanese \* \* \* product to \* \* \*, Nagase as a distributor of Japanese product to \* \* \*. Prices for these transactions are presented in table 15. Ueno's prices to Nagase were \* \* \*; Nagase resold to \* \* \*. ChemDesign sold imported product to \* \* \*.

# Table 15 Net U.S. f.o.b. prices of imported Japanese benzyl paraben sold to the distributors, Nagase and ChemDesign, and their prices to the end users, \* \* \*, by quarters, January 1987-September 1990

\* \* \* \* \* \*

<sup>66</sup> \* \* \*.

<sup>67</sup> \* \* \*.

<sup>68</sup> Nagase was the principal supplier of the subject imported benzyl paraben to \* \* \*, which did not purchase any U.S.-produced product. ChemDesign was the major supplier of imported benzyl paraben to \* \* \*. Ueno sold limited quantities of imported Japanese product directly to \* \* \* during the last quarter of 1989 and the first quarter of 1990.

# Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1987-September 1990 the nominal value of the Japanese yen fluctuated, appreciating 5.5 percent overall relative to the U.S. dollar (table 16).<sup>69</sup> Adjusted for movements in producer price indexes in the United States and Japan, the real value of the Japanese currency showed an overall depreciation of 5.2 percent for the period January 1987 through September 1990.

<sup>69</sup> International Financial Statistics, October 1990.

Table 16

Exchange rates:<sup>1</sup> Indexes of the nominal and real exchange rates of the Japanese yen, and indexes of producer prices in the United States and Japan,<sup>2</sup> by quarters, January 1987-September 1990

	Japan			
	Nominal		Real	U.S. producer price index
	exchange-	Producer price index	exchange- rate index <sup>3</sup>	
	rate			
Period	index			
1987:				
JanMar	100.0	100.0	100.0	100.0
AprJune	107.4	99.2	104.8	101.6
July-Sept	104.3	100.5	101.9	102.8
OctDec	112.8	100.1	109.5	103.3
1988:				
JanMar	119.7	99.0	114.1	103.9
AprJune	121.9	98.6	113.9	105.5
July-Sept	114.6	99.5	106.5	107.1
OctDec	122.3	98.7	112.2	107.6
1989:				
JanMar	119.2	99.2	107.6	109.9
AprJune	110.9	101.8	101.1	111.9
July-Sept	107.6	102.6	99.2	111.5
OctDec	107.1	102.4	98.1	111.9
1990:				
JanMar	103.6	102.9	93.9	113.5
AprJune	98.7	103.7	90.4	113.2
July-Sept	105.5	103.7	94.8	115.3

<sup>1</sup> Exchange rates expressed in U.S. dollars per Japanese yen.

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

<sup>3</sup> The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and Japan. Producer prices in the United States increased 15.3 percent between January 1987 and September 1990 compared to a 3.7 percent increase in Japanese prices during the same period.

Note -- January-March 1987=100.0

Source: International Monetary Fund, <u>International Financial Statistics</u>, October 1990.

Lost sales

ChemDesign identified \* \* \* lost sales allegations involving competition from benzyl paraben imported from Japan.<sup>70</sup> ChemDesign allegedly lost sales of U.S.-produced benzyl paraben amounting to \*\*\* pounds to be delivered during July 1989-December 1990. These figures were based on ChemDesign's estimates of total requirements for benzyl paraben by \* \* \* of \* \* \* pounds during 1990.<sup>71</sup> According to ChemDesign, the parties had agreed upon a delivered price of \*\*\* per pound.

\* \* \* . \* \*

#### Lost revenues

ChemDesign named \* \* \* in allegations of lost revenues totalling \*\*\* on sales of \*\*\* pounds of benzyl paraben during September 1989-August 1990 because of competition with imports from Japan.<sup>77</sup> ChemDesign alleged that it offered \* \* U.S.-produced benzyl paraben for \*\*\* per pound f.o.b. its Fitchburg, MA plant but had to meet the price of the imported Japanese product of \*\*\* per pound delivered to \* \* \*. \* \* \*.

During July-December 1989, ChemDesign sold \*\*\* pounds of benzyl paraben to \* \* \* at \*\*\* per pound. During January-September 1990, ChemDesign's price to \* \* per pound for sales of \*\*\* pounds of benzyl paraben. During October 1989-March 1990, Ueno sold \*\*\* pounds of benzyl paraben to \* \* \* at \*\*\* per pound.<sup>78</sup> \* \* \*.

- <sup>70</sup> \* \* \*.
- <sup>71</sup> \* \* \*.
- <sup>72</sup> \* \* \*.
- 73 \* \* \*.
- 74 \* \* \*.
- <sup>75</sup> \* \* \*.

<sup>76</sup> App. I provides a schedule of additional sales offers by benzyl paraben suppliers to \* \* \*. \* \* \*.

<sup>77</sup> The lost revenue figure was based on ChemDesign's sales of \*\*\* pounds of benzyl paraben to \* \* \* at \*\*\* per pound, as opposed to the expected price of \*\*\*.

<sup>78</sup> Questionnaire responses of ChemDesign and Ueno.

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# APPENDIX A

# FEDERAL REGISTER NOTICES

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Federal Register / Vol. 55. No. 206 / Wednesday, October 24, 1990 / Notices

Washington. DC 20436. Hearingimpaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252– 1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

#### SUPPLEMENTARY INFORMATION:

#### Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of benzyl paraben from Japan are being sold in the United States at less than fair value within the meaning of secitor 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 29, 1990, by ChemDesign Corp., Fitchburg, MA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that the establishment of an industry in the United States was being materially retarded by reason of imports of the subject merchandise (55 FR 34626, August 23, 1990).

Perticipation in the investigation.— Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). the Secretary will prepare a public service list containing the names and addreses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompnay the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.— Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to rcceive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that is has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The preheering staff report in this investigation will be placed in the nonpublic record on December 3, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rule (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on December 18, 1990, at the U.S. **International Trade Commission** Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on -December 10, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 13, 1990, at the U.S. International Trade **Commission Building. Pursuant to** § 207.22 of the Commission's rules (13 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 13, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 14, 1990. Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not

#### [investigation No. 731-TA-462 (Final)]

#### Eenzyl Paraben From Japan

PGENCY: United States International Trade Commission.

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

**EJMMARY:** The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-432 (Final) under section 735(b) of the Tariif Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of benzyl phydroxybenzoate (benzyl paraben). provided for in subheading 2918.29.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended. Commerce will make its final LTFV determination on or before December 12, 1990 and the Commission will make its final injury determination by February 5, 1991 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

# EFFECTIVE DATE: October 9, 1990.

FOR FURTHER INFORMATION CONTACT: Jeff Doidge. (202–252–1183). Office of Investigations, U.S International Trade Commission, 500 E Street SW.. available at the time the preheuring brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 24, 1990. If posthearing briefs contain business proprietary information. a nonbusiness proprietary version is due December 26. 1990. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 24, 1990.

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 Commission's rules (19 CFR 201.8). All written submissions except for business proprietary 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 information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment or such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than December 31, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 2, 1991. Authority: This investigation is being conducted under authority of the Turiff Act of 1940, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20). Issued: October 17, 1950. By order of the Commission. Kenneth R. Mason. Secretary. [FR Doc. 90-25105 Filed 10-23-90; 8:45 am] BILLING COCE 7620-62-M an' dis

## International Trade Administration

#### [A-588-816]

Final Determination of Sales at Less Than Fair Value: Benzyl P-Hydroxybenzoate from Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

#### ACTION: Notice.

SUMMARY: We determine that imports of Benzyl p-hydroxybenzoate (benzyl paraben) from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of benzyl paraben from Japan. The ITC will determine by February 5. 1991, whether these imports injure, or threaten material injury to, the U.S. industry. EFFECTIVE DATE: November 23, 1990.

# FOR FURTHER INFORMATION CONTACT:

Vincent Kane or Ross Cotjanle, Investigations. Import Administration. International Trade Administration. U.S. Department of Commerce. 14th Street and Constitution Avenue. NW., Washington, DC 20230; telephone (202) 377-2815 or (202) 377-3534. respectively. SUPPLEMENTARY INFORMATION:

#### **Final Determination**

We determine that imports of benzyl paraben from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended, 19 U.S.C. 1673d (the Act). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

#### Case History

The Department published its preliminary determination in the Federal Register on October 10, 1990 (55 FR 41258). We received neither written comments nor a request for a hearing from either petitioner or the Japanese producer.

# Scope of Investigation

The product covered by this investigation is benzyl paraben. Benzyl paraben is currently classified under HTS item number 2918.29.50 (previously classified under item number 404.47 of the Tariff Schedules of the United States). The HTS item number is provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of the investigation.

# **Period of Investigation**

The period of investigation is January 1, 1990. through June 30, 1990.

#### Fair Value Comparisons

To determine whether sales of benzyl paraben from Japan for export to the United States were made at less than fair value. we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice. We used best information available as required by section 776(c) of the Act because the respondent. Ueno Fine Chemicals Industry. Ltd. (Ueno), refused to respond to the Department's request for information. We determined

that the best information available was information submitted by the petitioner as detailed below.

#### **United States Price**

United States price is based on the price at which Ueno was allegedly selling benzyl paraben to a U.S. customer. as reported in the petition. We adjusted this price for credit costs, indirect selling expenses, U.S. inland freight. U.S. import duty, handling charges, ocean freight and insurance based on information contained in the petition.

#### Foreign Market Value

We based foreign market value on the price at which Ueno was allegedly selling benzyl paraben in Japan, as reported in the petition. We adjusted the home market price for credit costs, indirect selling expenses up to the amount of the selling expenses incurred on U.S. sales, and Japanese inland freight based on information contained in the petition.

#### **Interested Party Comments**

We received no comments, either written or oral, from either the petitioner, the Japanese producer, or any other party.

# Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation, under section 733(d) of the Act, of all entries of benzyl paraben from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after October 10, 1990, the date of publication of the preliminary determination in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the foreign market value of the subject merchandise from Japan exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

The dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Ueno Fine Chemicals Industry, Ltd	126.00
All others	126.00

#### **ITC** Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we will make available to the ITC on request all

nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury. or threat of material injury to. or the material retardation of the establishment of, an industry in the United States does not exist with respect to benzyl paraben, the proceeding will be terminated and all securities posted as a result of the suspension will be refunded or cancelled.

However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all entries of benzyl paraben from Japan, entered on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: November 15, 1990.

#### Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-27564 Filed 11-21-90; 8:45 am] BILLING CODE 3510-DS-M

# 48880

# APPENDIX B

# LIST OF WITNESSES AT THE COMMISSION'S HEARING

# CALENDAR OF PUBLIC HEARINGS

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

> Subject : Benzyl Paraben from Japan Inv. No. : 731-TA-462 (Final) Date and Time: December 18, 1990 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the United States International Trade Commission, 500 E St., S.W., in Washington, D.C.

In Support of Imposition of Antidumping Duties:

. . . . . . . . . . . .

Cleary, Gottlieb, Steen and Hamilton Washington, D.C. <u>on behalf of</u>

ChemDesign Corporation

Richard E.T. Brooks, Chief Executive Officer of ChemDesign

Steven E. Borgeson, Esq., General Counsel of ChemDesign

Bruce P. Malashevich of Economic Consulting Services Incorporated

Richard DeC. Hinds )--OF COUNSEL Giovanni P. Prezioso)

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# APPENDIX C

# COMPARATIVE COSTS OF DIFFERENT COATING FORMULATIONS

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# Comparative Costs of Different Coating Formulations

There are three major steps in the manufacture of thermal printing papers, often, but not always, performed by different companies: (1) making the paper substrate from pulp, (2) formulating and applying coating to large converter rolls of paper, and (3) slitting, cutting, and packaging the large converter rolls into small consumer-service rolls under various brand names. The comparative coating cost question affects only the second of these steps.

All commercially used thermal printing papers employ the same basic chemistry with many variations. The common basic chemistry is the reaction of a colorless leuco dye with a colorless developer to produce a dark-colored developed dye. While the basic principles are well known, the development of effective, cost-efficient formulations is difficult, by all accounts. Any practical coating formulation must utilize chemicals that are available commercially or through custom production (with the approval of the patent holder, if necessary,) and perform well in the intended application.

A representative coating formulation was provided in <u>Reprographic</u> <u>Chemicals-Worldwide</u>:<sup>1 2</sup>

(Apply at 7.5 grams per square meter)	<u>Percent</u>	
Dispersion A:		
Fluoran dye	9.3	
Dibenzylterephthalate	18.6	
Methylcellulose	0.9	
Dispersion B:		
Bisphenol-A	9.3	
Methylcellulose	0.7	
Silicon dioxide	27.8	
Titanium dioxide	31.4	
Polyvinyl alcohol	2.0	

<sup>1</sup> Table 49, p. 92. The publication <u>Reprographic Chemicals-Worldwide</u> was included with the petitioner's complaint at Tab 3.

<sup>&</sup>lt;sup>2</sup> This formulation was disclosed in a Brazilian patent BR 88 02,094, issued Aug. 23, 1988, to Kanzaki Paper Mfg. Co., Ltd., a leading Japanese manufacturer. The patent was summarized in <u>Chemical Abstracts</u>, Vol. 110, p. 755 as Item 125594t. In the same issue of <u>Chemical Abstracts</u>, there were 69 patents on imaging systems, 87 percent issued to Japanese firms, indicating both the rapid pace of technological development and the prowess of Japanese firms in this industry.

This example is a bisphenol-A-based formulation. The Commission staff estimates the chemicals cost of this formulation as \$13.35 per 3,000 square feet, 3 \* \* \*.

Mr. Katsuyama of Ueno testified that: "[t]he real competitive factor in this market today is the development of bisphenol-A and sensitizer, which offers manufacturers a better quality product at a lower cost."<sup>4</sup> Further, Ueno maintained that its discussions with U.S. thermal printing paper manufacturers indicated that these firms no longer considered benzyl paraben systems competitive in performance or cost.<sup>5</sup>

Ueno referred to the following comparison:<sup>6</sup>

Benzyl paraben system (amount sufficient to coat 3,000 square feet of paper)

\* \* \* \* \*

<u>Bisphenol-A system</u> (amount sufficient to coat 3,000 square feet of paper)

\* \* \* \* \* \*

This comparison shows the bisphenol-A formulation to be \* \* \* than the benzyl paraben formulation.<sup>7</sup>

Mr. Katsuyama added that Japanese companies had pioneered the development of bisphenol-A plus sensitizer systems in 1988;<sup>8</sup> however, U.S. companies did not learn of the developments until 1989 and 1990.<sup>9</sup> The U.S. firms then pursued the development of similar systems.

The comparative formulations were reviewed with \* \* \*. \* \* \*. \* \* \*. \* \*  $^{10}$ 

\* \* \* <sup>11</sup> \* \* \* \*

\*

\*

Commission staff also reviewed the above formulations with \* \* \*. \* \*; $^{12}$  \* \* \*. \* \* \*.  $^{13}$ 

<sup>3</sup> Prices for the component chemicals came from U.S. International Trade Commission, <u>Synthetic Organic Chemicals</u>, USITC Publication 2338, December 1990; Schnell Publishing Co., <u>Chemical Marketing Reporter</u>; and analyst estimates. <sup>4</sup> Conference transcript, p. 93.

<sup>5</sup> Conference transcript, p. 102. <sup>6</sup> \* \* \*. <sup>7</sup> \* \* \*. <sup>8</sup> Conference transcript, p. 102. \* \* \*. <sup>9</sup> Conference transcript, p. 102. <sup>10</sup> \* \*. <sup>11</sup> \* \*. <sup>12</sup> \* \*. <sup>13</sup> \* \*.



\* \* \*, which does not currently use a benzyl paraben formulation, broadly corroborated the commentary provided by \* \* \*. \* \* \*.  $^{15}$  Also, \* \* \* does not consider benzyl paraben to be currently cost-effective for fax papers, \* \*.  $^{17}$ 

 $^{14}$  \* \* \*.  $^{15}$  \* \* \*.  $^{16}$  \* \* \*.  $^{17}$  \* \* \*. \*

APPENDIX D

DISCUSSION OF THE FAX MACHINE AND FAX PAPER MARKETS

# Discussion of the Fax Machine and Fax Paper Markets

The usage of benzyl paraben is a third-level derived-demand based on: (1) the technological design choices made by the original equipment manufacturer (OEM), (2) the chemical formulation decisions made by the thermal printing paper coaters, and (3) the amount of use the final customers make of their equipment. The subsequent paragraphs discuss these three levels and their influence on the usage of benzyl paraben.

Original equipment manufacturers.--Fax machine OEMs make a number of technological choices that become incorporated into the product's design and permanently embodied in the equipment. Product designers choose a documentscanning technology, a telecommunication signalling system, a transmission protocol, a printing technology, a handling system for original documents and output documents, and other product features, such as automatic paper cutting, time-delayed transmission, and automatic redial. In the past few years, consumers have seen a proliferation of models incorporating various combinations of features, and frequent introduction of new models that are smaller, more rugged, perform functions in addition to facsimile transmission, etc.

Thermal printing has been the most common design choice of facsimile equipment manufacturers and medical device manufacturers because thermal printers are simple, reliable, readily available, and low cost. There has been much variety, but little basic choice, in the equipment marketplace. Indeed, if other choices become available, some buyers may replace their old equipment after little use to the benefit of the OEM's equipment sales.

Thermal printing competes generally in these applications with laser (electrostatic) printing and ink-jet printing (finely controlled spraying of rapid-drying liquid ink onto paper). The three technologies share a common internal computer input interface and small, relatively inexpensive, dotgeometry output devices. Despite broad similarities, the three printing technologies differ sharply in their requirements for supplies; thermal printers require specially coated paper, laser printers rely on electrostatically suitable paper, and ink-jet printers demand suitably absorbent paper. (In addition, laser printers require toner and ink-jet printers, special ink). The laser and ink-jet printers provide better quality copies than do thermal printers at a much lower cost for supplies. However, both types of printers cost more and require more maintenance.

Japanese companies, particularly Canon, Ricoh, and Sharp, are among the world's technological leaders in image scanning, image printing, electronics, product design, and manufacturing, and have demonstrated formidable business, mass production, and marketing skills. Japanese companies manufacture essentially all the machines sold today, including the few bearing a U.S. manufacturer's nameplate. A review of the patent literature showed that about 70 percent of the patents in these technological areas are issued to Japanese companies, suggesting both past R&D investments and potential synergy between these related technological areas.
Thermal printing paper converters. - The OEM's product designers determine the choice of printing technology, the resolution provided by the machine, and the speed of printing. Within the bounds created by the equipment's operating specifications, the paper converter wishing to offer thermal printing paper can design any heat-activated chemical imaging system, subject to any patent licensing and trade secret constraints.

Most thermal imaging paper manufacturers use systems based on (1) a nearly colorless leuco dye and a developer that will react to develop an intensely dark dye, (2) effecting an activation mechanism by microencapsulating at least one component in a small bead that will be ruptured by heat or by selecting a reactive dye system activated by heat, and (3) localizing image formation by preventing spread of the developed dye by some combination of absorption and/or microencapsulation of the other reactive component(s). Coupling initiators and other chemicals may be necessary for a workable print imaging system. Microencapsulation and mixing and coating microcapsules uniformly and thinly onto paper without breaking or smearing are regarded as difficult technologies to master. In practice, most thermal printing paper converters have licensed technology for a workable system to avoid inordinate investment of time and money in developing their own systems.

Benzyl paraben is only one of a number of possible leuco-dye developers, which must be matched with the particular dye used to achieve the desired dark blue, brown, or black color preferred for the developed dye image. Benzyl paraben has found fewer and fewer users with the passage of time. Its major functional competition as a developer in thermal printing papers is from bisphenol-A. Most paper converters consider the bisphenol-A coating systems to be superior in performance, as well as significantly lower in cost. Several converters believe that benzyl paraben systems perform poorly on highsensitivity papers.<sup>1</sup>

The existence of the small, inexpensive fax machines produced in Japan is almost entirely due to the availability of high-sensitivity thermal printing paper which, with its higher sensitivity to point sources of heat, permits smaller, faster-running machines since the power supplies are smaller, the thermal printheads smaller and cheaper, and the reduced thermal capacity of the system allows for faster performance.<sup>2</sup> The reported end-use performance deficiencies of benzyl paraben-based coating systems in highsensitivity paper is crucial, since this segment is the only growing part of the thermal printing paper market.

<u>End users</u>.--The consumption of thermal printing paper is the product of the number of machines with thermal printers in use and the average usage

<sup>2</sup> \* \* \*.

<sup>&</sup>lt;sup>1</sup> Innovation in thermal printing paper technology, illustrated by the development of "high-sensitivity" thermal printing paper, has influenced facsimile machine design. Compared with regular thermal printing paper, high-sensitivity paper takes less heat to produce an image, is more reproducible with respect to half-tone images, and has higher resolution.

rates of these machines. Both the number of facsimile machines and their usage rate have been increasing rapidly in the last few years. The popularity of fax messages is likely to continue its rapid growth, but there are indications that users are becoming dissatisfied with the high cost and poor quality of thermal printing papers. Most facsimile machines are used by businesses, law firms, and government agencies, which carefully consider the overall costs associated with their purchases. If they switch to higher productivity machines with laser or ink-jet printers, they may discard their old fax machines as obsolete equipment, just as laser printers abruptly displaced almost-new dot-matrix and daisy-wheel printers for computer output.

Facsimile machines have been in use for many decades. Earlier they were fixed in place and operated over leased telephone lines and were used primarily by the Associated Press and other news agencies for distribution of weather maps and news photos. The Supreme Court's Carterphone decision, which removed the prohibition on attachments to telephone lines, was seen as an opportunity by manufacturers of facsimile machines, who converged on corporate/branch office communications now that (very expensive) dedicated telephone lines and (vastly overpriced) rented facsimile machines were no longer required. As that market became more competitive, image encoding and transmission protocols became standardized (Group I machines),<sup>3</sup> so that users could buy one or two new machines from a different manufacturer without having to replace all their existing facsimile machines. Group IV (even faster) facsimile machines are now becoming available. As an emerging product, Group IV machines are less standardized than Group II and Group III machines. Group IV machines can not use thermal printing as they run too quickly and may be designed to use cut sheets (like a large copier) rather than the hard-toreplace rolls heretofore used on Group III machines (the kind most sold now). While the more expensive Group IV machines are unlikely to drive out the vast

<sup>3</sup> Facsimile machines use specialized modems to transmit digital bits of information encoding the image on the sender's page. To do this, transmission speeds must be matched between sender and receiver, the transmission encoding must be fixed, and the image encoding, including the number of lines per inch down the page, the number of dots per line across the page, and grey-scale encoding (for half-tone images), and run-length encoding (indicating how many successive dots are the same) established. In addition, page breaks and a number of parameters related to half-tone images must be transmitted.

The Group II facsimile machines can automatically signal these parameters at the start of a transmission, so an operator need not be contacted first to set switches on the receiving machine. Group II machines are also standardized on one system of run-length encoding.

Even faster Group III facsimile machines standardized on signals for various options, incorporated optional transmission error detection and correction schemes, and are adaptive (automatically shifting to slower, but surer, transmission speeds on noisy telephone lines). The effect of these advances from Group II to Group III machines is to free the user from having an operator stand by when the machine is in use. These inexpensive, freestanding, unattended, automatic answering Group III facsimile machines are the key to the enormous growth in popularity of facsimile transmission. number of inexpensive Group III machines now dominating the equipment population, they may well quickly come to account for most of the printed output, i.e., they are likely to be installed by the high-volume users who account for a large proportion of fax messages.

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In conclusion, the usage of benzyl paraben depends on the technological design choices offered by the fax machine OEMs at the first level, the coating formulation decisions and market share of the thermal printing paper coaters at the next, and finally the kind, number, and usage of fax machines installed by end users.

## APPENDIX E

## THERMAL FAX PAPER IMPORTS

January	February	March	April	May	June	July	August	September	October	November	December	Total <sup>2</sup>
				Quantit	ty (1,000 squ	uare meters)						
					1989							
27.414	23.872	29,001	23,431	24.855	32,202	26,334	50,749	26,102	26,274	31,041	23,802	345.077
27.655	24.639	29,303	24,129	25,339	32.649	26,618	51,565	26,337	26,380	31,312	24.020	349.946
					1990							
31.010	26.815	33,602	32.227	24.420	36.247	28,631	28,988	27.948	(3)	(3)	(3)	269.885
31,209	26,890	33,978	32,268	24.571	36,625	29.896	29.673	28,523	(3)	(3)	(3)	273.633
				Value	(1.000 of da	ollars)						
					1989							
5.491	6.855	7.835	6.446	8.812	8.895	9.553	9.542	8,936	9.838	12.849	10,175	105.227
5,681	7,454	8,103	6,668	9,209	9,124	10,049	10,337	9,379	9,967	13,395	10,336	109,702
					1990							
9.699	10.078	12.533	10,398	7.814	10,943	9,112	8,631	7,883	(3)	(3)	(3)	87.091
10,274	10,214	13,225	10,490	7,973	11,059	11,981	10,805	9,468	(3)	(3)	(3)	95,489
				Unit	value (per	square meter	•)					
					1989							,
\$0.20	\$0.29	\$0.27	\$0.28	\$0.35	\$0.28	\$0.36	\$0,19	\$0.34	\$0.37	\$0.41	\$0.43	\$0.30
.21	.30	,28	.28	.36	,28	.38	.20	.36	.38	.43	.43	.31
					1990							
.31	.38	.37	.32	.32	.30	.32	.30	.28	(3)	(3)	(3)	.32
33	.38	.39	.33	.32	.30	.40	.36	.33	(3)	(3)	(3)	.35
	January 27,414 27,655 31,010 31,209 5,491 5,681 9,699 10,274 50.20 .21 .31 .31 .33	January February 27,414 23,872 27,655 24,639 31,010 26,815 31,209 26,890 	January     February     March       27,414     23,872     29,001       27,655     24,639     29,303       31,010     26,815     33,602       31,209     26,890     33,978	January     February     March     April       27,414     23,872     29,001     23,431       27,655     24,639     29,303     24,129       31,010     26,815     33,602     32,227       31,209     26,890     33,978     32,268	January     February     March     April     May       Quantif     Quantif     Quantif     Quantif       27,414     23,872     29,001     23,431     24,855       27,655     24,639     29,303     24,129     25,339       31,010     26,815     33,602     32,227     24,420       31,209     26,890     33,978     32,268     24,571       Value       5,491     6,855     7,835     6,446     8,812       5,681     7,454     8,103     6,668     9,209       9,699     10,078     12,533     10,398     7,814       10,274     10,214     13,225     10,490     7,973       Unit       50.20     \$0.29     \$0.27     \$0.28     \$0.35       .21     .30     .28     .28     .36       32     .32	January     February     March     April     May     June       Quantity     (1,000 square)     1989       27,414     23,872     29,001     23,431     24,855     32,202       27,655     24,639     29,303     24,129     25,339     32,649       1990       31,010     26,815     33,602     32,227     24,420     36,247       31,209     26,890     33,978     32,268     24,571     36,625       Value (1,000 of do       989     5,491     6,855     7,835     6,446     8,812     8,895       5,681     7,454     8,103     6,668     9,209     9,124       Unit value (1,000 of do       1989       5,681     7,454     8,103     6,668     9,209     9,124       Unit value (per       1990       9,699     10,078     12,533     10,398     7,814     10,943       10,274     10,214     13,225     10,490     7,	January     February     March     April     May     June     July       Quantity (1,000 square meters) 1989       27,414     23,872     29,001     23,431     24,855     32,202     26,334       27,655     24,639     29,303     24,129     25,339     32,649     26,618       1990       31,010     26,815     33,602     32,227     24,420     36,247     28,631       31,209     26,890     33,978     32,268     24,571     36,625     29,896       Value (1,000 of dollars)       1989     5,491     6,855     7,835     6,446     8,812     8,895     9,553       5,681     7,454     8,103     6,668     9,209     9,124     10,049       1989       9,699     10,078     12,533     10,398     7,814     10,943     9,112       10,274     10,214     13,225     10,490     7,973     11,059     11,981       1989     50,28     \$0,35 <t< td=""><td>January     February     March     April     May     June     July     August       Quantity (1,000 square meters)       1989       27,414     23,872     29,001     23,431     24,855     32,202     26,334     50,749       27,655     26,639     29,303     26,129     25,339     32,649     26,618     51,565       1990       31,010     26,815     33,602     32,227     24,420     36,247     28,631     28,988       31,209     26,890     33,978     32,268     24,571     36,625     29,896     29,673       Value (1.000 of dollars)       1989       5,491     6,855     7,835     6,446     8,812     8,895     9,553     9,542       S,491     6,855     7,835     6,446     8,812     8,895     9,553     9,542       S,491     6,855     7,833     10,398     7,814     10,943     9,112     8,631       1990</td><td>January     February     March     April     May     June     July     August     September       9uentity (1,000 square meters)       1989     1989       27,414     23,872     29,001     23,431     24,855     32,202     26,334     50,749     26,102       27,655     24,639     29,303     24,129     25,339     32,649     26,618     51,565     26,337       1990       31,010     26,815     33,602     32,227     24,420     36,247     28,631     28,988     27,948       31,209     26,890     33,978     32,268     24,571     36,625     29,896     29,673     28,523       Value (1,000 of dollars)       1989       5,491     6,855     7,835     6,446     8,812     8,055     9,553     9,542     8,936       Solute (1,000 of dollars)       1990       9,699     10,078     12,533     10,398     7,814     10,943     9,112     8,631</td><td>January     February     March     April     May     June     July     August     September     October       Guentity (1,000 square meters)       27,414     23,872     29,001     23,431     24,855     32,202     26,334     50,749     26,102     26,274       27,655     24,639     29,303     24,129     25,339     32,649     26,618     51,565     26,337     26,380       1990       31,010     26,815     33,602     32,227     24,420     36,247     28,631     28,988     27,948     (3)       Jatue (1,000 of dollars)       Value (1,000 of dollars)       Junt value (1,000 of dollars)       Job       Job       Job       Value (1,000 of dollars)       Job       Job       Job       Optic       Job       Optic       Job       Job <!--</td--><td>January     February     March     April     May     June     July     August     September     October     November      </td><td>January     February     March     April     May     June     July     August     September     October     November     December      </td></td></t<>	January     February     March     April     May     June     July     August       Quantity (1,000 square meters)       1989       27,414     23,872     29,001     23,431     24,855     32,202     26,334     50,749       27,655     26,639     29,303     26,129     25,339     32,649     26,618     51,565       1990       31,010     26,815     33,602     32,227     24,420     36,247     28,631     28,988       31,209     26,890     33,978     32,268     24,571     36,625     29,896     29,673       Value (1.000 of dollars)       1989       5,491     6,855     7,835     6,446     8,812     8,895     9,553     9,542       S,491     6,855     7,835     6,446     8,812     8,895     9,553     9,542       S,491     6,855     7,833     10,398     7,814     10,943     9,112     8,631       1990	January     February     March     April     May     June     July     August     September       9uentity (1,000 square meters)       1989     1989       27,414     23,872     29,001     23,431     24,855     32,202     26,334     50,749     26,102       27,655     24,639     29,303     24,129     25,339     32,649     26,618     51,565     26,337       1990       31,010     26,815     33,602     32,227     24,420     36,247     28,631     28,988     27,948       31,209     26,890     33,978     32,268     24,571     36,625     29,896     29,673     28,523       Value (1,000 of dollars)       1989       5,491     6,855     7,835     6,446     8,812     8,055     9,553     9,542     8,936       Solute (1,000 of dollars)       1990       9,699     10,078     12,533     10,398     7,814     10,943     9,112     8,631	January     February     March     April     May     June     July     August     September     October       Guentity (1,000 square meters)       27,414     23,872     29,001     23,431     24,855     32,202     26,334     50,749     26,102     26,274       27,655     24,639     29,303     24,129     25,339     32,649     26,618     51,565     26,337     26,380       1990       31,010     26,815     33,602     32,227     24,420     36,247     28,631     28,988     27,948     (3)       Jatue (1,000 of dollars)       Value (1,000 of dollars)       Junt value (1,000 of dollars)       Job       Job       Job       Value (1,000 of dollars)       Job       Job       Job       Optic       Job       Optic       Job       Job </td <td>January     February     March     April     May     June     July     August     September     October     November      </td> <td>January     February     March     April     May     June     July     August     September     October     November     December      </td>	January     February     March     April     May     June     July     August     September     October     November	January     February     March     April     May     June     July     August     September     October     November     December

Imports of thermal fax paper<sup>1</sup> from Japan and all sources, January 1989-September 1990

 Fax paper enters the United States under HTS items 3703.10.60 and 3703.90.60.
all imports under these classifications.
2 Totals for 1990 are for January-September.
3 Not available. these two subhead!

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

The following graph more clearly shows the trends in the price of imported fax paper from Japan. It tracks the unit value (in \$/sq meter) of imports from Japan on the y-axis and the months of the year on the x-axis. After generally increasing throughout 1989, the unit value of the subject imports fell by one-third between December 1989 and September 1990.<sup>1</sup>



### Unit value of imports of fax paper from Japan, January 1989-September 1990



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# APPENDIX F

# \* \* \*'S COMMENTS ATTACHED TO THE PURCHASERS' QUESTIONNAIRE

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APPENDIX G

## CHEMDESIGN'S EXPORT SALES AND POTENTIAL EXPORT CUSTOMERS



#### APPENDIX H

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COMMENTS RECEIVED FROM CHEMDESIGN ON THE IMPACT OF IMPORTS OF BENZYL PARABEN FROM JAPAN ON ITS GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, OR EXISTING DEVELOPMENT AND PRODUCTION EFFORTS

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## APPENDIX I

### SCHEDULE OF SALES OFFERS FOR BENZYL PARABEN BY VARIOUS SUPPLIERS TO \* \* \*

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