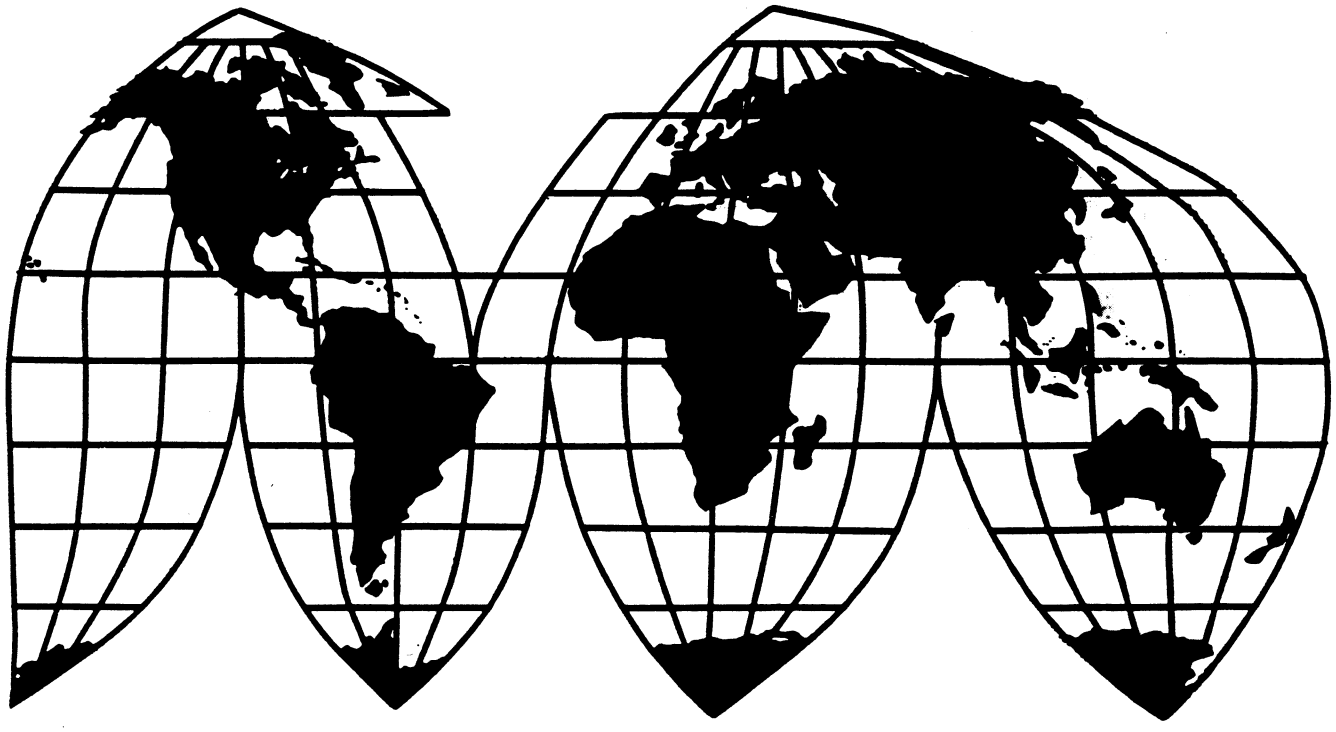
Color Negative Photographic Paper and Certain Chemical Components From Japan and the Netherlands

Investigations Nos. 731-TA-661 and 662 (Preliminary)

Publication 2687 **October 1993**

U.S. International Trade Commission



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Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

PART I

DETERMINATIONS AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-461 and 462 (Preliminary)

COLOR NEGATIVE PHOTOGRAPHIC PAPER AND CERTAIN CHEMICAL COMPONENTS FROM JAPAN AND THE NETHERLANDS

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan and the Netherlands of color negative photographic paper (CNPP) and certain chemical components[2] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On August 31, 1993, a petition was filed with the Commission and the Department of Commerce by Eastman Kodak Company, Rochester, NY, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of CNPP and certain chemical components from Japan and the Netherlands. Accordingly, effective August 31, 1993, the Commission instituted antidumping investigations Nos. 731-TA-661 and 662 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of September 9, 1993 (58 FR 47475). The conference was held in Washington, DC, on September 22, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] CNPP is all sensitized, unexposed silver-halide color negative photographic paper, whether in master rolls, smaller rolls, or sheets. The chemical components of CNPP are the chemical mixtures and compounds used in making CNPP. They include sensitized and unsensitized emulsions, couplers, dispersions, and their precursors. CNPP is provided for in subheadings 3703.10.30 and 3703.20.30 of the Harmonized Tariff Schedule (HTS) of the United States. Emulsions are provided for in HTS subheadings 3703.10.00 and 3707.90.30. Couplers, dispersions, and precursor compounds are provided for in HTS subheadings 3707.90.30, 3707.90.60, 2933.19.30, 2933.90.25, and 2934.90.20.

VIEWS OF THE COMMISSION

Based on the record in these preliminary investigations, we unanimously determine that there is a reasonable indication that the industry in the United States producing color negative photographic paper ("CNPP") and chemical components thereof is materially injured by reason of imports of CNPP and chemical components thereof from Japan and the Netherlands that allegedly are sold in the United States at less than fair value ("LTFV").[1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.[2] In applying this standard, the Commission weighs the evidence before it to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."[3] The U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."[4]

II. LIKE PRODUCT

To determine whether an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant industry as the "domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product..."[5] In turn, 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..."[6]

The Commission's like product determinations are factual, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[7][8] The Commission looks for clear dividing lines between like products,[9]

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[1] 19 U.S.C. § 1673b(a). Whether the establishment of an industry in the United States is materially retarded is not an issue in these investigations.

[2] 19 U.S.C. § 1673b(a). See also American Lamb v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F. Supp. 377, 386 (Ct. Int'l Trade 1992).

[3] American Lamb, 785 F.2d at 1001; see also Torrington Co. v. United States, 790 F. Supp. 1161, 1165 (Ct. Int'l Trade 1992).

[4] American Lamb, 785 F.2d at 1004.

[5] 19 U.S.C. § 1677(4)(a).

[6] 19 U.S.C. § 1677(10).

[7] See Torrington Co. v. United States, 747 F.Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

[8] The Commission generally considers a number of factors in analyzing like product issues including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. See, e.g., Calabrian Corp. v. United States, Slip Op. 92-69 (Ct. Int'l Trade, May 13, 1992); Torrington Co. v. United States, 767 F. Supp. 744 (Ct. Int'l Trade

(continued...)

and has found minor distinctions to be an insufficient basis for finding separate like products.[10]

The Department of Commerce has defined the imported products subject to these investigations as follows:

> For purposes of these investigations, color negative photographic paper (CNPP) is all sensitized, unexposed silver-halide color negative photographic paper, whether in master rolls, smaller rolls, or sheets. For purposes of these initiations, the chemical components of CNPP are also included in these investigations. The chemical components of CNPP are the chemical mixtures and compounds used in making CNPP.[11]

The "chemical components" of CNPP include:

> sensitized and unsensitized emulsions, couplers, dispersions and their precursors. Unsensitized silver-halide emulsions consist of silver-halide microcrystals dispersed in a gelatin and water matrix after preparation and washing to remove soluble salts. Unsensitized emulsions are naturally sensitive to blue and ultraviolet light, but cannot efficiently convert light to form a color image without further processing. Sensitized emulsions have been treated to increase their sensitivity across the entire spectrum and/or treated by the addition of spectral sensitizing dyes to make the emulsions selectively sensitive to specific wavelengths of light. A coupler is a colorless, water-insoluble chemical capable of reacting with a silver-halide development product to form a dye. A dispersion consists of a compound or compounds dispersed in a water-gel solution, and may contain organic solvents, chemicals to stabilize the coupler and dye.[12]

CNPP is silver-halide color negative photographic paper, sensitized but not exposed, which is used to make color photographic prints from color negative images. CNPP is composed of light sensitive chemical emulsions coated on a photographic-grade paper base. The light-sensitive emulsions contain silver halide (the light-sensitive chemical) and one of three dyes (cyan, magenta, and yellow) that are activated during the printing process when

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[8] (...continued)
1990), aff'd. 938 F.2d 1278 (1991); Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1170, n.7. (hereinafter ASOCOFLORES). No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a given investigation.

[9] See, e.g. Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People's Republic of China, Inv. No. 731-TA-621 (Final), USITC Pub. 2671 (August 1993).

[10] ASOCOFLORES, 693 F. Supp. at 1168-69; S. Rep. 249, 96th Cong., 1st Sess. 90-91 (1979); S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979). "It is up to [the Commission] to determine objectively what is a minor difference."

[11] 58 Fed. Reg. 50331 (September 27, 1993).

[12] Id.

exposed film is developed or "processed." Each of the three emulsion layers is sensitive to one of the three subtractive primary colors, and it is important that each layer react independently for the best color reproduction. To facilitate this, clear inactive interlayers of gelatin are added between emulsion layers. The gelatin interlayers prevent the light sensitive layers from mixing with each other. All current generation CNPP has a common basic structure, with the layers applied in the same order. It is primarily in the chemistry and physics of the emulsion layers and interlayers that CNPP differs from manufacturer to manufacturer.[13]

The manufacture of CNPP begins with the lamination of the base paper with a polyethylene/titanium oxide chemical solution. The CNPP is next "sensitized." There are three steps in the sensitizing process: (1) making, which involves preparing the chemical solutions with which the paper will be coated; (2) melting, wherein the emulsions, interlayers, and the gelatin overcoat are liquified and prepared for delivery in the form of prepared mixtures to coating machines; and (3) coating, where high speed coating machines apply the prepared emulsions, dispersions, and gelatin solutions to the paper or base support. The final step is slitting the paper to the desired dimensions and repacking for shipment to the customer.[14]

Chemical components for the manufacture of CNPP include emulsions, couplers, dispersions and their precursors. While petitioner had proposed in the petition that only chemical components for which there are no significant independent uses (other than for manufacture of CNPP) be included in the scope,[15] the Department of Commerce did not specifically include the proposed phrase "for which there are no significant uses" in its definition of chemical components.[16] Commerce stated, "As these investigations progress, we will consider any arguments raised regarding the inclusion of the chemical components of CNPP in the same class or kind of merchandise as the CNPP itself. We will allow all interested parties an opportunity to comment on this issue."[17] Thus, the scope currently includes all emulsions, couplers and dispersions, and precursors used in manufacturing of CNPP.

Commerce's scope presents significant difficulties for the Commission's data-gathering and analysis. First, the precise identities of the chemical components and the producers of those components that are included in the scope are unclear. Second, the point at which these components become dedicated for use in the manufacture of CNPP, or whether they have significant independent uses, is also unclear. As currently defined, Commerce's scope includes all precursors, irrespective of how far removed they may be from the actual production of CNPP. The data collected in these preliminary investigations, as well as the parties' arguments, are based on petitioner's proposed scope definition, i.e., the data are limited to chemical components that are dedicated for use in the manufacture of CNPP and their corresponding producers. In any final investigations, we will examine in greater detail the precise identity of these chemical components, and will expect the parties to provide specific information regarding the various types of chemicals that serve as emulsions, couplers, dispersions, and precursors. We will then identify all producers of these chemical components and seek data regarding their operations.

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[13] Report at I-4.

[14] Report at I-9-10.

[15] Petitioner has indicated that it had intended "precursors" to be included in the scope only when they were so far along in the process of making a subject coupler that the precursor itself had no significant use other than incorporation in the coupler. Kodak's Post-Conference Brief at Exhibit 2-A, p. 17.

[16] See 58 Fed. Reg. 50331 (September 27, 1993).

[17] Id.

The pivotal like product issue in these investigations is whether CNPP and chemical components used to coat paper to produce CNPP constitute a single like product or separate like products. Additionally, although not argued by the parties, we briefly address whether amateur and professional CNPP are separate like products.

A. Whether CNPP and the chemical components used in making CNPP are separate like products.

Petitioner argues that chemical components and CNPP constitute a single like product. Respondents Fuji and Konica[18] argue that the chemical components and CNPP are separate like products. In these investigations, because potential like products exist at different stages of processing, we have employed a semifinished product analysis.

We have determined to treat CNPP and the chemical components used in the manufacture of CNPP as a single like product for purposes of these preliminary investigations. In making this determination, we analyzed the five factors the Commission traditionally considers in a semifinished product analysis:
(1) the necessity for, and costs of further processing; (2) the degree of interchangeability of articles at different stages of production; (3) whether the article at an earlier stage of production is dedicated to use in the finished article; (4) whether there are significant independent uses or markets for the finished and unfinished articles; and (5) whether the article at an earlier stage of production embodies or imparts to the finished article an essential characteristic or function.[19]

Regarding the necessity for, and costs of, further processing, all parties agree that it is necessary to process further the chemical components to form CNPP. This process involves, in large part, the melting (i.e., preparing the chemical solutions), and the application of these solutions onto paper to form CNPP. A substantial amount of sophisticated technology and capital investment is required to transform the chemical emulsions into the finished color paper ready for the customer.[20] The information in the record indicates that the coating process adds substantial value to the final product.[21]

Regarding interchangeability, all parties agree that the chemical components are not interchangeable with the finished paper. The Commission has noted, however, that it would not expect to find interchangeability when dealing with components, because "they are, by definition, something less than a finished product."[22]

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[18] The use of the term "Konica" denotes Konica Corporation (KC), a Japanese producer of CNPP and chemical components; Konica U.S.A. Inc. (KU), an importer of CNPP and Konica Manufacturing U.S.A. (KMU), a domestic producer of CNPP made with imported chemical components. KU and KMU are wholly owned by KC. When referring the arguments of the parties, the term "Konica" will be used. Otherwise, the initials of the corporate entity will be used.

[19] See, e.g., Uranium from Tajikistan and Ukraine, Inv. Nos. 731-TA-539-D and 539-E (Final) USITC Pub. 2669 at 10 n.24 (August 1993); Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Preliminary) USITC Pub. 2637 at 11 n.32 (May 1993). No single factor is dispositive, and the Commission may consider other factors which it deems relevant based on the facts of a given investigation in determining whether semifinished and finished products should be included in the same like product. See, e.g., 3.5" Microdisks and Media Therefor from Japan, Inv. No. 731-TA-389 (Final) USITC Pub. 2170 at 7 (March 1989).

[20] See e.g., Report at I-11-12.

[21] Report at I-12 and I-25.

[22] See, e.g, Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof from the People's Republic of China, Inv. No. 731-TA-621 (Preliminary), USITC Pub. 2552 (August 1992) at 9, quoting Certain Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan, Inv. Nos. 731-TA- 426-428 (Preliminary), USITC Pub. 2156 (February 1989) at 14.

Determining whether the chemical components are "dedicated for use" in making CNPP or whether there are "significant independent uses and markets" for the finished and unfinished articles is complicated, at least in part because of the difference between the scope adopted by Commerce and that requested by petitioner. The record contains information, based on the questionnaire responses and the arguments of parties, that there are a significant number of chemical components for which there is no significant use other than in the manufacture of CNPP.[23] [24] Since these chemicals, by definition, are dedicated for a certain use, they have no independent use. Given this and the fact that they are essential to the production of CNPP, for purposes of these preliminary investigations, we include them in the same like product as the finished CNPP.[25]

There is also evidence that other chemicals, including precursors that are used in producing CNPP or CNPP chemical components, are also used extensively in the production of products other than CNPP or CNPP chemical components.[26] While such products might ordinarily not be appropriately included in the same like product as finished CNPP, we lack sufficient information at this time to identify those particular chemicals and to establish whether one or more clear dividing lines exist between those chemicals that are dedicated for use in making CNPP and those that are not. Therefore, for purposes of these preliminary investigations, we are including all chemicals used in the production of CNPP within the same like product as the finished CNPP.

In any final investigations, we will explore extensively the nature of the chemicals used in the manufacture of CNPP in order to ascertain whether there is a clear dividing line between those for which there is no significant independent market or significant use other than in the manufacture of CNPP, and those that have significant other uses or markets. We will also examine whether these non-dedicated chemicals all belong in a single like product or whether they fall into multiple like products. We also will reconsider the appropriateness of including chemicals that are dedicated for use in the manufacture of CNPP in the same like product as CNPP.[27]

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[23] See, e.g., Report at I-3-5.

[24] Konica has argued that there is a significant independent market for the chemical components. The evidence presented in these preliminary investigations is insufficient, however, to ascertain that there is an independent market for chemical components. We will examine the nature of any significant independent market for any of the chemical components in any final investigations.

[25] Fuji and Konica argue that the essential characteristic of the CNPP is achieved during the coating process, which even petitioner has acknowledged involves "elaborate and expensive machinery." However, Konica also asserts that they oppose the petition because it covers imports of components that are essential for the operation of its U.S. factory. Konica's Post-Conference Brief at 1-2.

[26] Report at I-3-5.

[27] The scope of Commerce's investigations defines chemical components used in making CNPP to include emulsions, couplers, dispersions, and their precursors. Absent a more precise definition of the individual chemical components, Commissioner Crawford and Vice Chairman Watson note that it would be reasonable to find that chemical components identical to those in Commerce's scope are "like" subject imports. Because these components are complementary products used in making CNPP, each component could constitute a separate like product. As a result, the domestic producers of each component would constitute separate domestic industries for which data will be required. In addition, an analysis of the precursor chemicals could result in a finding of multiple like products and corresponding domestic industries. Therefore, in making its material injury determination, it will be necessary for the Commission to obtain information on the chemical components, imports, domestic producers, domestic consumption and other relevant factors on these broadly defined chemical components and their precursors.

B. Whether Amateur and Professional CNPP Constitute Separate Like Products

CNPP is marketed by most manufacturers and importers as either amateur paper or professional paper. Although no party has argued that amateur and professional paper should be separate like products, we have considered this issue in our like product analysis.[28] Both amateur and professional CNPP are produced on the same manufacturing lines and differ primarily in the emulsion formula specification.[29] The information on the record indicates that all types of CNPP are made in the same plant, with the same equipment and workers.

Based on the similarities in production processes, manufacturing facilities and end use, we include both amateur and professional CNPP in the like product.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

As previously stated, the domestic industry consists of the "domestic producers" of a "like product." [30] We find the domestic industry to include all manufacturers of CNPP and chemical components used to manufacture CNPP. The information in these preliminary investigations indicates that Konica Manufacturing U.S.A. ("KMU")[31] and Kodak are members of this industry. We note, however, as discussed in the like product section above, that there may be additional manufacturers of chemical components used in the manufacture of CNPP. In any final investigations, we intend to ascertain the identity of any additional producer or producers of chemical components who are members of the domestic industry or industries.

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[28] The vast majority of professional paper is used for portraits by wedding photographers, portrait studios and mass portrait and school finishing labs. Report at I-3-5.

[29] The emulsion formula is a critical ingredient in the production of CNPP. Kodak uses three different emulsion formulas for its professional CNPP and one formula for its amateur paper. Report at I-4.

[30] Section 771(4)(A) of the Tariff Act of 1930 defines domestic industry as:

> the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.
> 19 U.S.C. § 1677(4)(A).

In deciding whether a firm qualifies as a domestic producer, the Commission has analyzed the overall nature of a firm's production-related activities in the United States. Specifically, the Commission has examined such factors as: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantities and types of parts sourced in the United States, and (6) any other costs and activities in the United Stated directly leading to production of the like product, including where production decisions are made. The Commission has also stated that it will consider any other factors it deems relevant in light of the specific facts of any investigation.

[31] Konica Manufacturing USA (KMU) manufacturers CNPP using chemical components imported from its Japanese parent company, Konica Corp. (KC). KMU opened in September 1989 to produce CNPP for the United States and Canada. No party has argued that the KMU is not a domestic producer of CNPP because of its importation of the chemicals.

Based on the significant value added during the manufacture of CNPP, the capital investment in the United States, the number of production employees, and the large amount of technology involved in the production of CNPP, we include KMU as a domestic producer of CNPP.

We additionally must consider whether KMU is a related party, and, if so, whether appropriate circumstances exist to exclude it from the domestic industry.[32] Under section 771(4)(B) of the Act, producers who are related to exporters or importers, or who are themselves importers of the dumped merchandise, may be excluded from the domestic industry in appropriate circumstances.[33]

The rationale for excluding related parties is the concern that domestic producers who are related parties may be in a position that shields them from any injury that might be caused by the imports.[34] The Commission has stated previously that domestic producers who substantially benefit from the importation of the subject merchandise are properly excluded as related parties.[35] The factors the Commission has examined include:

> (1) the position of the related producers vis-a-vis the rest of the domestic industry;
>
> (2) the reasons why the domestic producers have chosen to import the product under investigation -- to benefit from the unfair trade practice, or to enable them to continue production and compete in the domestic market; and
>
> (3) the percentage of domestic production attributable to related producers. [36]

The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. [37]

We find that KMU is a subsidiary of Konica Corporation ("KC"), an exporter of the subject merchandise, and also imports the subject chemical components from KC in Japan. Further, KMU is an affiliate of Konica U.S.A., Inc., ("KU") an importer of CNPP and subsidiary of KC. Thus, KMU is a related party under the statute.

For purposes of these preliminary investigations, we find that appropriate circumstances do not exist to exclude KMU from the domestic industry. The current record is inconclusive as to whether KMU is shielded from any injury caused by the subject imports by virtue of its relationship with KC or KU, or its imports of the allegedly dumped CNPP chemical components.[38] Based on the evidence currently available, KMU's interests appear to lie more in domestic production than with importation. KMU comprises *** percent of U.S. production of CNPP in 1992.[39] The related importing company, KU, is only importing

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[32] Kodak argues that the Commission should exclude KMU from the domestic CNPP industry because its relationship with its Japanese parent company, Konica Corporation, shields it from the injurious effects of dumped CNPP imports. Both Konica and Fuji oppose the exclusion of KMU from the domestic industry.

[33] 19 U.S.C. § 1677(4)(B).

[34] See S. Rep. No. 249, 96th Cong., 1st Sess. at 83 (1979).

[35] See, e.g., Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989)(related party appeared to benefit from dumped imports), aff'd without opinion, 904 F.2d 24 (Fed. Cir. 1990); Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (1986).

[36] See Empire Plow Co., 675 F. Supp. at 1353-54 (commenting, with respect to factors (1) and (2) that "[t]his is a reasonable approach when viewed in light of the legislative history...").

[37] See, e.g., Rock Salt from Canada, Inv. No. 731-TA-239 USITC Pub. 1798 (1986) at 12.

[38] We note that KMU's financial performance does not indicate that it is benefitting from its importation of chemical components. ***.

[39] Report at Table 3.

CNPP in sheet-form, which KMU lacks the capability to produce at its domestic facilities.[40] Further, KU's imports of CNPP have *** during the period of investigation as domestic production at KMU has ***.

With respect to the importation of chemical components, KMU does not currently have a domestic manufacturing facility to produce these components. Because of the proprietary nature of the components, and the apparent current lack of any significant independent market in which to purchase the components,[41] we find that the importation of the chemical components is not a sufficient basis for excluding KMU for purposes of these preliminary investigations. We will, however, reexamine the question of excluding KMU in any final investigations. In particular, we intend to focus further on whether KMU's importation of allegedly dumped chemical components shields it from the effects of allegedly dumped subject imports.

IV. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication of material injury to a domestic industry by reason of allegedly dumped imports, the Commission considers all relevant economic factors which have a bearing on the state of the industry in the United States. These include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[42] In evaluating the condition of the domestic industry, we look at the domestic industry as a whole.[43]

The CNPP and chemical component industry features a number of distinct conditions of competition. There is substantial capital investment involved in the manufacture of CNPP.[44] The technology to produce CNPP is highly complex and evolves continually. Indeed, Kodak and Fuji have been among the top patent recipients in 1990, 1991, and 1992.[45] Improved color paper products generally are introduced every few years.[46] Thus, ongoing research and development is important to sustain a competitive position in the CNPP market.

The CNPP market includes various segments such as large photofinishing labs (mail order, wholesale, and captive retail labs), minilabs, stockhouses (or distributors) and the professional segment.[47] Over the last few years, most CNPP manufacturers have formed vertical ownership relationships with downstream photofinishers.[48] All of the related

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[40] Report at I-32.

[41] Report at I-22. We note that ***. Report at I-34. Chairman Newquist notes that this discussion is not relevant to his affirmative determination.

[42] 19 U.S.C. § 1677(7)(C)(iii).

[43] Welded Steel Pipe from Malaysia, Inv. No. 731-TA-644 (Preliminary), USITC Pub. 2620 at 19-20 and n.79 (April 1993) ("The Commission may take into account the departures from an industry or the unique circumstances of individual companies, but ultimately must assess the condition of the industry as a whole, and not on a company-by-company basis.") citing Metallerken Nederland B.V. v. United States, 728 F. Supp. 730, 735 (Ct. Int'l Trade 1989).

[44] E.g., Report at I-11 and Table 18.

[45] Report at I-8.

[46] Report at I-8.

[47] Report at I-17-18.

[48] Kodak has a 49 percent ownership interest in Qualex, a large wholesale photofinisher. Qualex controls 64 central labs and 600 mini/microlabs. Fuji has also acquired wholesale photofinishers

(continued...)

photofinishers almost always purchase CNPP only from their related supplier. Manufacturers of CNPP also have entered into strategic alliances with wholesale photofinishers and minilabs. Under an alliance, both sides share technical/marketing information and provide joint advertising to promote their current products and to ensure the future success of both the CNPP manufacturer and the photofinisher.[49]

Further, CNPP producers have incentive programs that bundle the sales of other products with sales of CNPP. For example, Kodak's Colorwatch program links the sale of CNPP to the sale of the Kodak chemistry. Kodak heavily advertises this program on a retail level, utilizing Kodak's high-profile brand name recognition to convince consumers to purchase only Kodak products from film to the printed picture. Similarly, Fuji has a Color Circle plan, that is primarily targeted to smaller minilab owners to provide technical service and advice to photofinishers. Additionally, this program offers bonus points for CNPP purchases redeemable for selected Fuji films, cameras, in-store merchandise, advertising, and waste disposal.[50]

Demand for CNPP is largely determined by patterns of demand within the U.S. photographic market. The demand for chemical components is, in turn, driven by the demand for CNPP. Although CNPP and its chemical components are part of the same like product, aggregating production-related data for CNPP and chemical components is not particularly useful in these investigations because it can result in double counting. Production of chemical components is an inherent part of producing CNPP. The chemical components for which data were obtained in these preliminary investigations were those components dedicated for use in the manufacture of CNPP, and therefore would be internally consumed in the production of the CNPP. For purposes of these preliminary investigations, in considering the condition of the domestic industry, we have placed greater weight on the indicators for that portion of the industry producing CNPP.[51]

Apparent consumption by quantity of CNPP increased throughout the period examined. U.S. consumption of CNPP increased from 1990 to 1992. In interim (January-June) 1993, more CNPP was shipped than in interim 1992. In contrast, the value of shipments actually declined from 1990 to 1991, and then increased in 1992. The value of shipments was lower in interim 1993 than in interim 1992.[52] The domestic producers' share of the quantity of apparent consumption increased steadily from 1990 to 1992. U.S producers' share of apparent consumption was higher in interim 1993 compared with interim 1992.[53]

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[46] (...continued)
through its subsidiary Fuji Trucolor, which controls 13 central labs. Similarly, Konica's subsidiary, Konica Quality Photo controls 8 labs and 13 central labs. In late 1992, Fuji formed a "strategic alliance" (***) with MotoPhoto, one of the five largest minilab chains in the U.S. with 308 facilities. Since 1990, Konica has also sold CNPP to minilabs through its subsidiary, Fotomat, which has 170 labs. Report at I-18-19.

[49] Report at I-32-33.

[50] Report at I-33-34.

[51] Indeed, apparent consumption of chemical components roughly tracked reported increases in domestic production of CNPP (with the exception of the 1991-92 period when domestic manufacture of CNPP increased about *** percent in contrast to the *** percent increase for chemical components). Report at I-14.

[52] Report at Table 2. Apparent U.S. consumption of CNPP was *** million square feet in 1990; *** million square feet in 1991; and *** million square feet in 1992. In interim (January-June) 1992, apparent consumption of CNPP was *** million square feet compared with *** million square feet in interim 1993. Id.

[53] Report at Table 28. U.S. producers' share of the quantity of U.S. consumption of CNPP was *** percent in 1990; *** percent in 1991; *** percent in 1992; *** percent in interim 1992 and *** percent in interim 1993. Id.

Domestic production increased steadily throughout the period examined,[54] as did U.S. producers' capacity. Capacity utilization declined from 1990 to 1991, and then increased in 1992 to a level below that of 1990. Capacity utilization was lower in interim 1993 than in interim 1992.[55]

U.S. producers' domestic shipments increased steadily throughout the period of investigation.[56] U.S. producers' inventories increased from 1990 to 1991, and then declined in 1992 to levels below that of 1990. Inventory levels for interim 1993 were lower than those of interim 1992. Inventories as a ratio to total shipments declined steadily from 1990 to 1992. Inventories as a ratio of total shipments were lower in interim 1993 than in interim 1992.[57]

The number of production workers and hours worked declined during the period examined. Productivity and hourly compensation, however, increased during the period.[58]

U.S. producers' net sales increased from 1990 to 1992. During interim 1993, however, U.S. producers' net sales were less than in interim 1992. The financial indicators declined throughout most of the period. Operating *** as a percentage of net sales *** from 1990 to 1992. This operating *** margin was *** in interim 1993 compared with interim 1992. The industry reported an *** in 1991. In the remaining periods of investigation, pre-tax net income-or-loss margins followed trends similar to the operating income margins.[59] Capital expenditures *** throughout the period of investigation. ***, research and development expenditures *** throughout the period of investigation.[60] [61]

V. CUMULATION

In determining whether there is material injury by reason of the allegedly LTFV imports, the Commission is required to cumulatively assess the volume and effects of imports from two or more countries of like products subject to investigation if such imports compete with each other and with the like product of the domestic industry in the United States market.[62]

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[54] Report at Table 6. Domestic production increased from *** million square feet in 1990 to *** million square feet in 1991; and again to *** million square feet in 1992. Domestic production was *** million square feet in interim 1993 compared with *** million square feet in 1992.

[55] Report at Table 6. Domestic capacity to produce CNPP was *** million square feet in 1990; *** million square feet in 1991; *** million square feet in 1992; *** million square feet in interim 1992; and *** million square feet in 1993. Capacity utilization was *** percent in 1990; *** percent in 1991; *** percent in 1992; *** percent in interim 1992 and *** percent in interim 1993. Id.

[56] Report at Table 7.

[57] Report at Table 8.

[58] Report at Table 10. The number of production workers producing CNPP was *** in 1990; *** in 1991; *** in 1992; *** in interim 1992; and *** in interim 1993. Id. The number of hours worked by these production workers increased from *** in 1990 to *** in 1991; and then declined to *** in 1992. Hours worked for interim 1993 was *** compared with *** in interim 1992. Hourly wages were [$***] in 1990; [$***] in 1991; [$***] in 1992; [$***] in interim 1992; and [$***] in interim 1993. Id.

[59] Report at Table 11.

[60] Report at I-26.

[61] Based upon examination of the relevant statutory factors, Chairman Newquist and Commissioner Rohr conclude that there is a reasonable indication that the domestic industry producing CNPP and chemical components is currently experiencing material injury.

[62] 19 U.S.C. § 1677(7)(C)(iv); See Chaparral Steel Co. v. United States, 901 F.2d 1097, 1105 (Fed. Cir. 1990). However, the Commission has discretion not to cumulate imports from a particular country that are "negligible" and have no discernible adverse impact on the domestic industry. See 19 U.S.C. § 1677(7)(C)(v).

There is no dispute that imports of CNPP from Japan and the Netherlands are subject to investigation, have been marketed in the United States throughout the period of investigation, and compete with the domestic like product and with each other in the U.S. market.[63] At the conference, a witness for Fuji, the only importer from the Netherlands, was unable to identify any meaningful distinction between Fuji's exports from the Netherlands and those from Japan.[64] Further, the manufacturers of CNPP agree that the domestically produced and the imported CNPP are interchangeable. All of these manufacturers also agree that quality differences among the various manufacturers do not represent a major factor in their sales of CNPP.

In view of the above, we determine that imports from Japan and the Netherlands compete with each other and with the domestic like product, and therefore cumulation of these imports is appropriate.

VI. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGED LTFV IMPORTS

In a preliminary antidumping investigation, the Commission is to determine whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[65] The Commission must consider the volume of imports, their effect on prices of the like product, and their impact on domestic producers of the like product.[66] Although the Commission may consider causes of injury other than the LTFV imports, it is not to weigh causes.[67] [68] [69] For the reasons discussed below, we find

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[63] Report at I-17-20.

[64] Preliminary Conference Transcript at 161. Similarly, Fuji's counsel also appeared to concede that cumulation of imports is appropriate. Id. at 172.

[65] 19 U.S.C. § 1673b(a).

[66] 19 U.S.C. § 1677(7)(B)(i).

[67] See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. at 1101. Chairman Newquist, Commissioner Rohr and Commissioner Nuzum further note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, SA v. United States, 704 F. Supp. at 1101.

[68] Vice Chairman Watson notes that the courts have interpreted the statutory requirement that the Commission consider whether there is material injury "by reason of" the subject imports in a number of different ways. Compare United States Engineering & Forging v. United States, 779 F. Supp. 1375, 1391 (Ct. Int'l Trade 1991)("[I]t must determine whether unfairly traded imports are contributing to such injury to the domestic industry...Such imports, therefore, need not be the only cause of harm to the domestic industry")(citations omitted) with Metallverken Nederland B.V. v. United States, 728 F. Supp. at 741 (affirming a determination by two Commissioners that "the imports were a cause of material injury") and USX Corp. v. United States, 682 F. Supp. 67, 69 (Ct. Int'l Trade 1988)("any causation analysis must have at its core the issue of whether the imports at issue cause, in a non de minimis manner, the material injury to the industry").

Accordingly, Vice Chairman Watson has determined to adhere to the standard articulated by Congress, in the legislative history of the pertinent provisions, which states that "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury." S. Rep. No. 249 at 275.

[69] Commissioners Brunsdale and Crawford note that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. They find that the clear meaning of the statute is to require a determination on whether the domestic industry is materially injured by reason of allegedly LTFV imports, not by reason of allegedly LTFV among other things. Many, if not most domestic industries, are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is

(continued...)

that there is a reasonable indication that the domestic industry producing CNPP and chemical components thereof is materially injured by reason of alleged LTFV imports from Japan and the Netherlands.

The volume of imports of CNPP from Japan and the Netherlands increased from 1990 to 1991, and then declined in 1992, although to levels above 1990.[70] [71] The volume of imports was greater in interim 1993 than in interim 1992.[72] [73] Although market penetration of the subject imports of CNPP in terms of quantity declined from 1990 to 1992, and was lower in interim 1993 than in interim 1992, subject import volume and market share nevertheless remained significant over the period examined.[74] [75]

During the period examined, price trends for both the imported and domestic product generally declined. The Commission asked U.S. producers and importers to report price and quantity information for their quarterly sales of CNPP, and to provide price data for their largest related and unrelated customers, as well as all related and unrelated customers. There was significant underselling by the imported product during the period examined, although there were some differences depending on whether sales to wholesalers, minilabs, or professional photofinishers were examined. Additionally, the extent of the underselling varied depending on whether total sales price comparisons or largest sale price comparisons were observed.[76]

Substitutability between the domestic like product and subject imports is also a factor we considered in evaluating the price effects of the imports. As a general matter, the more substitutable the alleged LTFV imports are with the domestic like product, the more likely unrelated consumers will base their purchasing decisions on price differences between the

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[69] (...continued)
causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249 at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id. at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the allegedly LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the alleged LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No 71, 100th Cong., 1st Sess. 116 (1987)(emphasis added).

[70] We note that there were no reported imports of the chemical components from the Netherlands during the period examined.

[71] Report at Table 26.

[72] Id.

[73] The value of chemical components from Japan *** from [$***] million in 1990 to [$***] million in 1991; and then *** to $***] million in 1992. The value of chemical components from Japan was [$***] million in interim 1993 compared with [$***] million in interim 1992. Report at Table 27.

[74] Table 28. The market penetration of the subject imports of chemical components in terms of value *** from *** percent in 1990 to *** percent in 1991; and then *** to *** percent in 1992. The market penetration of the subject imports of chemical components in terms of value was *** percent in interim 1993 compared with *** percent in interim 1992. Report at Table 28.

[75] We note that neither an increase in imports nor an increase in market share is required for an affirmative determination. Rather, the statute instructs the Commission to assess the significance of the volume or share of imports. 19 U.S.C. § 1677(7)(C)(i); Iwatsu Electric Co. v. United States, 758 F. Supp. 1506, 1513-14 (Ct. Int'l Trade 1991); USX Corp. v. United States, 655 F. Supp. 487, 490 (Ct. Int'l Trade 1987).

[76] Report at Tables 32-34. Specifically, when looking at sales of CNPP to wholesale photofinishers, ***.

products.[77] For purposes of these preliminary investigations, we find that there is a significant degree of substitutability between the domestic and imported products.[78]

Both domestic and foreign manufacturers agree that the U.S. produced and imported CNPP are interchangeable. Quality differences among the various manufacturers have not represented a major factor in their sales of CNPP. Although Fuji agrees that there are no significant quality differences for CNPP sold to the amateur market, it argues that quality differences do represent an important and growing factor in the professional photofinishing market segment. Fuji argues that the better dye stability of its product results in a print that resists fading for longer periods of time. Fuji acknowledges, however, that the consumer's perception of quality differences among the various manufacturers (especially Fuji and Kodak), is slight. Because these quality differences are slight, and the professional market is small, the substitutability is not reduced significantly.

In light of the significant degree of substitutability, coupled with significant underselling, declining domestic prices and relatively low and declining import prices, we find a reasonable indication that lower prices of the allegedly LTFV imports have depressed domestic prices.[79] [80]

We also find that the significant volume and market share of the subject imports and price depressing effect of the subject imports have had an adverse effect on the domestic industry, as reflected in the declining profitability during the period examined.[81]

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[77] Even where a strategic relationship or other consideration requires a photofinisher to purchase only a domestic producer's CNPP, the significant degree of substitutability between different producers' CNPP products will increase the likelihood of injury from any LTFV imports. While the strategic relationship may keep a particular photofinisher from switching to the unfairly priced import -- at least during the term of the agreement -- the photofinisher may not be able to compete effectively in the market for photo developing unless the domestic CNPP producer reduces its price in response to an unfairly low import price. And if the photofinisher is not competitive, it is likely to make fewer sales and therefore purchase less CNPP. Chairman Newquist and Commissioner Nuzum do not join in this discussion.

[78] Chairman Newquist notes that in most investigations the like product analysis and determination based on characteristics and uses establishes a reasonable degree of substitutability, thus further inquiry into substitutability issues is not usually warranted.

[79] As discussed above, there a number of factors that may affect the purchasing decisions of customers, including incentives, advertising packages, and name recognition. Further, corporate relationships and alliances also clearly influence purchasing decisions. We will examine further in any final investigations the extent to which these other factors or price premiums are reflected in the prices of CNPP, or may be considered to be "non-price" factors.

[80] Another factor considered by Commissioners Brunsdale and Crawford is the magnitude of the dumping margin, which provides information on how much below a fair level the import price is. The greater the difference between the actual price of the imports and the fair price level, the more likely it is that the domestic industry is being materially injured by unfair imports. In these preliminary investigations, alleged margins for subject imports from Japan range from 201.43 percent to 313.47 percent, and for imports from the Netherlands they range from 269.31 to 297.84 or from 92 to 100 percent, depending on the basis for determining foreign market value. (58 Fed. Reg. 50331, 50332-3) While the alleged margins are little more than petitioner's claims, they are the best information currently available concerning the level of the dumping and suggest that the price of imported CNPP may be significantly below fair levels. If subject imports had been priced at fair levels, it is likely that the domestic industry would have been able to significantly increase its sales or prices, or possibly both, and thus would have been materially better off. Therefore, we find a reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV subject imports.

[81] Vice Chairman Watson declines to draw this conclusion based on the evidence gathered in these preliminary investigations.

CONCLUSION

Based on the information of record in these preliminary investigations, we determine that there is a reasonable indication that the domestic industry producing CNPP and chemical components thereof is materially injured by reason of imports of alleged LTFV imports from Japan and the Netherlands.

PART II

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

On August 31, 1993, a petition was filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by counsel for Eastman Kodak Company (Kodak), Rochester, NY, alleging that an industry in the United States is being materially injured and is threatened with further material injury by reason of imports from Japan and the Netherlands of color negative photographic paper (CNPP)[1] and certain chemical components used to produce CNPP (chemical components)[2] that are alleged to be sold in the United States at less than fair value (LTFV).

Accordingly, effective August 31, 1993, the Commission instituted antidumping investigations Nos. 731-TA-661 and 662 (Preliminary) under section 733(a) of the Tariff Act of 1930 (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

The statute directs the Commission to make its preliminary determinations within 45 days after receipt of the petitions or, in these investigations, by October 15, 1993. Notice of the institution of these investigations 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 September 9, 1993 (58 FR 47475). Commerce published its notice of initiation in the Federal Register of September 27, 1993 (58 FR 50331).[3] The Commission held a public conference in Washington, DC, on September 22, 1993, at which time all interested parties were allowed to present information and data for consideration by the Commission.[4]

PREVIOUS INVESTIGATIONS

Prior to the current investigations, there were two Commission antidumping inquiries concerning color photographic paper[5] from Japan and West Germany (inquiry Nos. AA1921-Inq.-11 and AA1921-Inq.-12).[6] On the basis of information developed during the course of those inquiries,

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[1] CNPP is defined as sensitized, unexposed, silver-halide color negative photographic paper, whether in master rolls, smaller rolls, or sheets. CNPP includes any sensitized paper used for producing prints from color negative film; it may also be used to form color positives from color negative images created digitally (electronically) on a variety of display devices, including cathode ray tubes.

[2] Chemical components are those chemical mixtures and compounds used in making CNPP. Such chemical components include sensitized and unsensitized emulsions, couplers, dispersions, and their precursors.

[3] Copies of the Commission's and Commerce's Federal Register notices are presented in app. A.

[4] A list of the participants in the conference is presented in app. B.

[5] The covered product was silver-halide color negative photographic paper (sensitized but not exposed), the same product subject to the current investigations.

[6] On Mar. 6, 1978, the Treasury Department received a petition on behalf of Minnesota Mining and Manufacturing Co. (3M Co.), St. Paul, MN, indicating a possibility that photographic color paper from Japan and West Germany was being, or was likely to be, sold in the United States at LTFV. On Apr. 7, 1978, the Commission received advice from Treasury that it was initiating antidumping investigations with respect to photographic color paper from Japan and West Germany and that information developed during Treasury's preliminary investigations led to the conclusion that there was substantial doubt whether an industry in the United States was being or was likely to be injured by reason of the importation of such merchandise into the United States. Accordingly, on Apr. 7, 1978, the Commission instituted inquiries Nos. AA1921-Inq.-11 and AA1921-Inq.-12.

At the time of the inquiries, there were two U.S. firms that produced photographic color paper: 3M Co. and Kodak. Kodak, the largest U.S. producer, did not support or oppose the petition. A third company, GAF Corp., ceased production of photographic color paper in July 1977, claiming alleged unfair trade practices by Kodak as the reason for its withdrawal from the industry. See Photographic Color Paper from Japan and West Germany, Inq. Nos. AA1921-Inq.-11 and AA1921-Inq.-12, USITC Publication 885, May 1978.

the Commission determined that there was no reasonable indication that any industry in the United States was being or was likely to be injured by reason of the subject imports.

In addition, the Commission of the European Economic Community (EC) received an antidumping complaint in August 1983 on behalf of Agfa-Gevaert (Agfa), the largest single producer in the Community, concerning imports of CNPP from Japan.[7] Japanese exporters (Fuji Photo Film Co. and Konishiroku Photo Industry Co.) subsequently agreed to undertakings under the terms of which they increased their selling prices of CNPP in the Community, and, in May 1984, the European Commission terminated the antidumping proceedings. The undertakings expired in 1989 pursuant to EC dumping statutes.

THE PRODUCTS

The imported products subject to these investigations are CNPP and chemical components used to produce CNPP.

Description and Uses of Subject CNPP

CNPP is silver-halide color negative photographic paper, sensitized but not exposed. It is used to make color photographic prints from color negative images.[8] CNPP is composed of light-sensitive chemical emulsions coated on a photographic-grade paper base (see figure 1).[9] The light-sensitive emulsions contain silver halide (the light-sensitive chemical) and three dyes (cyan, magenta, and yellow), which are activated during the printing process when exposed film is developed or "processed." Each of the three emulsion layers is sensitive to one of the three subtractive primary colors, and it is important that each layer react independently for the best color reproduction.[10] To facilitate this, clear inactive interlayers of gelatin are added between emulsion layers. The gelatin interlayers prevent the light-sensitive layers from mixing with each other. An overcoat that serves as a final protective layer also is added. All current-generation CNPP has a common basic structure, with the layers applied in the same order. It is primarily in the chemistry and physics of the emulsion layers and interlayers that CNPP differs from manufacturer to manufacturer.

CNPP is produced with various surface textures such as glossy, luster, or matte. These surface textures are the result of embossing during the paper manufacturing process, i.e., as the paper is being pressed and dried, it is passed under a roller with either a smooth surface (for a glossy finish) or a patterned surface. Because this does not involve a separate manufacturing process (simply the use of the requested embossing roller), there is little, if any, difference in cost.

The subject product is further marketed by most manufacturers as amateur paper or professional paper. Shipments of amateur paper account for 85 percent of the U.S. market, and professional paper accounts for the remaining 15 percent. The vast majority of professional paper is used for portraits by wedding photographers, portrait studios, and mass portrait and school photo

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[7] Two other Community producers, Kodak (London, United Kingdom) and 3M Co. (Milan, Italy) also stated to the Commission that they had been injured by dumped imports of CNPP from Japan.

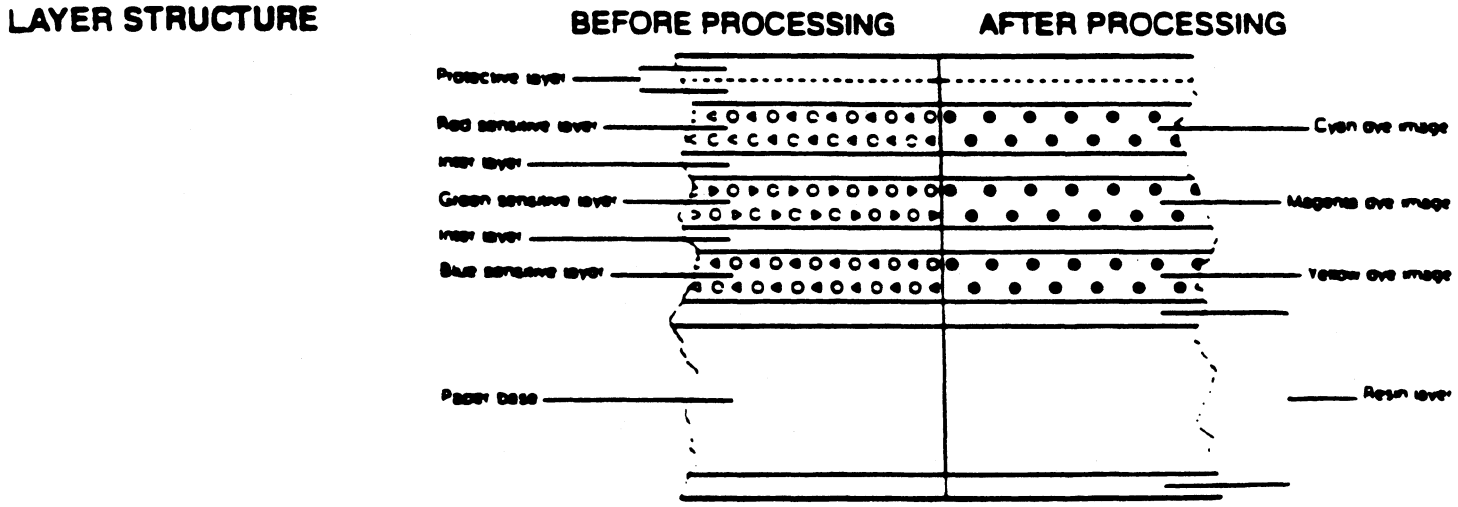
[8] CNPP may also be used to print color negative images that are computer-enhanced or manipulated on digital devices (including cathode ray tubes). Digital images (which also can be stored on magnetic discs or tape, or telecommunicated) can be printed onto medium other than CNPP, such as plain paper.

[9] A typical sheet of photographic color paper is about 0.01 inch in thickness; the emulsion layers account for approximately 5 percent of the total thickness and the coated base paper accounts for 95 percent.

[10] The three silver-halide emulsion layers are themselves complex chemical products consisting of a number of compounds, each of which may contain as many as *** or more components produced to exacting levels of precision and purity. Petition, p. 11. Those chemical components (including their precursors) for which there are no significant independent uses other than the manufacture of CNPP are defined by petitioner as within the scope of these investigations and are further discussed in the next section of this report.

Figure 1
Basic Structure of Color Negative Photographic Paper

Basic Physical Structure of Color Negative Photographic Paper



Source: Konica Corporation, Technical Data Sheet, Konica Color QA Paper Type A3

finishing labs. A small share of professional paper also is purchased by commercial labs catering to advertising agencies and industry/product photographers. The two paper types are produced on the same manufacturing lines and differ primarily in the emulsion formula specification.[11] ***.[12]

Most CNPP is shipped by the manufacturer in the form of "smaller rolls" in widths that generally correspond to the length or width of finished photographs. However, there are also shipments of "master rolls" or (less frequently) of sheets. Master rolls (ranging from 40 to 70 inches in width) are typically sold to large-scale processors or distributors, which slit the CNPP into smaller rolls prior to photo processing.

Description and Uses of the Subject Chemical Components

Chemical components are defined by petitioner to include chemical mixtures and compounds (including their precursors) used in making CNPP and for which there are no significant independent uses.[13] Such chemical components include sensitized (whether chemically or spectrally) and unsensitized emulsions, couplers, and dispersions.[14] Because of the complexity of the manufacturing process for chemical components and its proprietary nature, petitioner cannot define the subject chemical components using chemical formulas. Although different firms all use chemical components for the same function, namely to produce CNPP, specific products may differ substantially in their chemical structures from manufacturer to manufacturer.[15]

Many of the chemicals required for the manufacture of CNPP (the gelatin, for example) have numerous independent uses other than in the manufacture of CNPP and thus, as defined by petitioner, are not subject to these investigations. Figure 2 diagrams the various input chemicals and their combinations, and identifies the stages at which they become subject products during Fuji's production process. Fuji's engineers calculate that at stage A of figure 2 subject chemicals account for *** percent and nonsubject chemicals for *** percent of the value of all chemicals used to produce CNPP.[16] [17]

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[11] The emulsion formula is a critical ingredient in the production of CNPP. Kodak uses three different emulsion formulae for its professional CNPP and one formula for its amateur paper. Transcript, pp. 81-82. ***. Staff meeting with Fuji officials, Sept. 14, 1993.

[12] Kodak's postconference brief, exhibit 2-A, p. 21.

[13] In its initiation notice (58 FR 50331, Sept. 27, 1993), Commerce did not include the phrase "and for which there are no significant independent uses" in its definition of the scope of the investigations. Commerce further noted that "As these investigations progress, we will consider any arguments raised regarding the inclusion of the chemical components of CNPP in the same class or kind as the CNPP itself."

[14] The emulsions contain the silver-halide crystals that are the light-sensitive element. Unsensitized emulsions are naturally sensitive to light, but cannot efficiently convert light to form a color image without further processing. Sensitized emulsions have been treated to increase their sensitivity across the entire spectrum (chemical sensitization) and/or treated by the addition of spectral sensitizing dyes to make the emulsions selectively sensitive to specific wavelengths of light (spectral sensitization).

Couplers are colorless chemicals that react with the chemical processing solutions to form a dye when exposed film is developed. The selection of a particular coupler (and consequent color purity of the dye) has a direct impact on the final image.

Dispersions consist of a compound or compounds (e.g., a coupler) dispersed in a water-gel solution, and may contain organic solvents, chemicals necessary to stabilize the couplers and dyes.

During the production process (which is described in more detail in the section of this report entitled "Manufacture of the Subject CNPP and Chemical Components"), the emulsions and dispersions are coated onto the paper base. The coupler is an input to a dispersion, and a coupler precursor is an input to a coupler. Petition, p. 8; Kodak testimony at the conference, transcript, p. 54; and Kodak's postconference brief, exhibit 2-A, p. 2.

[15] Kodak's postconference brief, exhibit 2-A, p. 2.

[16] Fuji's postconference brief, p. 4.

Figure 2
Chemical components flow process

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Quality Issues and Technological Development of the Products

As noted, CNPP is used to make color photographic prints. The quality of the final print is dependent on a number of factors including the film, the developing and printing processes, and paper. Final print quality also is frequently a subjective judgment on the part of the viewer.[18]

Nevertheless, quality control is of primary concern to color paper producers, and sophisticated machinery has been developed both to improve the product and test it for consistency.[19] The qualities of color paper considered to be critical are:

1. Sharpness or picture contrast;

2. Overall color rendition (a function of the dyes used); and

3. Dye stability (a measure of the fade resistance of the print to light) and, to a much lesser extent, the amount of yellowish stain formation (a measure of the amount of yellowish stain that forms over time in dark storage).

The tendency of prints to fade over time, especially when exposed to light, is now receiving increased attention.[20] [21] As noted earlier, there are three image dyes present in a color print. During the fading process, each image changes at a different rate, leading to a progressive shift in the color balance of the print.[22] The stability characteristics of a specific paper are largely derived from the

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[17] (...continued)

[17] Kodak states "The subject emulsions, couplers, and dispersions used to make CNPP are ultimately derived entirely from a wide variety of commonly available chemicals. Thus, at the beginning of the chemical manufacturing process, 100 percent of the chemicals that go into CNPP are non-subject. At the other end of the manufacturing process, the emulsions and dispersions that flow through the coating machine are 100 percent of subject merchandise. In theory it would be possible to choose a point somewhere between the beginning and end of the manufacturing process and determine what fraction of the components at what stage, by value, were subject and non-subject, but this would be a complex and difficult analysis." Postconference brief, exhibit 2-A, pp. 4-5.

[18] Fuji, testifying at the Commission's conference, stated that quality is difficult to describe and might be defined differently by various photofinishers depending upon specific requirements. Transcript, pp. 178-179.

[19] Two of the devices used to test and evaluate CNPP are the densitometer, which quantifies the amount of dye present, and the spectrophotometer, which measures the quality of the dye. This equipment is expensive, but is considered essential in product development and refinement.

[20] Henry Wilhelm has just published the results of his research on the permanency of color photographs (The Permanence and Care of Color Photographs: Traditional and Digital Color Prints, Color Negatives, Slides, and Motion Pictures, 1993). Mr. Wilhelm is one of the founding members of the American National Standards Institute (ANSI) subcommittee established in 1978 to prepare standard test methods for measuring the stability of color photographs. Wilhelm states (p. 89): "Light-caused fading and staining of a color print on display are slow but steady processes that start immediately when the print is hung on a wall or placed in a frame on a desk. The rate and nature of image deterioration are functions of the inherent stability of the print material; the intensity, duration, and spectral distribution of the light used to illuminate the print; whether or not the print is framed; and the ambient temperature and humidity."

[21] Users (other than portrait photographers) do not appear to have been aware that characteristics of the paper (specifically its dye stability) are associated with the tendency of color prints to fade over time. Transcript, pp. 159-161.

[22] Wilhelm, p. 16.

stability characteristics of the dye-forming couplers used in its manufacture. Thousands of different couplers have been developed, only a few of which have been actually used in print products.[23]

The technology to produce CNPP is complex and evolves continually. Improved color paper products are generally introduced every few years. In its questionnaire response, *** notes that both Kodak and Fuji have been among the top U.S. patent recipients in 1990, 1991, and 1992. Design efforts must balance sometimes conflicting goals (e.g., consistency in reaction to the same quantum of light energy vs. overall "speed" of the paper and contrast of the final print).[24] In 1986, when it entered the minilab market, Kodak introduced process RA-4, a new type of CNPP and new photofinishing process.[25] The other manufacturers were forced to respond with compatible products; by 1989, Fuji, Konica, and Agfa[26] had developed and introduced their versions of process RA-4. Use of the new system (which is replacing the EP-2 system) required that photo processors purchase new processing equipment or make extensive modifications to existing equipment. Most minilabs made the transition to RA-4 by early 1990, and within 2 more years RA-4 papers were also the standard for the large photofinishing and commercial labs. The conversion should be complete by yearend 1993. There is no difference in price between RA-4 and EP-2 papers and, some report, no discernable difference in print quality.[27]

Substitute Products

Forms of photographic paper other than CNPP include color reversal paper (used for slides), black-and-white paper, and papers for printing and publishing.[28] Petitioner states[29] (and Fuji concurs)[30] that these papers have a different chemical structure from that of CNPP and cannot practically be used to make color positive prints from color negative film. Although black-and-white prints could be made on CNPP, they would lack clarity and tone when compared to black-and-white prints developed onto black-and-white paper. Similarly, new digital printing technology enables prints from color reversal (slide) film to be developed onto color negative paper. However, this technology is neither used nor accepted widely. Photo processors use separate equipment to process CNPP, color reversal paper, or black-and-white paper.

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[23] Wilhelm, p. 22.

[24] Kodak states that it considers up to *** attributes in assessing whether its product meets design goals. Petition, p. 11.

[25] Color paper compatible with RA-4 uses a light-sensitive halide different from that used by color paper compatible with the older process EP-2. Use of RA-4 reduces the volume of waste solutions and requires significantly less photo processing time than does the older system. Petition, p. 13, and response by *** to the Commission's questionnaire.

[26] As will be discussed later in greater detail, firms involved in the CNPP industry manufacture and/or market the product through a number of affiliated firms. When necessary for clarity, the precise name of the subsidiary will be used. In other circumstances, firms will be referred to more generally as, for example, Fuji, Konica, or Agfa.

[27] The transition from EP-2 to RA-4 occurred, at least in part, during the period for which data were collected for these investigations. There is no evidence on the record, ***, that the transition caused temporary distortions in market shares. Staff conversation with ***, Aug. 30, 1993, and staff meeting with ***, Sept. 14, 1993.

[28] The following lists the shares of the total U.S. amateur photographic film market in 1990, by type of film used: color prints (91 percent), color slides (5 percent), Polaroid instant color prints (about 2 percent), and black-and-white photographs (about 2 percent). Photofinishing News. The black-and-white to color shift began to a significant degree in the mid-1960s.

[29] Petition, pp. 20-21.

[30] Transcript, p. 162.

Manufacture of the Subject CNPP and Chemical Components

The manufacture of CNPP (which is diagrammed in figure 3) begins with the lamination of the paper base.[31] Lamination, which involves coating the paper with a polyethylene/titanium oxide chemical solution, is necessary before the paper can be properly coated during the subsequent sensitizing process. Generally speaking, sensitizing is the procedure during which the base support is coated with the light-sensitive emulsions that give CNPP its ability to form a photographic image and differentiate it from other photographic papers.[32] Because sensitized emulsions react to light, most of the sensitizing process and all further manufacturing steps must be done in darkness. No light may be allowed to strike the sensitized emulsions or paper until the paper is finally "exposed" to light filtered through a color negative image and "developed" to produce the image in final form. The following is an abbreviation of Kodak's description of the sensitizing process contained in its petition (pp. 14-19):[33]

> There are three steps in the sensitizing process: (1) making, (2) melting, and (3) coating. Making involves preparing the chemical solutions (emulsions, light-sensitive components, dyes, gelatin solutions, and dispersions) with which the paper will be coated. During the melting process, the emulsions, interlayers, and a gelatin overcoat are liquified and prepared for delivery in the form of seven prepared mixtures to coating machines. Each of the seven prepared mixtures corresponds to one of the seven layers shown in Figure 1. Following the "melting," high speed coating machines apply the prepared emulsions, dispersions, and gelatin solutions to the paper or base support. In Kodak's coating operation, all the layers ***.[34] After the paper is coated (or sensitized), it is cooled with chilled air to fix the emulsions, then dried slowly under warm air. Finally, the dried paper is wound on large "master rolls" and wrapped with a light-tight cover for delivery to the packing machines.
>
> The final step is preparing a portion of the paper to be shipped in the form of smaller rolls. The protective wrapping is removed from the master roll and it is slit to the width and length desired by the customer. The paper strip is then wound and repacked for shipment.

Most CNPP manufacturers produce the subject chemical components used to produce their paper product. ***. Konica imports subject chemical components manufactured by its parent in Japan. ***.[35] The purchased components require *** modification, described by Konica as "chemical component processing and preparation," prior to their use during the coating process.[36]

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[31] ***.

[32] Some sensitizing lines that coat CNPP can, with some adjustment, also sensitize amateur and professional color films, x-ray film, and other types of photographic paper. However, many sensitizing lines are dedicated solely to CNPP production.

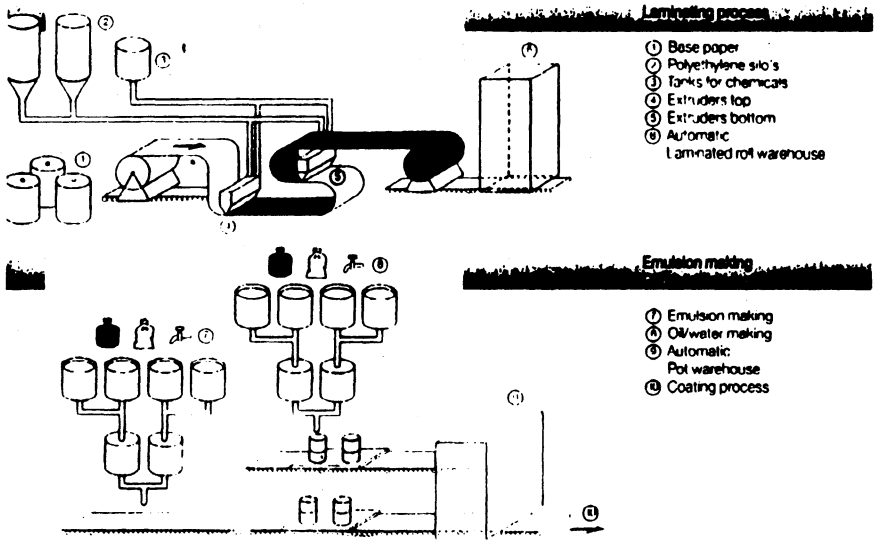
[33] Although the manufacturing process of chemical components is complex and is in no sense generic, the following description is general and, as a consequence, provides an accurate description of how all CNPP manufacturers produce the subject products.

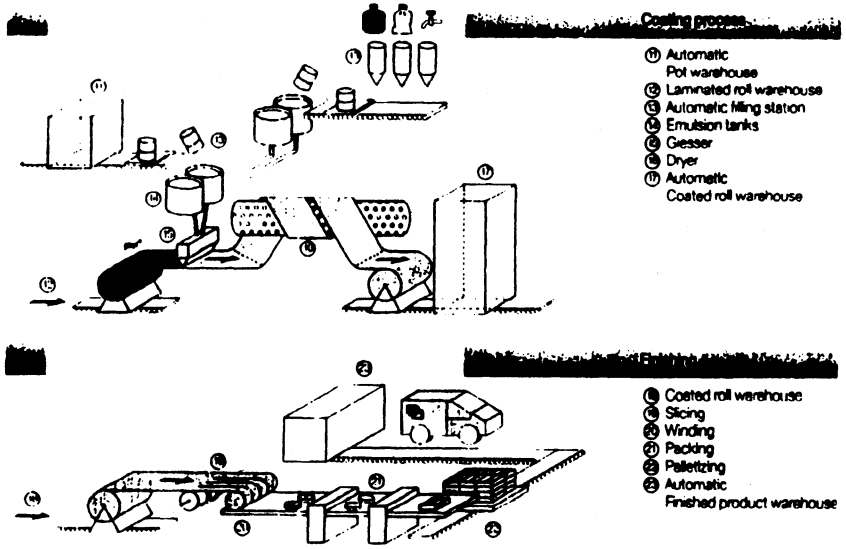
[34] ***.

[35] Staff conversation with counsel for Konica, Sept. 28, 1993.

[36] Konica's postconference brief, p. 12.

Figure 3
CNPP and chemical components: Manufacturing process





Source: Fuji postconference brief.

Like Product Issues

In its postconference brief (pp. 8-12) submitted to the Commission, petitioner asserts that CNPP and chemical components should be included in the same like product. Respondent Fuji disagrees (postconference brief, pp. 4-9); Konica concurs with Fuji (postconference brief, pp. 22-26). The stage in the production process when CNPP acquires its "essential characteristics" is one point of contention. Regarding the relative importance of the coating process compared with the emulsion making, parties write:

> Kodak (postconference brief, exhibit 2-A, p. 5): "The essential characteristic of color paper is its ability to form a color image when properly exposed and developed. This ability is entirely the result of the photosensitive materials used to coat the paper."
>
> Fuji (postconference brief, p. 5): "Contrary to Kodak's suggestion, it is not the emulsion making but the coating process that is the most critical and extensive part of the manufacturing process. The coating process is the most significant stage of production from a physical manufacturing standpoint, from a cost standpoint, and from a capital investment standpoint."
>
> Konica (postconference brief, p. 17): "Placing each of the seven layers, one on top of the other, on the paper base support used in CNPP is the single most important process involved in the production of CNPP. This process imparts the functional characteristics of CNPP."

Staff requested information on the approximate value added by and time required to complete each of the production steps. Kodak was not able to provide information; Fuji and Konica, in their postconference briefs, responded, as follows:

	Fuji		Konica	
Manufacturing stage	Value-added Percent	Time required	Value-added Percent	Time required
Paper base manufacture	***	***	***	***
Paper base laminating	***	***	***	***
Emulsion making	***	***	***	***
Chemical component processing and preparation	***	***	***[1]	***
Coating	***	***	***	***
Setting, drying, and winding	***	***	***	***
Slitting and packaging	***	***	***	***
Aging process	***	***	***	***

[1] Represents the total value of this processing stage, including the value of the imported subject chemicals consumed, by Konica's U.S. facility.

Parties also provided information in their briefs on the approximate cost to replace a CNPP production facility. Those data are provided in the following tabulation, by manufacturing stage:

Manufacturing stage	Kodak[1] 1,000 dollars	Percent	Fuji[2] 1,000 dollars	Percent
Paper base manufacture	***	***	***	***
Emulsion making	***	***	***	***
Coating	***	***	***	***
Slitting and packaging	***	***	***	***
Total	***	100	***	100

[1] Estimate of the cost of a new plant with a capacity of *** square feet per year.
[2] Estimate of the cost of a new plant with a capacity of *** square feet per month (*** square feet per year).

Table 1 presents data which compare the value of the input chemical components and the output CNPP of U.S. manufacturing firms, by sources.

Table 1
Specified data on the value of chemical component operations of U.S. firms and the value of CNPP produced in the United States, by firms, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

U.S. Tariff Treatment

CNPP is classified in subheadings 3703.10.30 and 3703.20.30 of the Harmonized Tariff Schedule (HTS) and enters at a column 1-general rate of duty of 3.7 percent ad valorem. Sensitizing emulsions are classified in HTS subheading 3707.10.00 and have a column 1-general rate of duty of 3 percent ad valorem. Other emulsions are classified in HTS subheading 3707.90.30, with a duty rate of 8.5 percent ad valorem. Couplers, dispersions, and precursor compounds may be classified in HTS subheadings 3707.90.30 (chemical preparations) and 3707.90.60 (unmixed products, measured or put up for retail sale) and are dutiable at 8.5 percent ad valorem and 1.5 percent ad valorem, respectively.[37] [38] All of the foregoing are eligible for duty-free entry upon request if imported from Canada, Israel, or countries designated under the Caribbean Basin Economic Recovery Act, the Generalized System of Preferences (GSP[39]), or the Andean Trade Preferences Act.

[37] Photographic couplers, classified in HTS subheading 3707.90.30 or 3707.90.60, were given temporary duty-free treatment. This duty-free treatment expired Dec. 31, 1992.
[38] The petitioner states that couplers, dispersions, and precursor compounds may be classified in a number of subheadings in chapter 29 of the HTS and lists three likely chapter 29 subheadings in the petition. The three subheadings make reference to "photographic chemicals." In addition to the subheadings mentioned in the petition, there are five other subheadings in chapter 29 where there are references to "photographic grade" or "photographic chemicals." All eight subheadings have a column 1-general rate of duty of 8.5 percent ad valorem, and imports classified in any of the eight subheadings are eligible for duty-free entry upon request if imported from Canada, Israel, or countries designated under the Caribbean Basin Economic Recovery Act, the Generalized System of Preferences (except imports from India), or the Andean Trade Preferences Act. Finally, temporary duty-free treatment, which expired Dec. 31, 1992, was granted to imports of cyclic organic chemical products to be used in the manufacture of photographic color couplers that were classified in three of the subheadings.
[39] Imports from India are not eligible for duty-free entry under the GSP.

THE NATURE AND EXTENT OF ALLEGED SALES AT LTFV

In order to obtain the estimated dumping margins of CNPP imported from Japan and the Netherlands, petitioner compared the U.S. price (USP) of covered products with their foreign market value (FMV).

1. Japan. Petitioner based USP on four transaction prices for Fuji Japan CNPP that were quoted to U.S. customers. FMV was calculated from quoted prices for CNPP produced by Fuji Japan and offered for sale in the home market. In calculating the dumping margins, petitioner matched each U.S. sale with the average ex-factory FMV for sales of identical merchandise[40] in Japan, and adjusted the FMV to account for U.S. credit expense and differences in packing costs. The exchange rates in effect at the time of the U.S. sales or offers of sale were used to calculate the U.S. dollar value of the ex-factory FMVs.

2. The Netherlands. Petitioner based USP on two transaction prices for Fuji Netherlands CNPP that were quoted to U.S. customers. Petitioner used the Japanese ex-factory FMV to calculate a dumping margin for CNPP manufactured by Fuji Netherlands.[41] In calculating the dumping margin, petitioner matched each U.S. sale with the average ex-factory FMV for sales of identical merchandise in Japan, and adjusted the FMV to account for U.S. credit expense. The exchange rates in effect at the time of the U.S. sales or offers of sale were used to calculate the U.S. dollar value of the ex-factory FMVs.

Petitioner's estimated LTFV margins are as follows (in percent):

Source and product type	Weighted average	Range
Fuji Japan (Super FA-3 CNPP)	292.93)	
Fuji Japan (Super FA Type P CNPP)	201.73)	
Fuji Japan (all CNPP)	279.23)	201.52 to 313.47
Fuji Netherlands	289.02	282.96 to 311.59

In its initiation notice, Commerce stated that petitioner did not deduct the difference in costs of production between Japan and the Netherlands in calculating the FMV for the Netherlands. After such adjustment, Commerce calculated the range of dumping margins of CNPP from the Netherlands as 269.31 percent to 297.84 percent. Commerce further determined that a range of dumping margins of 92 percent to 100 percent exists for the Netherlands when using the Netherlands' home market prices as FMV. Commerce states that it is also initiating its investigation for the Netherlands based on the Netherlands' home market prices.

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[40] As necessary, petitioner performed tests to demonstrate that specific paper types manufactured in Japan were identical to the U.S.-produced CNPP type with which they were compared.

[41] In doing so, petitioner followed the statutory multinational corporation (MNC) provision; they alleged that Fuji Netherlands is owned and controlled by Fuji Japan and that Fuji Netherlands' home market is not viable. A producer's home market generally is not viable where its sales of the subject merchandise are less than 5 percent of the amount sold to third countries. The other three criteria that must be satisfied for Commerce to apply the MNC provision are: (1) that the ex-factory FMV based on home market sales prices in Japan be higher than the FMV based on prices of CNPP produced in the Netherlands and sold to home market or third country customers; (2) that the CNPP produced in Japan be identical or similar to that produced in the Netherlands; and (3) that the price differential between CNPP produced and sold in Japan and CNPP produced in the Netherlands not be solely due to differences in manufacturing costs.

THE U.S. MARKET[42]

Apparent U.S. Consumption[43]

Table 2 presents data on the quantity and value of apparent U.S. consumption of CNPP and, separately, on the value of apparent U.S. consumption of chemical components. For the reasons described in footnote 1 to table 1 of this report, data on the quantity of chemical components were not gathered for most indicators. The value of apparent U.S. consumption of CNPP added to chemical components is calculated in table C-3 in appendix C.

Table 2
CNPP and chemical components: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

The quantity of U.S. consumption of CNPP increased 5.8 percent from 1990 to 1991, then rose another 8.0 percent in 1992. In interim 1993, 5.3 percent more CNPP was shipped than in interim 1992. In contrast, the value of shipments actually declined from 1990 to 1991 (by 0.6 percent), rose in 1992 (by 4.6 percent), then declined again during the interim periods (by 3.6 percent).

The trends in consumption of CNPP are largely determined by patterns within the U.S. photographic market, most specifically by the interest in amateur color photography and consequent demand by photofinishers for CNPP. The 1992-93 Wolfman Report (which is published by Popular Photography Magazine) reports a steady 3- to 5-percent annual growth rate in amateur photofinishing at the retail level.[44] Total sales (almost all of which are for color products) increased from $4.675 billion in 1990 to $4.940 billion in 1992. In its questionnaire response, *** also describes an annual increase in demand for CNPP of approximately 4 percent, citing the August 23, 1993, edition of Photofinishing News. *** attributes the increase to the following factors:

1. An increase in double print promotions (two for the price of one or two prints for a special price);

2. An increase in the number of exposures;

3. Promotion of more enlargements by dealers; and

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[42] Summary data on the U.S. market are presented in tabular form in app. C and in graphic form in app. D.

[43] Producers' questionnaires were sent to (and completed by) both U.S. producers of CNPP. ***. Eighteen importers' questionnaires were sent to U.S. firms that reported more than insignificant imports into the United States from all sources under the HTS classifications that include CNPP and chemical components. (As noted earlier, the HTS classifications are "basket" categories, although the classifications for CNPP include only what is believed to be a relatively insignificant amount of color reversal paper.) The Commission received completed responses from eight firms; seven firms indicated that they did not, in fact, import CNPP or chemical components during the period in question. (Three firms, which were small in size, either did not respond or could not be contacted.)

* * * * * * *

[44] According to the Wolfman Report, consumption of products traditionally associated with the advanced amateur and the professional market has been declining (p. 6).

4. A shift in consumer preference from 3-1/2 inch prints to 4-inch prints which are 33 percent larger in area.

The demand for chemical components is, in turn, driven by the demand for CNPP. Apparent consumption of chemical components rose by *** percent from 1990 to 1991, by *** percent from 1991 to 1992, and by *** percent from interim 1992 to interim 1993. These percentage increases roughly track reported increases in domestic production of CNPP (with the exception of the 1991-92 period when domestic manufacture of CNPP increased about *** percent in contrast to the ***-percent increase for chemical components).

U.S. Producers

Two firms currently manufacture CNPP in the United States: Kodak and Konica Manufacturing U.S.A., Inc. (KMU). Kodak is the largest manufacturer of photographic products in the world; its 1992 revenues exceeded $20 billion.[45] KMU, a subsidiary of the Japan-based Konica Corp., opened in September 1989 to produce CNPP for the United States and Canada.[46] Additional information on the operations of the manufacturers (and their position on the instant petition) are shown in table 3. A third company, 3M Co., produced CNPP in the United States until the mid-1980s.[47]

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[45] In addition to its U.S. CNPP plants, Kodak wholly owns several other plants that produce CNPP and chemical components. The firm also owns additional facilities that cut and pack CNPP. The names and locations of the firms are listed below:

(1) Manufacturers of CNPP and chemical components:
Kodak Brasileira C.I.L., Sao Jose dos Campos, Brazil
Kodak (Australasia) Pty. Ltd., Victoria, Australia
Kodak Limited, Harrow, United Kingdom

(2) Manufacturers of chemical components:
Kodak-Pathe, Cedex, France
Kodak Limited, Liverpool, United Kingdom

(3) Facilities that cut and pack CNPP:
Kodak Canada, Toronto, Canada
Kodak-Pathe, Cedex, France.

***.

[46] The 1992 annual report of Konica Corp. states "The Company's long-range strategy for internationalization is based on the principle of user-location production, which means that the production and service bases are established close to where products are actually consumed" (p. 10).

[47] ***.

Table 3
CNPP and chemical components: U.S. producers, locations, position on petition, and share of U.S. production in 1992

Name of firms and establishments	Location of headquarters and plants	Position on petition	Share of U.S. production	
			CNPP[1]	Chemical components[2]
			--------Percent--------	
Kodak[3]	Rochester, NY	Supports	***	100.0
Kodak Park	Rochester, NY[4]			
Kodak Colorado	Windsor, CO			
Tennessee Eastman	Kingsport, TN			
KMU[5]	Whitsett, NC	Opposes[6]	***[7]	(8)

[1] Share of the quantity of U.S. production.
[2] Share of the value of U.S. production.
[3] Kodak is not owned, in whole or in part, by any other firm.
[4] ***.
[5] KMU is 100-percent owned by Konica Corp., Tokyo, Japan.
[6] KMU states ***.
[7] ***.
[8] Does not manufacture.

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

Kodak is currently operating under the provisions of two consent decrees that govern Kodak sales of photographic products in the United States. A 1921 decree prohibits the firm (among other items) from requiring that its customers sell only Kodak film. It also prohibits the use of private-label brands by Kodak. A 1954 decree prevents Kodak from tying the sale of film to processing. In November 1990, Kodak requested that the Department of Justice terminate or modify the 1921 and 1954 decrees. The request is currently pending.[48]

As shown in tables 1 and 3, Kodak is the sole U.S. producer of subject chemical components (following petitioner's definition). ***.[49] [50] Additional data on *** are presented in the following tabulation:

* * * * * * *

As noted earlier, KMU imports the chemical components required for its manufacture of CNPP from its parent, Konica Corp., in Japan. ***.

[48] Petitioner states that the provisions of the 1921 decree do not apply to the sale of CNPP. Further, Kodak does not envision that any changes to the 1954 decree will impact the market for CNPP in the United States. Kodak's postconference brief, exhibit 2-A, p. 13.
[49] ***. Kodak's questionnaire response.
[50] Petition, p. 42.

U.S. Importers

Importing firms are listed in table 4. As shown, the majority of CNPP imports are by the U.S. subsidiaries of major CNPP manufacturers, mainly Agfa, Fuji, and Konica. ***.

As shown in table 4, ***.[51] ***.[52]

Table 4
CNPP: U.S. imports, by country of origin and by firms, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Marketing and Distribution Channels

Four facets of the U.S. market for CNPP and the distribution process are addressed in this report, namely:

1. The various segments of the photofinishing market;[53]

2. The extent to which CNPP is distributed through "related" channels;

3. The point at which competition for sales of CNPP actually occurs and the impact that changes within the end-use market may have had on CNPP manufacturers; and

4. The fact that CNPP is distributed by firms that also distribute additional products which, taken together, are required to complete the "photograph package."[54]

The first three items are discussed in general terms below. The manner in which they may have influenced specific sales of CNPP is explored in greater detail in the section of this report on "Prices."

Figure 4 diagrams the channels of distribution and includes a listing of the types of photofinishers that purchase and use the product. As noted earlier, CNPP is often classified as either professional or amateur paper, and the two market segments are in many ways distinct. The amateur photofinishing market is by far the larger in size and can be divided roughly into two groups: (1) the large labs which utilize high-speed printers and (2) the smaller minilabs.[55] Large labs consume two-thirds of the CNPP sold into the amateur market; minilabs account for the remaining third of sales. The large labs process (usually on an overnight basis) film that amateur photographers take to

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[51] ***.

[52] ***.

[53] Fuji states that there are distinct market segments in this industry that the Commission should separately examine when calculating market shares and assessing the competitive situation. They present their arguments and analysis in pages 19-45 of their postconference brief.

[54] These other products include the film (which the ultimate consumer often purchases from the photofinisher), the processing chemicals, and (in some instances) the processing equipment. The practice of selling additional items with CNPP is referred to as "bundling" as is addressed in further detail in the section of this report on "Prices."

[55] Although individual photo processors typically use only one manufacturer's paper (so as to prevent readjusting the equipment), CNPP is essentially fungible. Large-scale processors and minilabs do not require differing types or grades of CNPP, and processing equipment produced or distributed by one CNPP manufacturer can use paper produced by another source. Transcript, p. 106, and staff meeting with ***.

drug, discount, and camera stores, and to supermarkets.[56] There are two major categories of large labs: wholesale labs and (captive) photofinishers owned directly by retailers (e.g., Walgreen or Price Club). Additionally, mail-order labs process film that their customers send to them through the mail. Minilabs (which, for a typically higher price, can provide immediate photo processing and more customized service) may be owned and operated by an individual owner or be part of a large chain. Minilab equipment is also being installed in retail outlets (which may, in addition, utilize wholesale processing) and by wholesale finishers.[57] Single-store minilabs (or those that are part of small chains (2 to 10 stores)) purchase CNPP through distributors, sometimes called stockhouses. Most CNPP, however, is marketed directly by the manufacturer to the photofinisher.

Figure 4
CNPP and chemical components: Schematic diagram of channels of distribution of product manufactured in the United States, Japan, and the Netherlands

* * * * * * *

The following tabulation presents U.S. shipments of CNPP produced both in the United States and imported from subject countries, in 1992, by type of photofinisher (in percent):[58]

Type of photofinisher	U.S. shipments
Large lab	***
Minilab	***
Professional	***
Stockhouses	***
Other	***
Total	100.0

An increasing portion of all CNPP is consumed by photofinishers which are in some manner (usually through an ownership interest) related[59] to a CNPP manufacturer. Beginning with the Kodak purchase of 49 percent of Qualex,[60] wholesale labs have been acquired by the major manufacturers. Few independent labs remain[61] and the affiliated wholesalers purchase CNPP almost exclusively

[56] The 1992-93 Wolfman Report lists the following market shares (in dollar volume) for 1993: minilabs (34 percent); drug stores (23 percent); discount stores (12 percent); camera stores (12 percent); supermarkets (10 percent); mail order (8 percent); and other (1 percent).

[57] The 1992-93 Wolfman Report states that there were about 20,000 minilabs at the end of 1992.

[58] The data presented were compiled from responses to Commission questionnaires and do not include shipments of CNPP imported from countries other than Japan or the Netherlands. (A significant amount of CNPP is imported from Germany.) Also, shipments of CNPP actually utilized within minilabs, appear to be understated. Many "wholesale" customers operate minilabs, and shipments to them are not necessarily used on their high-speed printers.

[59] The Commission's questionnaire defined "related outlets" as those which a reporting firm "solely or jointly owned, managed, or otherwise controlled."

[60] Qualex is jointly owned by Kodak (with 49 percent of the voting stock) and Fuqua Industries (with 51 percent of the voting stock). Qualex purchases only Kodak CNPP and processing chemicals. It was formed in 1988 as a joint venture combining Kodak's photo processing laboratories with the Nation's largest independent processing chain, Color Craft, a division of Fuqua Industries.

[61] In the early 1980s, there were approximately 700 wholesale photofinishers. There are now less than 30 independents, most of which are small. Response by *** to the Commission's questionnaire.

from the related CNPP manufacturer.[62] Following (and, according to Fuji, in response to) the Kodak affiliation with Qualex, Fuji acquired wholesale photofinishers through its subsidiary Fuji Trucolor and, likewise, Konica through Konica Quality Photo.[63] Fuji states that the trend is now beginning in other market segments, stating that Kodak (through Qualex) is now purchasing the large captive labs utilized by mass retailers.[64] In late 1992, Fuji formed a "strategic alliance" (***) with MotoPhoto, one of the five largest minilab chains in the United States, with 308 facilities. From 1990 onwards, Konica also distributed CNPP to minilabs through its subsidiary, Fotomat (which has 170 labs). In January-June 1993, *** percent of all U.S. shipments of CNPP were reported as company transfers in response to the Commission's questionnaires.

"Sales" of or demand for a particular manufacturer's CNPP may depend less on factors relating to the CNPP and more on factors relating to demand for the customer's service (i.e., the photo processor).[65] The photo processing market itself is highly price sensitive, and prices have declined since 1990. CNPP is a significant cost component for the photo processors (*** to *** percent of the total photofinishing cost). (The processing chemicals, in contrast, account for roughly *** percent of the cost).[66] In its postconference brief (p. 2) Fuji names three factors as contributing to the price declines:

1. Aggressive marketing in the captive retail segment by large retailers such as WalMart and K-Mart;

2. Kodak's Colorwatch System (further described in the section of this report on "Prices"), which provides a standardized package, leaving price as the main distinguishing factor; and

3. Increased competition from on-site processing using minilabs.

Table 5 presents U.S. shipments of domestically produced and imported CNPP by market segment. Although the trends as presented in these data are not exact (see footnote 1 to the table), they do demonstrate the presence of some of the market forces discussed above, most specifically, the domination of the large lab segment (which includes the related wholesale labs) by U.S. producers. However, while there is increased domestic penetration within that market, the increases are ***. From 1991 to 1992, U.S. producers increased their shipments to large labs by *** percent, or by *** million square feet. (These shipments, incidentally, account for over *** of the total increase in domestic product sold in 1992.) In 1992, sales by Kodak to Qualex accounted for over *** (*** percent) of all shipments within the large lab category. However, while shipments to Qualex *** percent from 1992 to 1993, all other domestic shipments within the large lab category increased *** percent. Almost *** of the remainder of the 1992-93 increase in U.S. shipments is accounted for by the rise in sales to minilabs. The ***-percent increase in sales of domestic CNPP

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[62] Respondent argues that due to the buying-up of the wholesalers, there is no competition for sale of CNPP within the wholesale segment. Kodak maintains that the photofinishing market is highly price-competitive and that the cost of the CNPP comprises a significant portion of the processors' expense. Thus, for Kodak's related photo processors to remain competitive, they must in turn purchase paper at a competitive price. Related wholesalers also must compete with unrelated minilabs or captive retail operations. Kodak's postconference brief, pp. 35-39.

[63] Qualex controls 64 central labs and 600 mini/microlabs; Konica Quality Photo controls 8 labs and 20 mini/microlabs; and Fuji TruColor Photo/FUJIFILM control 13 central labs. 1992 Photofinishing News.

[64] Fuji's postconference brief, p. 2.

[65] In its questionnaire response *** reported that ***.

[66] Kodak's postconference brief, pp. 35-39 and exhibit 2-A, p. 28.

to minilabs is a result of ***. Imports of CNPP from Japan and the Netherlands gained market share in the professional paper market in 1991 and *** in 1992.

Table 5
CNPP: U.S. shipments of CNPP that is domestically produced or imported from subject countries, by firms, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

CONSIDERATION OF THE QUESTION OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

Section 771(7)(B) of the Act (19 U.S.C. § 1677(7)(B)) provides that in making its determination in these investigations the Commission--

> Shall consider (I) the volume of imports of the merchandise which is the subject of the investigation, (II) the effect of imports of that merchandise on prices in the United States for like products, and (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and
>
> May consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

> In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.
>
> In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether (I) there has been significant price underselling by the imported merchandise as compared with the price of like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.
>
> In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to, (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and (IV) 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.

Available information on the volume of imports (item (B)(I) above) is presented in the section of this report entitled "U.S. Imports." Information on the other factors specified is presented in this section, and (except as noted) is based on the questionnaire responses of Kodak and KMU. Data for Kodak and KMU are presented separately in tables to permit an assessment of a U.S. industry that is defined to exclude the operations of KMU as a related party. Data also are presented separately throughout this report for CNPP and for chemical component operations. Where possible (namely for value indicators) data for CNPP operations are added to reported data for chemical component operations and presented in table C-3 in appendix C.

U.S. Production, Capacity, and Capacity Utilization

Data for the U.S. production, capacity, and capacity utilization of Kodak's and KMU's CNPP operations are presented in table 6. As shown, the capacity to produce CNPP *** for *** (***). ***. ***.[67]

Table 6
CNPP and chemical components: U.S. capacity, production, and capacity utilization, by firms, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Kodak's production ***. The *** in indicators was even greater for the partial periods: capacity utilization by Kodak *** from *** percent to *** percent. Production *** percent at KMU from 1990 to 1992, *** the *** in capacity and leading to a *** in capacity utilization from *** percent in 1990 to *** percent in 1992. (However, capacity utilization by KMU *** in January-June 1993 compared to that of January-June 1992.)

Table 6 also presents data on the capacity and production of chemical components. Although Kodak's capacity to produce chemical components *** from 1990 to 1992, its production ***, leading to a *** in capacity utilization of over *** points during the period. However, capacity utilization *** from January-June 1992 to January-June 1993. The 1990-92 production *** is primarily due to ***. ***.[68] Table 6 also presents the capacity to produce chemical components in "finished CNPP equivalent" or the amount of CNPP that can practically be produced from the composite chemical components. The capacity to produce chemical components expressed as "finished CNPP equivalent" may be compared with the capacity to produce CNPP.[69] In its questionnaire response, Kodak states:

* * * * * * *

---

[67] In general, capacity cannot be added incrementally. Coating lines are fixed (or rather built) in place. Other than machinery adjustments (most notably increasing the operating speed) and efficiency-related measures, adding capacity requires the construction of a new line. Staff conversations with ***, Sept. 28, 1993.

[68] Staff conversation with counsel for Kodak, Sept. 28, 1993.

[69] However, it should be noted that a simple subtraction of CNPP from "finished CNPP equivalent" does not exactly show the amount of unused capacity to produce chemical components (in CNPP terms) since ***.

KMU does not manufacture chemical components in the United States; its U.S.-produced CNPP utilizes chemical components transferred from its parent, Konica Corp. in Japan.[70]

U.S. Producers' Shipments and Inventories

The quantity and value of U.S. shipments by Kodak and KMU (in aggregate) increased irregularly by *** percent and *** percent, respectively, from 1990 to 1992. During the interim period, the quantity of U.S. shipments again increased (by *** percent), but the value of such shipments decreased slightly, reflecting a lowering of the unit value of CNPP (from *** cents per square feet in interim 1992 to *** cents per square feet in interim 1993). The unit value of U.S. shipments of CNPP declined steadily from 1990 to interim 1993 for ***. Kodak and KMU taken separately ***.[71] ***. U.S. shipments by KMU almost *** from 1990 to 1992 and *** by almost *** percent from January-June 1992 to January-June 1993.

A comparison of company transfers and domestic shipments reported by Kodak in table 7 depicts the extent to which Kodak sells through related parties, ***. In 1992, *** percent of its U.S. shipments were to the captive market. ***. Both Kodak and KMU reported *** export shipments: *** percent of Kodak's total 1992 shipments and *** percent KMU's total 1992 shipments.

Table 7
CNPP: U.S. producers' shipments, by firms, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

U.S. producers' end-of-period inventories of CNPP are presented in table 8, and U.S. shipment and inventory data concerning chemical components are shown in table 9.

Table 8
CNPP: U.S. producers' end-of-period inventories, by firms, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Table 9
Chemical components: The value of Kodak's shipments and end-of-period inventories, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

---

[70] ***, Konica ***: "Konica Corporation of Japan is the only company that produces the proprietary components. The formulas and processes used by Konica to produce these components are closely guarded trade secrets. Neither Kodak or any other manufacturer could produce these components for KMU without disclosure of Konica's trade secrets, which would place Konica at a severe competitive disadvantage." Konica's postconference brief, p. 2.

[71] ***. Petition, p. 4. U.S. shipments by Kodak ***.

U.S. Employment, Wages, and Productivity

The number of CNPP workers and hours worked both decreased by *** percent from 1990 to 1992, and continued to decrease, by *** percent and *** percent, respectively, during the interim periods (table 10). Total compensation paid to production and related workers (PRWs) producing CNPP increased by *** percent from 1990 to 1992, and (more significantly) by *** percent from January-June 1992 to January-June 1993. The decrease in hours worked and rise in compensation paid led to an increase in hourly wages of *** cents per hour from 1990 to 1992 and an increase of *** cents in the 1993 interim period.

Table 10
CNPP and chemical components: Average number of PRWs at firms producing CNPP and chemical components, hours worked, total compensation paid to such employees, hourly wages, and productivity, by firms, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Financial Experience of U.S. Producers

Two U.S. producers--Kodak and Konica--accounting for virtually all U.S. production of CNPP, provided income-and-loss data on their U.S. operations on CNPP. ***. Konica was requested to provide a consolidated response, i.e., to provide the net sales value charged to its unrelated customers and to include in reported costs the associated selling, general, and administrative expenses (SG&A) incurred by the related U.S. selling company in marketing its products, along with costs incurred in manufacturing and transferring these products. The company did provide consolidated data. Establishment data of Konica represent only operations of KMU, and establishment data of Kodak represent operations of its two CNPP plants, Rochester, NY, and Windsor, CO. Establishment data are not presented herein because Konica's consolidated data on its CNPP operations are ***. Kodak, the only U.S. producer of chemical components, supplied income-and-loss data on its U.S. operations on chemical components.

CNPP Operations

The income-and-loss data of the *** firms on their CNPP operations are presented in table 11. Total net sales increased by *** percent from $*** in 1990 to $*** in 1992. Such sales declined by *** percent from $*** in January-June 1992 to $*** in January-June 1993. Total net sales in square feet rose by *** percent from 1990 to 1992 and by *** percent from January-June 1992 to January-June 1993. Average net sales value per square foot declined in each period.

Table 11
Income-and-loss experience of U.S. producers on their CNPP operations, fiscal years 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Operating *** as a share of net sales *** at *** percent in 1990 and 1991, and then *** to *** percent in 1992. Such operating *** margins *** from *** percent in January-June 1992 to *** percent in January-June 1993. The industry reported an aggregate net *** of $*** in 1991 because of a *** of $*** for *** by ***. In the remaining periods of investigation, pretax net income-or-loss margins followed *** as the operating income margins.

The income-and-loss data of Kodak on its U.S. CNPP operations are presented in table 12. Data on the major components of the cost of goods sold (COGS) on its U.S. CNPP operations are presented in table 13. Total net sales value *** by *** percent from 1990 to 1991 and *** by *** percent from 1991 to 1992. Such sales *** by *** percent from January-June 1992 to January-June 1993. Total net sales in square feet *** in ***, by *** percent overall from 1990 to 1992 and by *** percent from interim 1992 to interim 1993.

Table 12
Income-and-loss experience of Kodak on its U.S. CNPP operations, calendar years 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Table 13
Major components of Kodak's cost of goods sold on its U.S. CNPP operations, calendar years 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Kodak's operating *** in ***. The operating *** from *** percent in 1990 to *** percent in 1992, and from *** percent in January-June 1992 to *** percent in January-June 1993. ***.

As a share of net sales, Kodak's COGS *** from 1990 to 1991, but that *** was *** by the *** in the SG&A expenses. ***. The COGS per square feet *** from an average of $*** in 1990 to $*** in 1991, and then *** to $*** in 1992 and $*** in January-June 1993. Total raw materials and direct labor ***, while other factory costs ***. ***.[72]

The income-and-loss data of Konica on its U.S. CNPP operations are presented in table 14. Data on the major components of the COGS on its U.S. CNPP operations are presented in table 15. Total net sales value *** in ***, by *** percent overall from 1990 to 1992 and by *** percent from January-June 1992 to January-June 1993. Total net sales in square feet *** by *** percent from 1990 to 1992 and by *** percent from interim 1992 to 1993.

Table 14
Income-and-loss experience of Konica on its U.S. CNPP operations, fiscal years 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Table 15
Major components of Konica's cost of goods sold on its U.S. CNPP operations, fiscal years 1990-92, January-June 1992, and January-June 1993

* * * * * * *

[72] Staff conversation with ***, Kodak, Sept. 30, 1993.

Konica reported ***. Konica's CNPP plant in the United States was constructed in 1988, and full production began in 1990.[73] The financial performance *** from *** in 1990 to *** percent in 1991, and from *** in 1992 to *** percent in January-June 1993.

As a share of net sales, Konica's COGS and SG&A expenses *** in ***. The COGS sold per square foot *** from an average of $*** in 1990 to $*** in 1992 and then *** to $*** in January-June 1993. Direct labor, raw material costs, and other factory costs *** in ***.

Konica's domestic value added, with and without its SG&A expenses, is presented in the following tabulation (in percent):

Item	1990	1991	1992	Jan.-June.-- 1992	1993
Domestic value added without SG&A expenses (i.e., direct labor plus other factory costs) as a share of cost of goods sold	***	***	***	***	***
Total domestic value added (direct labor, other factory costs plus SG&A expenses) as a share of total cost (i.e., cost of goods sold plus SG&A expenses)	***	***	***	***	***

The *** data of *** on its *** operations are presented in table 16. ***.

Table 16

* * * * * * *

Chemical Component Operations

Kodak is the only U.S. firm that produces the chemical components at issue in these investigations (following petitioner's defintion). The income-and-loss data of Kodak on its U.S. chemical component operations are presented in table 17. There were no trade sales reported by Kodak. All production of chemical components was transferred to its affiliates. Total net sales *** by *** percent from 1990 to 1992, and *** by *** percent from January-June 1992 to January-June 1993. Kodak reported *** operating *** margins from *** percent in 1990 to *** percent in January-June 1993.

Table 17
Income-and-loss experience of Kodak on its U.S. chemical component operations, calendar years 1990-92, January-June 1992, and January-June 1993

* * * * * * *

[73] Staff conversation with ***, KMU, on Sept. 28, 1993.

Investment in Productive Facilities

The producers' investment in property, plant, and equipment and return on assets, by firms, are shown in table 18. ***. Total assets for chemical components are not reported because Kodak's total establishment assets represent ***. The operating returns on CNPP operations of Kodak and for both firms combined *** in 1991 from 1990, and *** in 1992, but ***. The net returns on CNPP operations of Kodak and for both firms combined ***. The operating and net returns on CNPP operations of Konica generally ***.

Table 18
Value of assets and return on assets of U.S. producers, by firms, as of the end of fiscal years 1990-92, June 30, 1992, and June 30, 1993

* * * * * * *

Capital Expenditures

Capital expenditures, by products and by firms, on producers' operations are shown in the following tabulation:

* * * * * * *

Kodak's capital expenditures *** by *** percent from 1990 to 1992, and by *** percent from January-June 1992 to January-June 1993. They were about *** percent of net sales in 1990, and then averaged a little over *** percent of net sales during the remaining periods. Kodak's capital expenditures as a share of cash flow were about *** percent in 1990 and about *** percent in 1991 and 1992, and then *** to *** percent in January-June 1993. Konica's capital expenditures *** by *** percent from 1990 to 1992 as the plant ***. They were about *** percent of net sales in 1990, and then *** to *** percent in 1992, and to *** percent in January-June 1993. Konica's capital expenditures as a share of cash flow were about *** percent in 1992 and then *** to *** percent in January-June 1993.

Research and Development Expenses

Research and development (R&D) expenses were reported ***. These expenses are shown in the following tabulation:

* * * * * * *

The Commission asked U.S. producers to describe (1) the R&D activities of their firms, including the role of intellectual property and (2) any product enhancements that are technically feasible but have not been implemented. Their responses are provided in appendix E.

Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of CNPP or chemical components from Japan or the Netherlands on their growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or improved version of CNPP). Their responses are presented in appendix E.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

Section 771(7)(F)(i) of the 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 the merchandise, the Commission shall consider, among other relevant economic factors[74]--

> (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 or 736, are also used to produce the merchandise under investigation,

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[74] 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.[75]

The available information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in appendix E. Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows. Other threat indicators have not been alleged or are otherwise not applicable.

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other Than the United States

Photographic suppliers compete on a worldwide basis. The United States is the largest market for CNPP and consumes approximately *** of world production of CNPP.[76] The second- and third-largest CNPP users are Western Europe and Japan, respectively. Kodak, Fuji, and Agfa are the dominant suppliers to Western Europe, each supplying approximately 30 percent of the market. In Japan, Fuji accounts for almost 50 percent of 1992 sales, followed by Konica (22 percent), Mitsubishi Paper (12 percent), and Kodak (10 percent).[77] According to the 1993 International Photo Processing Industry Report (Photofinishing News), global demand for CNPP increased approximately 5 percent in 1992 and "there is an acknowledged excess CNPP emulsion-coating capacity in the world - a situation which is spurring aggressive pricing by the various manufacturers."

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[75] 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."

[76] Kodak's postconference brief, exhibit 2-A, p. 28.

[77] 1991 International Photo Processing Industry Report (Photofinishing News). Cited statistics include color reversal paper.

The U.S. market represents *** percent of the quantity of Kodak's worldwide CNPP sales. Kodak's postconference brief, exhibit 2-a, p. 11.

The Industry in Japan

The following firms produce CNPP in Japan:

Fuji Photo Film Co., Ltd. (Fuji Japan);
Konica Corp.;
Mitsubishi Paper Mills Limited (Mitsubishi Paper Mills); and
Oriental Photo Industrial Co., Ltd. (Oriental Photo).

Fuji is the largest supplier of CNPP in Japan (as stated above it reportedly accounts for a 50-percent market share).[78] The company was formed in 1934 when it acquired Dainippon Celluloid's photographic film division. Fuji's core business remains photographic film. It is the world's second-largest film source; film and photographic paper account for more than 60 percent of its overall sales.[79]

***. The following tabulation shows the shares of these firms' total sales in their most recent fiscal year that were represented by sales of CNPP and chemical components (in percent):

Manufacturer	CNPP	Chemical components
Fuji Japan	***	***
Konica Corp	***	***
Mitsubishi Paper Mills	***	***
Oriental Photo	***	***

Table 19 presents industry indicators for the Japanese industry as a whole; table 20 lists specified indicators, by firms. As shown in the tables, the manufacture and shipment of CNPP is (with some exceptions) generally stable and is projected to remain so during the rest of 1993 and into 1994. Firms reported the capacity to produce *** square feet in 1990 and projected production capacity at *** square feet in 1994--a ***-percent increase.[80] In contrast, production is expected to decrease by *** percent from 1990 to projected 1994, resulting in a decrease in capacity utilization from *** percent in 1990 to *** percent in 1994. Over *** points of that decline will occur in 1994, as shipments to the United States and to all other markets decrease (table 19). As shown in table 20, *** project *** in U.S. shipments in 1994. The *** in shipments by Konica Corp. is due, in part, to ***. Similarly, counsel for Fuji attributes the *** in Fuji Japan's shipments to ***. In 1992, Fuji Japan accounted for *** percent of all Japanese export shipments to the United States. The Japanese home market was the predominant destination for production by ***; export markets other than the United States were, in aggregate, *** to the home market (table 19).

Table 19
CNPP: Japan's capacity, production, inventories, capacity utilization, and shipments, 1990-92, January-June 1992, January-June 1993, and projected 1993-94

* * * * * * *

[78] Petitioner states: "Dumping at the incredible margins alleged in the Petition is possible because Fuji has a protected home market, the only major market in the world that Kodak has had only minimal success in penetrating." Postconference brief, p. 1.
[79] Petition, exhibits 1 and 4.
[80] The rise in capacity from 1991 to 1992 is due to ***. ***.

Table 20
CNPP: Selected items of data reported by Japanese manufacturers, by firms, 1990-92 and projected 1993-94

* * * * * * *

Data on the production and shipment of chemical components in Japan are presented in table 21. As demonstrated in that table (and the tabulation below), there is a somewhat limited market for the product, i.e., most chemical components are consumed by the producing firm in the manufacture of CNPP.

Table 21
Chemical components: Japan's capacity, production, inventories, capacity utilization, and shipments, 1990-92, January-June 1992, January-June 1993, and projected 1993-94

* * * * * * *

The following tabulation (compiled from responses by Japanese manufacturers to the foreign producer's questionnaire) shows 1992 shipments of chemical components by ***:

* * * * * * *

*** [81] [82] [83]

The Industry in the Netherlands

Fuji Photo Film B.V. (Fuji Netherlands) is the only manufacturer of CNPP in the Netherlands. It began producing CNPP in Tilburg in August 1984. (In 1988, the firm expanded production to include color negative film.)[84] CNPP represented *** percent of total sales by Fuji Netherlands in its most recent fiscal year. Data on Fuji Netherlands' production of CNPP are presented in table 22; the value of its production of the chemical components used with the CNPP is shown in table 23. Fuji Netherlands reported ***. The projected *** in U.S. shipments of *** square feet from projected 1993 to projected 1994 is ***.

Table 22
CNPP: The Netherlands' capacity, production, inventories, capacity utilization, and shipments, 1990-92, January-June 1992, January-June 1993, and projected 1993-94

* * * * * * *

Table 23
Chemical components: The Netherlands' capacity, production, inventories, capacity utilization, and shipments, 1990-92, January-June 1992, January-June 1993, and projected 1993-94

* * * * * * *

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[81] Calculation based on responses by Konica to the foreign producer questionnaire.
[82] ***.
[83] Staff conversation with counsel for Konica, Oct. 5, 1993.
[84] Petition, exhibits 1, 4, and 9.

U.S. Importers' Inventories

U.S. importers' inventories of CNPP and chemical components are presented in tables 24 and 25, respectively.

Table 24
CNPP: End-of-period inventories of U.S. importers, by sources, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Table 25
Chemical components: End-of-period inventories of U.S. importers, by sources, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

U.S. Imports

In 1992, *** three sources (namely, Japan, the Netherlands, and "other," almost all of which is Agfa-produced imports from Germany) accounted for about *** of all CNPP imports that entered the United States (table 26). Unit values of CNPP differed among sources and generally declined throughout the period in question. Specifically, ***.[85] [86] Paper produced by Fuji in Japan is generally interchangeable with paper produced in the Netherlands.[87]

Table 26
CNPP: U.S. imports, by sources, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

The quantity of subject imports of CNPP rose *** percent from 1990 to 1991, declined *** percent during 1992, then increased again (by *** percent) from interim 1992 to interim 1993. Trends for individual subject sources ***. The quantity of CNPP imports from Japan declined steadily from 1990 to 1992, then increased by *** square feet during the interim periods. ***.

The following tabulation presents the quantity of imports from Japan, by firms (in 1,000 square feet):

* * * * * * *

---

[85] ***.

[86] When comparing unit values of imports from ***, it is of interest to contrast the per-unit value of imports by *** to those by ***. Unit values reported by *** are as follows: $*** in 1990, $*** in 1991, $*** in 1992, $*** in January-June 1992, and $*** in January-June 1993. ***. However, differences in import unit values do not necessarily translate into prices to customers within the United States.

[87] Counsel for Fuji states that ***. Staff conversation with counsel for Fuji, Oct. 4, 1993.

As shown, imports from *** generally declined since 1991. ***.[88] Imports by Konica USA consist mainly of CNPP in sheet-form during the periods in question.[89] ***. ***, imports of CNPP by Fuji USA *** by *** percent in 1991, *** percent in 1992 then *** again by *** percent in interim 1993. The following tabulation presents total imports by Fuji USA of product produced in both Japan and the Netherlands (in 1,000 square feet):

* * * * * * *

Table 27 presents data on U.S. imports of chemical components.

Table 27
Chemical components: U.S. imports, by sources, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Market Penetration of Imports

Data on penetration by subject imports to the U.S. markets for CNPP and chemical components (separately) are shown in table 28. Data on penetration by subject imports to the U.S. markets for CNPP and chemical components combined are shown in table C-3. In addition, import penetration ratios of subject CNPP to a U.S. market defined to exclude Konica are shown in table C-4.

Table 28
CNPP and chemical components: Market shares of U.S. shipments of domestic product and U.S. shipments of imports, 1990-92, January-June 1992, and January-June 1993

* * * * * * *

Prices

Marketing Characteristics

Demand for CNPP is derived from the demand for color photographs. As such, it is directly related to the level of color film sales. As stated earlier, CNPP sales have been increasing in the United States. All of the major suppliers of CNPP to the U.S. photofinishing market reported that they do not differentiate their products on the basis of country of origin. They reported that all CNPP products produced, imported, or purchased are inventoried together and priced without regard to the country of origin. Moreover, they also stated that their purchasers generally are not interested in the country of origin of the CNPP.[90]

Over the last few years, most CNPP manufacturers have been forming vertical relationships with downstream photofinishers. Three manufacturers, Kodak, Fuji, and Konica, reported that they have been vertically integrating downstream into photofinishing operations. U.S. importers of CNPP and some purchasers have argued that this movement was started by Kodak as a method to insure

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[88] ***.
[89] ***.
[90] Only one manufacturer, ***, reported that one small customer required its CNPP from a specific source, ***. ***.

sales of its CNPP and other photofinishing products. All of the related photofinishers only purchase CNPP from their related supplier. Kodak's related photofinishers represent *** percent of its volume of CNPP sold in the United States during 1992, *** percent during 1990. Fuji's and Konica's related photofinishers represent *** percent of their volume of CNPP sold in the United States during 1992, respectively.

Manufacturers of CNPP also have been entering into strategic alliances with photofinishers. These alliances create a closer relationship between the supplier and the photofinisher than just a purchase agreement for CNPP. Under an alliance, both sides share technical/marketing information and provide joint advertising to promote their current products and to ensure the future success of both the CNPP manufacturer and the photofinisher.

Purchasers contacted during these investigations have commented that the price for photofinishing also has become increasingly competitive. Some retailers, such as ***, believe that photofinishing is a traffic builder for the rest of their retail operations and therefore they price the photofinishing with this in mind. U.S. importers have alleged that this competition in photofinishing also has forced the price of paper downward.[91] They allege that this is especially true in light of Qualex's involvement in the industry and the CNPP prices afforded to Qualex due to its purchasing volume and its relationship with Kodak.

CNPP is priced by the square foot and sold on a delivered basis. Purchasers typically negotiate 1-year agreements with suppliers; however, some purchasers negotiate longer-term agreements of up to 3 years. Pricing for CNPP depends primarily on the overall volume of CNPP purchased and not necessarily the specific CNPP product(s) purchased. Pricing also depends somewhat on the number of distribution locations. That is, given the same overall purchasing volume, CNPP will be priced somewhat higher for minilabs that have multiple locations than for wholesale photofinishers who typically have a central location. *** reported that pricing additionally depends, to a smaller extent, on the specific packaging requirement of CNPP, that is, rolls vs. sheets or large vs. small rolls.

The price for CNPP also may be influenced by the sale of other products that may be bundled with CNPP. U.S. producers, importers, and purchasers reported that CNPP may be either purchased separately or included in a total package linked with a variety of other products, including the processing chemistry, equipment, film, and cameras. ***. Kodak also has offered an advertising program, Colorwatch, that links the sale of Kodak CNPP to the sale of the Kodak chemistry. Kodak advertises this program heavily on a retail level utilizing Kodak's high-profile brand name recognition to convince consumers to purchase only Kodak products, from film to the printed picture.[92] Kodak estimates that approximately *** percent of its total sales of CNPP are to customers that belong to Colorwatch.

Although Kodak argues that Fuji offers a similar program called Color Circle, Fuji reports that this program does not link the sale of CNPP to processing chemistry. The Color Circle program is targeted to smaller minilab owners primarily to provide technical service and advice to photofinishers. In addition, this program offers bonus points for CNPP purchases redeemable for selected Fuji films, cameras, in-store merchandise, advertising, and waste disposal. Fuji estimates that approximately *** percent of its sales of CNPP are to customers that belong to Color Circle.

U.S. producers and importers also offer a variety of incentive programs to encourage sales of CNPP. These programs include discount cash and credit sales terms, cash rebates, free goods, and cooperative advertising. In addition, ***. In general, the incentive programs offered by the reporting U.S. producers and importers are similar.

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[91] The price for CNPP represents approximately *** percent of the price for photofinishing. Fuji's postconference brief, answers to staff questions, exhibit 1.

[92] Kodak uses Bill Cosby as the spokesman for this program.

There are also other factors that may influence the sale of CNPP. Although all of the manufacturers offer technical support and service in the use of their CNPP and other photo processing products, some purchasers value these services more highly than others. Some purchasers contacted during the investigations cited Kodak's superior technical/environmental service as one reason for purchasing the Kodak CNPP. Moreover, manufacturers of photofinishing equipment that also manufacture CNPP may have an additional advantage in selling their CNPP to purchasers of their photofinishing equipment. For example, purchasers may buy Fuji's CNPP and processing chemicals because they already own Fuji minilab equipment, even though other suppliers' CNPP and chemistry can be used. Furthermore, some purchasers reported that the Kodak brand name also provides additional value to their operations. These purchasers reported that a competitor's CNPP must be priced below Kodak's CNPP for them to be willing to switch.

All four manufacturers reported that their average lead times ranged up to ***. They also reported that transportation costs are not an important factor in the sale of CNPP and are generally less than *** percent of the price of the product.[93] All manufacturers reported that returns of their product were minimal. Most problems with CNPP are discovered prior to customer shipment.

*** agree that the U.S.-produced and imported CNPP are interchangeable. All of these manufacturers except for Fuji also agree that quality differences among the various manufacturers do not represent a major factor in their sales of CNPP. Although Fuji agrees with this statement for the amateur photofinishing market segment, it argues that quality differences do represent an important and growing factor in the professional photofinishing market segment. Fuji argues that the better dye stability of the Fuji CNPP as compared with Kodak's results in a print that resists fading for longer periods of time. In its postconference brief, Fuji identified three professional photofinishers that had switched from Kodak CNPP due to the better dye stability. Kodak argues that dye stability is just one attribute of a series that defines the quality of a photograph. Fuji acknowledges that the consumer perception of this quality difference among the manufacturers (especially between Fuji and Kodak), although growing, remains slight.[94]

Chemical Components

There are no chemical components for the production of CNPP sold to unrelated CNPP producers in the United States. Kodak produces its own chemical components for its CNPP production, and Konica imports its chemical components from Japan for its U.S. CNPP production. ***.[95]

* * * * * * *[96]

Questionnaire Price Data

The Commission requested price and quantity information from U.S. producers and importers for their quarterly sales of CNPP during the period January 1990-June 1993.[97] The U.S. producers and importers were requested to provide price data for their largest related and unrelated customer as well as all related and unrelated customers in three photofinishing channels of distribution: wholesale

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[93] ***.

[94] Meeting with *** of Fuji, Sept. 14, 1993.

[95] ***.

[96] ***.

[97] No pricing data were requested for chemical components because they are not sold to any unrelated CNPP producer.

photofinishers using high speed printers (including traditional and mail-order photofinishers),[98] minilab photofinishers, and professional photofinishers.[99]

Usable price data were received from the four suppliers of CNPP: Kodak, Fuji, Konica, and Mitsubishi.[100] These four firms represented 100 percent of U.S. producers' domestic shipments of CNPP during 1992 and *** percent and 100 percent of U.S. importers' domestic shipments of CNPP from Japan and the Netherlands, respectively, during 1992. Reported pricing for the three channels of distribution accounted for approximately *** percent of U.S. producers' domestic shipments of CNPP during 1992 and *** percent and *** percent of U.S. importers' domestic shipments of CNPP from Japan and the Netherlands, respectively, during 1992.[101]

U.S. price trends to unrelated purchasers

Overall, Kodak's CNPP prices and the combined U.S.-produced CNPP[102] prices *** (tables 29-31). *** (figures 5 and 6).

Table 29
Delivered selling prices and quantities of U.S.-produced CNPP and CNPP imported from Japan and the Netherlands sold to wholesale photofinishers, by quarters, January 1990-June 1993

* * * * * * *

Table 30
Delivered selling prices and quantities of U.S.-produced CNPP and imported CNPP from Japan and the Netherlands sold to minilabs, by quarters, January 1990-June 1993

* * * * * * *

Table 31
Delivered selling prices and quantities of U.S.-produced CNPP and imported CNPP from Japan and the Netherlands sold to professional photofinishers, by quarters, January 1990-June 1993

* * * * * * *

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[98] Sales of master/parent rolls of CNPP are not included in the sales to wholesale photofinishers.

[99] U.S. producers and importers also were requested to provide price data on five specific CNPP products sold to unrelated and to related purchasers. These five products are differentiated primarily by the roll size of CNPP. The five CNPP products for which price data were requested are (1) master/ parent rolls of amateur CNPP, (2) 3.5" x 1,150' rolls of amateur CNPP, (3) 4.0" x 575' rolls of amateur CNPP, (4) 6.0" x 575' rolls of amateur CNPP, and (5) 10.0" x 275' rolls of professional portrait CNPP. Pricing information is discussed only for the three channels of distribution rather than the five CNPP products because U.S. producers, importers, and purchasers reported that the most important factor in determining the price of the CNPP product is the total volume of the overall purchase, not the individual CNPP product size.

[100] ***.

[101] The responding firms reported price data net of all discounts, allowances (including any freight allowances), rebates, and any other deductions or premiums. ***.

[102] Includes Kodak's and Konica's U.S. production of finished CNPP.

Figure 5
Largest shipment and total shipment delivered selling prices of Kodak-produced CNPP sold to wholesale photofinishers, minilabs, and professional photofinishers, by quarters, January 1990-June 1993

* * * * * * *

Figure 6
Largest shipment and total shipment delivered selling prices of U.S.-produced CNPP (Kodak and Konica) sold to wholesale photofinishers, minilabs, and professional photofinishers, by quarters, January 1990-June 1993

* * * * * * *

Prices were, in general, ***. ***.

* * * * * * *

Japanese price trends to unrelated purchasers

* * * * * * * (figure 7)[103]

Figure 7
Largest shipment and total shipment delivered selling prices of imported CNPP from Japan sold to wholesale photofinishers, minilabs, and professional photofinishers, by quarters, January 1990-June 1993

* * * * * * *

Netherlands' price trends to unrelated purchasers

* * * * * * * (figure 8)[104] [105]

Figure 8
Largest shipment and total shipment delivered selling prices of imported CNPP from the Netherlands sold to wholesale photofinishers, minilabs, and professional photofinishers, by quarters, January 1990-June 1993

* * * * * * *

Price comparisons to unrelated purchasers

Comparisons were made between the price for Kodak's largest shipment and total shipments of CNPP and the U.S. importers' weighted-average prices of their largest shipment and total shipments of CNPP from Japan and the Netherlands (tables 32-34). Price comparisons were also

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[103] ***.
[104] Fuji is the only importer of CNPP from the Netherlands.
[105] ***.

made between the combined Kodak and Konica U.S.-produced finished CNPP and the imported products. Overall, there were ***. ***.

Table 32
Margins of under(over)selling for largest sale and total sales price comparisons between Kodak and U.S.-produced CNPP and imported CNPP from Japan and the Netherlands sold to wholesale photofinishers, by quarters, January 1990-June 1993

* * * * * * *

Table 33
Margins of under(over)selling for largest sale and total sales price comparisons between Kodak and U.S.-produced CNPP and imported CNPP from Japan and the Netherlands sold to minilabs, by quarters, January 1990-June 1993

* * * * * * *

Table 34
Margins of under(over)selling for largest sale and total sales price comparisons between Kodak and U.S.-produced CNPP and imported CNPP from Japan and the Netherlands sold to professional photographers, by quarters, January 1990-June 1993

* * * * * * *

* * * * * * *

Manufacturer price data to unrelated and related purchasers

The four reporting manufacturers also provided separate price information for their sales to unrelated and related purchasers within the three channels of distribution (figures 9-12, and tables 35-38). The information presented shows total sales by each manufacturer and does not differentiate between the country of origin. ***.

Figure 9
Kodak's average delivered selling prices for total sales of CNPP to unrelated and related purchasers, by channel of distribution and by quarters, January 1990-June 1993

* * * * * * *

Figure 10
Fuji's average delivered selling prices for total sales of CNPP to unrelated and related purchasers, by channel of distribution and by quarters, January 1990-June 1993

* * * * * * *

Figure 11
Konica's average delivered selling prices for total sales of CNPP to unrelated and related purchasers, by channel of distribution and by quarters, January 1990-June 1993

* * * * * * *

Figure 12
Mitsubishi's average delivered selling prices for total sales of CNPP to unrelated purchasers, by channel of distribution and by quarters, January 1990-June 1993

* * * * * * *

Table 35
Kodak's average delivered selling prices and quantities for its total sales of CNPP to unrelated and related purchasers, by channel of distribution and by quarters, January 1990-June 1993

* * * * * * *

Table 36
Fuji's average delivered selling prices and quantities for its total sales of CNPP to unrelated and related purchasers, by channel of distribution and by quarters, January 1990-June 1993

* * * * * * *

Table 37
Konica's average delivered selling prices and quantities for its total sales of CNPP to unrelated and related purchasers, by channel of distribution and by quarters, January 1990-June 1993

* * * * * * *

Table 38
Mitsubishi's average delivered selling prices and quantities for its total sales of CNPP to unrelated purchasers, by channel of distribution and by quarters, January 1990- June 1993

* * * * * * *

* * * * * * *[106] [107] [108]

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the currencies of the two countries subject to these investigations appreciated in relation to the U.S. dollar over the period from January-March 1990 through April-June 1993 (figure 13). The nominal value of the Dutch guilder fluctuated most of the period, but appreciated overall by 3.6 percent relative to the U.S. dollar, while the nominal value of the Japanese yen appreciated by 34.4 percent. When adjusted for

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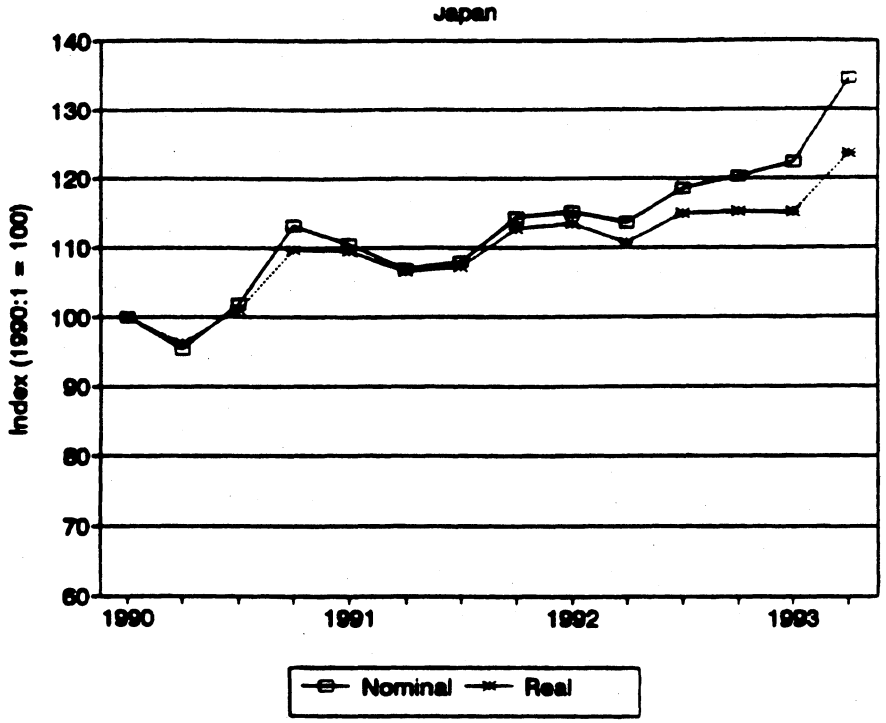
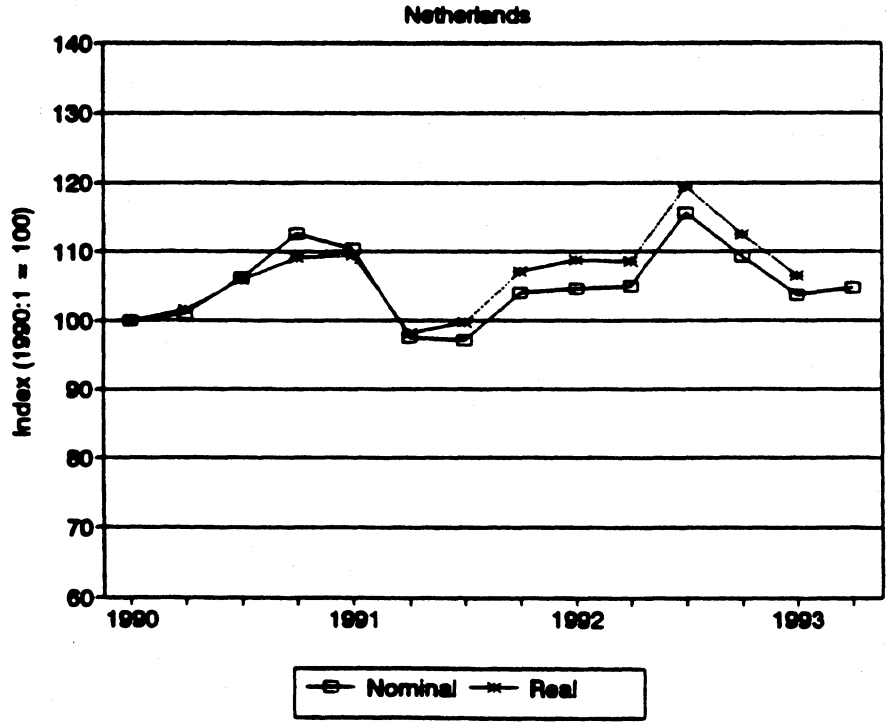
[106] Fuji's price information includes CNPP imported from both Japan and the Netherlands.
[107] Includes U.S.-produced CNPP using Japanese components and imported product from Japan.
[108] Includes CNPP imported from Japan and U.S. purchases of CNPP from Konica.

Figure 13
Exchange rates: Indexes of the nominal and real exchange rates between the U.S. dollar and the currencies of Japan and the Netherlands, by quarters, January 1990-June 1993





movements in producer price indexes in the United States and the specified countries, the real value of the Dutch guilder appreciated by 6.5 percent relative to the U.S. dollar through January-March 1993, the latest period for which producer prices were available, while the Japanese yen appreciated by 23.5 percent through April-June 1993.

Lost Sales and Lost Revenues

The Commission received *** allegations of lost sales and *** allegations of lost revenues involving *** purchasers by ***. The lost sale allegations totaled $*** and involved *** square feet of CNPP.[109] The lost revenue allegations totaled $*** and involved *** square feet of CNPP. In all of the lost revenue allegations, the accepted *** than the alleged imported price from Japan or the Netherlands. ***.[110]

Staff contacted *** firms cited in the lost sale and lost revenue allegations. These firms accounted for *** of the lost sale allegations and *** of the lost revenue allegations. They represent over *** percent, by value, of the lost sale allegations and over *** percent, by value, of the lost revenue allegations.

*** was cited in *** totaling $*** and involving amateur CNPP. ***.

***, purchaser of CNPP for ***, reported that *** did lower its original price quote ***. *** had received a quote *** that he probably shared with Kodak to convince Kodak to become more competitive. ***. *** has always purchased from Kodak, and ***. *** had received an even lower price quote from Agfa ***. ***.

* * * * * * *

***. *** commented that the minilab business has added to its photofinishing business rather than taking business from its central photofinishing operations. ***.

*** stated that because of Kodak's brand name, its marketing, and its technical and environmental services, Kodak possesses an advantage over other competitors. He estimates that because of these other factors, a competitor must price its CNPP product approximately 6 to 8 percent below the Kodak price in order to be considered competitive with Kodak.

***. *** also commented that other retailers have often used photofinishing as a so-called loss leader to attract customers. This move has forced retailers to demand even better prices for its purchases of CNPP.

*** was cited in ***. ***.

* * * * * * *

***, purchaser of CNPP for ***, reported that the pricing information supplied for the *** sounded reasonable and that Fuji did have the lower price quote ***. ***.

In the ***, *** reported that the information provided did not sound correct. He reported, however, that ***, with Kodak ultimately providing the lowest price. In ***, Kodak did lower its initial price quote but *** stated that he did not identify any competing manufacturer, only that he challenged Kodak to improve its quote. ***. *** commented that the lowest price quote was offered by Agfa. For the ***, *** believed that Kodak offered the best combination of price and technical/environmental service. He estimated that because of the Kodak service, a competitor must price its CNPP product for this business at least 10 percent below the Kodak price in order to be considered competitive with Kodak.

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[109] ***.

[110] ***.

***. *** reported that although all of the manufacturers try to bundle other products with CNPP (e.g., processing chemicals and equipment), ***. ***. *** reported that the photofinishing operation is very competitive and is a traffic builder for ***. He did not agree with the characterization of photofinishing operations as being a loss leader; however, ***.

*** was cited in ***. ***.

***, purchaser of this product for ***, reported that ***. ***.

* * * * * * *

*** reported that although he offered suppliers the opportunity to bundle other products with CNPP in their price quotes during the most recent contract negotiations, no supplier offered a bundled package. Accordingly, ***. ***.

*** was cited in ***. ***.

* * * * * * *

*** reported that all of the CNPP suppliers frequently offer other products together with CNPP. Kodak will typically quote its paper and chemistry together in a combined offer; *** also noted that Kodak's chemistry is expensive. *** commented that Kodak is not really interested in supplying a company CNPP unless it purchases both CNPP and chemistry together. ***. *** also reported that he did not consider the Kodak brand name to command a price premium ***, although he stated that Kodak would like you to believe that its name possesses this premium.

*** was cited in ***. ***.

*** reported that although he could not recall the specific details cited in the allegation, Kodak did lower its initial price quote after *** suggested that Kodak had to be more competitive in the market.

***. *** reported that he is not aware of any bundling of products in CNPP negotiations.

*** was cited for ***. ***.[111]

*** could not recall the exact pricing information, but stated that the CNPP pricing information seemed to be correct in that the Kodak price was approximately *** per square foot above the Fuji offer. He was willing to pay more for the Kodak CNPP due to the brand name recognition of Kodak and its advertised Colorwatch program. This program required *** to purchase the Kodak processing chemistry in addition to the CNPP. Moreover, Kodak offered a bundled package that included CNPP, the processing chemistry, and ***. ***.

***. *** commented that *** weighed three factors in determining from which supplier to purchase CNPP: the price of the package, the quality of the CNPP, and the supplier's place in the market (i.e., its brand name advertising).

* * * * * * *

*** was cited in ***. ***.

***. *** reported that *** had always purchased Kodak paper because he believed in Kodak's marketing campaigns (including Colorwatch), and he valued being associated with what he considered to be the third-most-known brand name in the United States. However, ***. ***.

*** reported that ***. ***. *** that Kodak has used its monopolistic power through its involvement in Qualex to eliminate competition in the photofinishing market.

*** was cited in ***.

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[111] At the time of this sale, ***.

***. *** stated that the contracts have, at times, included equipment, film, chemistry, etc. as part of the overall package. *** reported that discounts can be given for the individual products or for the package as a whole. ***.

*** was cited in ***. ***.

* * * * * * *

***, purchaser of this product for ***, ***. He reported that *** started purchasing imported CNPP for many reasons, including price. ***. ***, Kodak was the only domestic supplier of CNPP, and Kodak could get virtually any price it asked for its product. Kodak had been the quality leader and put on an excellent and effective advertising campaign addressing the quality of its products. When Fuji and Konica entered the U.S. market, they had a very good product and their prices were lower than Kodak's. They were very friendly to customers and they were willing to assist *** in any way possible. In the meantime, *** reported that Kodak, over the years, had become large and unresponsive to ***'s needs. ***.

* * * * * * *

***. Specific requirements for potential suppliers include: the ability to provide the required quantities, the quality of CNPP, the dependability of the product and the ability to meet delivery schedules, distribution capabilities, the estimated life of the product, and the quality of technical support and assistance.

In their bids, suppliers will often present a product package to ***, including film and/or chemicals in addition to the CNPP. They sometimes will include not only a price for 1 year of business but a multiyear bid as well. Also included in their bids are other programs such as technical support, training assistance, technical information, joint laboratory safety inspections, etc. Proposals could also include single-use cameras, equipment price incentives, cooperative advertising, advertising analysis information, equipment design assistance, private-label film, volume discounts/rebates, and ***. *** reported that the prices, only when taking the total package into consideration, have become very competitive over the years.

* * * * * * *

*** was cited ***. ***. ***, purchaser of this product for ***, could not cite any specific information concerning the ***, but reported that Kodak did have to lower its price because of competition.

* * * * * * *

***. *** reported that he looks at the whole package of Kodak products when negotiating, although Kodak lists the products separately. However, *** believes that the price of Kodak's CNPP or Kodak's other products would be priced higher if *** did not purchase the whole package. *** also reported that although there are specific quality differences between the various manufacturers' CNPP, in general the quality of the CNPP produced by all of the manufacturers is good. Moreover, he added that image stability is not yet an important issue in the industry.

*** was cited ***. ***.

*** purchaser of CNPP ***. ***.

*** reported that Kodak offered a whole package of products including CNPP, film, and cameras. He believed that the price *** received is due to its overall purchases of Kodak products, even though Kodak had priced each product separately. ***.

***. *** considers the photofinishing business to be a traffic builder for its stores because it guarantees three visits by the consumer: to purchase the film, to process the film, and to pick up the photographs.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-661 and 662 (Preliminary)]

Color Negative Photographic Paper and Certain Chemical Components From Japan and the Netherlands

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-661 and 662 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan and the Netherlands of color negative photographic paper (CNPP) and certain chemical components [1] that are alleged to be sold in the United States at less than fair value. CNPP is provided for in subheadings 3703.10.30 and 3703.20.30 of the Harmonized Tariff Schedule of the United States (HTS); chemical components are provided for in chapters 29 and 37 of the HTS. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by October 15, 1993.

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

EFFECTIVE DATE: August 31, 1993.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-205-3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on August 31, 1993, by Eastman Kodak Company, Rochester, NY.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) 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 receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9 a.m. on September 22, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Debra Baker (202-205-3180) not later than September 17, 1993, to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before September 27, 1993, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 3, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-22024 Filed 9-8-93; 8:45 am]

BILLING CODE 7020-02-P

[1] CNPP is sensitized, unexposed, silver halide color negative photographic paper, whether in master rolls, smaller rolls, or sheets. CNPP includes any sensitized paper used for producing prints from color negative film; it may also be used to form color positives from color negative images created digitally (electronically) on a variety of display devices, including cathode ray tubes. Chemical components are those chemical mixtures and compounds (including their precursors for which there are no significant independent uses) used in making CNPP and for which there are no significant independent uses. Such chemical components include sensitized (whether chemically or spectrally) and unsensitized emulsions, couplers, dispersions, and their precursors.

International Trade Administration

[A-588-822 and A-421-806]

Initiation of Antidumping Duty Investigations: Color Negative Photographic Paper and Chemical Components Thereof From Japan and the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 27, 1993.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3464.

Initiation of Investigations

The Petition

On August 31, 1993, we received a petition filed in proper form by Eastman Kodak Company (petitioner). A supplement to the petition was received on September 7, 1993. In accordance with 19 CFR 353.12, the petitioner alleges that color negative photographic paper and chemical components thereof (CNPP) from Japan and the Netherlands are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition was filed on behalf of the U.S. industry producing the product subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

Scope of Investigations

For purposes of these investigations, color negative photographic paper (CNPP) is all sensitized, unexposed silver-halide color negative

photographic paper, whether in master rolls, smaller rolls or sheets. For the purposes of these initiations, the chemical components of CNPP are also included in these investigations. The chemical components of CNPP are the chemical mixtures and compounds used in making CNPP. As these investigations progress, we will consider any arguments raised regarding the inclusion of the chemical components of CNPP in the same class or kind of merchandise as the CNPP itself. We will allow all interested parties an opportunity to comment on this issue.

The chemical components of CNPP include sensitized and unsensitized emulsions, couplers, dispersions and their precursors. Unsensitized silver-halide emulsions consist of silver-halide microcrystals dispersed in a gelatin and water matrix after preparation and washing to remove soluble salts. Unsensitized emulsions are naturally sensitive to blue and ultraviolet light, but cannot efficiently convert light to form a color image without further processing. Sensitized emulsions have been treated to increase their sensitivity across the entire spectrum and/or treated by the addition of spectral sensitizing dyes to make the emulsions selectively sensitive to specific wavelengths of light. A coupler is a colorless, water-insoluble chemical capable of reacting with a silver-halide development product to form a dye. A dispersion consists of a compound or compounds dispersed in a water-gel solution, and may contain organic solvents, chemicals to stabilize the coupler and dye.

The CNPP subject to these investigations are currently classifiable under subheadings 3703.10.3030 and 3703.20.3030 of the Harmonized Tariff Schedule of the United States (HTSUS). Emulsions are currently classifiable under subheadings 3707.10.0000 and 3707.90.3000. Couplers, dispersions and precursor compounds are currently classifiable under subheadings 3707.90.3000, 3707.90.6000, 2933.19.3000, 2933.90.2500 and 2934.90.2000. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

United States Price and Foreign Market Value

For both Japan and the Netherlands, petitioner based United States price (USP) on observed price quotes of CNPP in the United States. Petitioner deducted from USP the U.S. duty and freight charges, and added the value-added tax (VAT) that would be charged on the comparable home market sale in Japan (See the discussion below regarding the calculation of foreign market value (FMV) using the multinational corporation (MNC) provision).

For Japan, petitioner based FMV on observed price quotes of CNPP in Japan. Petitioner deducted from FMV foreign inland freight, home market credit expense and home market packing and added U.S. credit expense, U.S. packing and the VAT that would be charged on the home market sale.

For the Netherlands, petitioner calculated FMV by applying the special rule for certain multinational corporations contained in the MNC provision, section 773(d) of the Act. See also, Preliminary Determination of Sales at Less than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Taiwan (54 FR 31987, August 3, 1987). Since petitioner alleged that Dutch home market sales are inadequate for comparison purposes, it applied the MNC provision and calculated FMV based on observed price quotes of CNPP in Japan by the Dutch producer's parent company in Japan. Petitioner alleged that all of the criteria for the application of the MNC provision have been satisfied:

1. The Japanese producer owns facilities in both Japan and the Netherlands that manufacture the subject merchandise;
2. the Netherlands home market is not viable;
3. the ex-factory FMV based on home market sales prices in Japan is higher than the foreign market value based on prices of CNPP produced in the Netherlands and sold to home market or third country customers;
4. the CNPP produced in Japan is identical or similar to the CNPP produced in the Netherlands; and
5. the price differential between CNPP produced and sold in Japan and CNPP produced in the Netherlands is not solely due to differences in manufacturing costs.

To satisfy the first criterion, petitioner provided the Japanese producer's 1992 conspectus which shows that the Dutch producer is a wholly owned subsidiary of the Japanese producer. To satisfy the second criterion, petitioner collected statistics of the Dutch producer's home market sales and total exports of CNPP from the Netherlands to third countries which show that the Dutch producer's home market sales are less than five percent of its third country sales. To satisfy the third criterion, petitioner obtained price quotes for the Dutch producer's home market and third country sales. Petitioner deducted from these price quotes foreign inland freight and home market credit expense and compared the results to the Japanese FMV as described above, with the one exception that petitioner did not make an adjustment for Japanese VAT to either price. To satisfy the fourth criterion, petitioner ran tests of the CNPP sold in Japan and in the Netherlands and found them to be identical. Finally, to satisfy the fifth criterion, petitioner calculated the cost of production (COP) of CNPP in Japan and in the Netherlands.

To calculate the COP of CNPP in both Japan and the Netherlands, petitioner used its own actual production costs and consumption rates. Petitioner calculated the amount and value of each production input it uses to make CNPP then determined the cost of most of these inputs in Japan and the Netherlands using the most recent publicly available information. Petitioner added the labor and overhead costs associated with producing the merchandise, as well as costs to pack the merchandise. Finally, petitioner added amounts for depreciation and selling, general and administrative costs obtained from the Japanese producer's annual reports in Japan and the Netherlands. A comparison of the costs of production for the two countries showed that the COP in Japan was greater than the COP in the Netherlands, but that this difference was less than the difference between the home market prices in Japan and in the Netherlands.

Thus, petitioner based FMV on observed price quotes of CNPP in Japan. Petitioner deducted from FMV foreign inland freight, home market credit expense and home market packing and added U.S. credit expense, U.S. packing and the VAT that would be charged on the home market sale. However, petitioner did not deduct the difference in the costs of production between the two countries from the FMV. Therefore, we recalculated the margins for the Netherlands by deducting this amount from the FMV.

The range of dumping margins of CNPP from Japan based on a comparison of USP to FMV alleged by petitioner is 201.52%–313.47%. The range of dumping margins of CNPP from the Netherlands based on a comparison of USP to FMV (using the MNC provision) after deducting the difference in the costs of production between Japan and the Netherlands from the Netherlands' FMV is 269.31%–297.84%. Furthermore, in addition to the margins established from the MNC provision methodology utilized by petitioner, we have determined that a

range of dumping margins of 92%–100% exist for the Netherlands when using the Netherlands' home market prices as FMV (See the September 20, 1993, memorandum from the case analyst to the file).

Initiation of Investigations

We have examined the petition on CNPP from Japan and the Netherlands and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of CNPP from Japan and the Netherlands are being, or are likely to be, sold in the United States at less than fair value. We are also initiating this investigation for the Netherlands based on the Netherlands' home market prices.

Preliminary Determination by the International Trade Commission

The International Trade Commission (ITC) will determine by October 15, 1993, whether there is a reasonable indication that imports of CNPP from Japan and the Netherlands are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in the investigations being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: September 20, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–23638 Filed 9–24–93; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S CONFERENCE

Investigations Nos. 731-TA-661 and 662 (Preliminary)

COLOR NEGATIVE PHOTOGRAPHIC PAPER AND CERTAIN CHEMICAL COMPONENTS FROM JAPAN AND THE NETHERLANDS

Those listed below appeared at the United States International Trade Commission's conference held in connection with the subject investigations on September 22, 1993, in the Hearing Room, at the USITC Building, 500 E Street, S.W., Washington, DC.

In support of the imposition of antidumping duties

Wiley, Rein & Fielding--Counsel
Washington, DC
on behalf of--

Eastman Kodak Company (Kodak)

William Fowble, Executive Vice President for Imaging, Kodak
Thomas F. Busch, Manager, Trade Products & Services, Kodak
Robert Hall, Director of Business Operations, Professional Imaging, Kodak

Mark Layacona, President, Marco Photo
Rick Batchelder, President, Filmet Color Laboratory

Jerry Hausman, Economist, Cambridge Economics
Seth Kaplan, Economist, Trade Resources Company
Richard Boltuck, Economist, Trade Resources Company

Charles Owen Verrill, Jr.--OF COUNSEL
Alan H. Price--OF COUNSEL
Stephanie L. Thomas--OF COUNSEL

In opposition of the imposition of antidumping duties

Willkie, Farr & Gallagher--Counsel
Washington, DC
on behalf of--

Fuji Photo Film Co., Ltd. (Fuji Japan)
Fuji Photo Film USA, Inc. (Fuji USA)
Fuji Photo Film, B.V. (Fuji Netherlands)

In opposition of the imposition of antidumping duties--Continued

Paul Hudak, Vice President and General Manager, Fuji USA
Al Blais, Vice President and General Manager, Fuji USA
Jonathan File, Corporate Counsel, Fuji USA

David C. Reynolds, Vice President - Director of Photo Merchandising, Genovese-Living Color
Wayne Haub, President, H & H Color
Michael Adler, President, Moto Photo
Ernest A. Materazi, Vice President, Fuji Hunt
David McEowen, President, Fuji Trucolor

John Reilly, Economic Consultant, Nathan Associates
Lance Graef, Economic Consultant, Nathan Associates

William H. Barringer--OF COUNSEL
James P. Durling--OF COUNSEL
Daniel L. Porter--OF COUNSEL
Nancy A. Fischer--OF COUNSEL

APPENDIX C

SUMMARY DATA CONCERNING THE U.S. MARKET

Table C-1
CNPP: Summary data concerning the U.S. market, 1990-92, January-June 1992, and January-June 1993

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Table C-2
Chemical components: Summary data concerning the U.S. market, 1990-92, January-June 1992, and January-June 1993

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Table C-3
CNPP and chemical components: Summary data concerning the U.S. market, 1990-92, January-June 1992, and January-June 1993

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Table C-4
CNPP: Summary data concerning the U.S. market (excluding Konica), 1990-92, January-June 1992, and January-June 1993

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APPENDIX D

GRAPHS ILLUSTRATING THE U.S. MARKET

Figure D-1
CNPP: U.S. production, capacity, and capacity utilization, 1990-92

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Figure D-2
CNPP: U.S. producers' shipments, 1990-92

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Figure D-3
CNPP: U.S. financial data, 1990-92

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Figure D-4
CNPP: U.S. imports, 1990-92

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Figure D-5
CNPP: Market shares based on square feet, 1990-92

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