

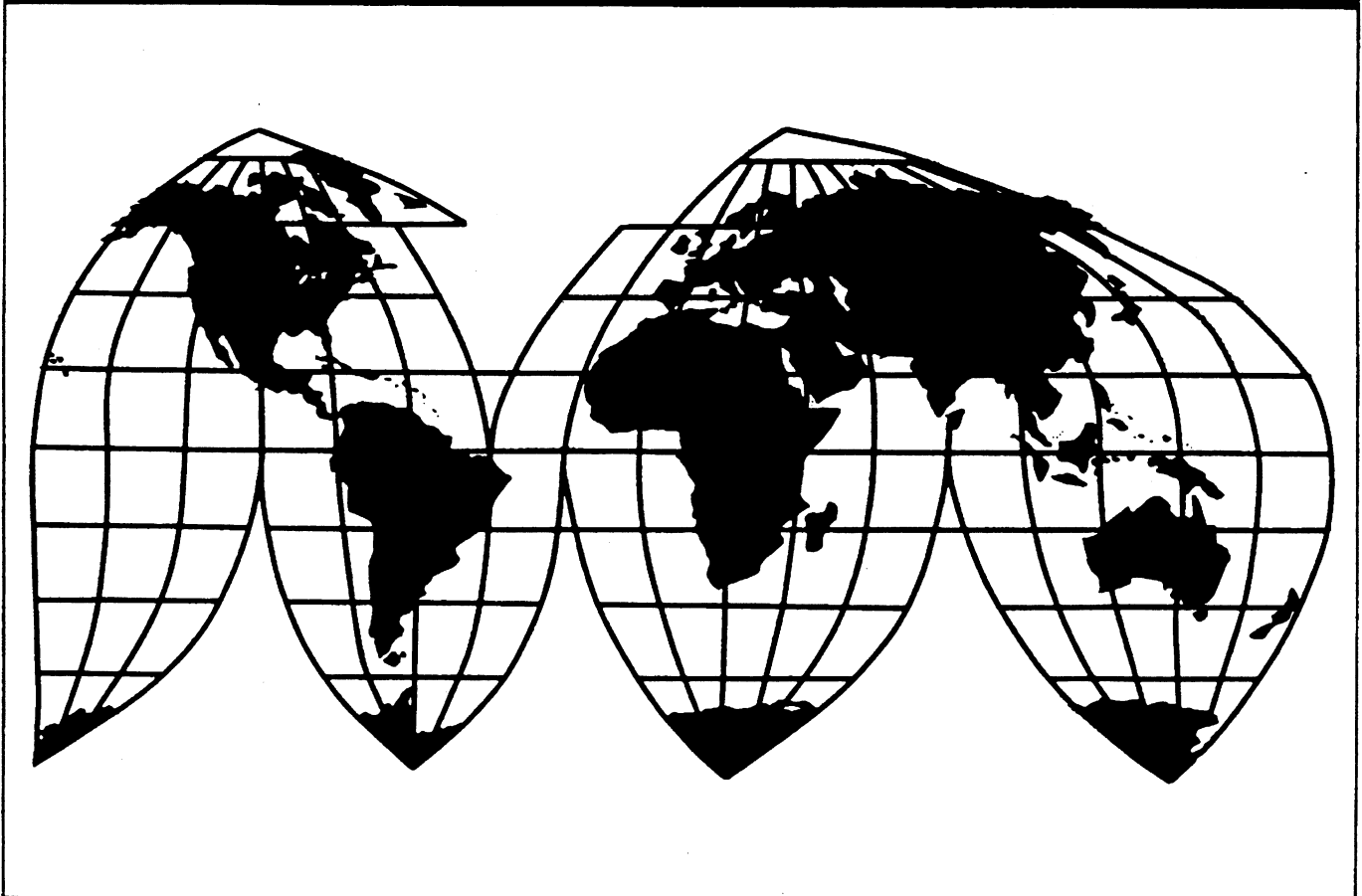
Synthetic Indigo From China

Investigation No. 731-TA-851 (Final)

Publication 3310

June 2000

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Lynn M. Bragg, Chairman
Marcia E. Miller, Vice Chairman
Jennifer A. Hillman
Stephen Koplan
Thelma J. Askey
Deanna Tanner Okun

Robert A. Rogowsky
Director of Operations

Staff assigned:

Jozlyn Kalchthaler, *Investigator*
Lawrence Johnson, *Industry Analyst*
Craig Thomsen, *Economist*
James Stewart, *Accountant*
Gracemary Rizzo, *Attorney*

Robert Carpenter, *Supervisory Investigator*

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

U.S. International Trade Commission

Washington, DC 20436

Synthetic Indigo From China



Publication 3310

June 2000

CONTENTS

	<i>Page</i>
Determination	1
Views of the Commission	3
Views of Commissioners Stephen Koplan and Thelma J. Askey on Critical Circumstances	17
Part I: Introduction	I-1
Background	I-1
Summary data	I-1
The product	I-2
Physical characteristics and uses	I-2
Manufacturing process	I-3
Like product issues	I-3
Part II: Conditions of competition in the U.S. market	II-1
Market segments and channels of distribution	II-1
Supply and demand considerations	II-2
U.S. supply	II-2
Industry capacity	II-2
Export markets	II-2
Inventories	II-3
Production alternatives	II-3
U.S. demand	II-3
Demand characteristics	II-3
Substitute products	II-9
Cost share	II-9
Substitutability issues	II-10
Factors affecting purchasing decisions	II-10
Comparisons of domestic products and subject imports	II-11
Interchangeability	II-11
Quality	II-12
Lead times/delivery	II-12
Comparisons of domestic products and nonsubject imports	II-13
Comparisons of subject and nonsubject imports	II-13
Elasticity estimates	II-14
U.S. supply elasticity	II-14
U.S. demand elasticity	II-14
Substitution elasticity	II-14
Part III: U.S. producer's production, shipments, and employment	III-1
U.S. producer	III-1
U.S. production, capacity, and capacity utilization	III-1
U.S. producer's domestic shipments and export shipments	III-2
U.S. producer's inventories	III-3
U.S. employment, wages, and productivity	III-4
Part IV: U.S. imports, apparent consumption, and market shares	IV-1
U.S. importers	IV-1
U.S. imports	IV-1

CONTENTS

	<i>Page</i>
Part IV: U.S. imports, apparent consumption, and market shares--Continued	
Apparent U.S. consumption	IV-4
U.S. market shares	IV-4
Critical circumstances	IV-5
Indigo converters	IV-6
Part V: Pricing and related data	V-1
Factors affecting pricing	V-1
Raw material inputs	V-1
U.S. transportation costs	V-1
U.S. tariff rates	V-1
Exchange rates	V-2
Pricing practices	V-2
Pricing methods	V-2
Sale terms and discounts	V-2
Price data	V-3
Lost sales and lost revenues	V-5
Part VI: Financial condition of the U.S. industry	VI-1
Background	VI-1
Operations on synthetic indigo	VI-1
Capital expenditures, R&D expenses, and investment in productive facilities	VI-2
Capital and investment	VI-2
Part VII: Threat considerations	VII-1
The industry in China	VII-1
U.S. inventories of product from China	VII-4
 Appendixes	
A. <i>Federal Register</i> notices	A-1
B. List of witnesses	B-1
C. Summary data	C-1
D. Purchaser responses to the question of how antidumping duties would affect their businesses	D-1
E. COMPAS presentation	E-1
F. Summary data concerning U.S. converters	F-1
 Figure	
V-1. Synthetic indigo (in paste and powder form, expressed on a 20-percent paste basis): Weighted-average net delivered prices (per pound), by sources and by quarters, January 1997-December 1999	V-5

CONTENTS

	<i>Page</i>
Tables	
II-1. U.S. blue denim production and imports for consumption from Mexico and all other countries, 1995-99	II-5
II-2. U.S. blue jeans production and blue denim trouser and breeches imports for consumption on a yearly basis, 1995-99	II-8
III-1. Synthetic indigo: U.S. producer's capacity, production, and capacity utilization, 1997-99	III-2
III-2. Synthetic indigo: U.S. producer's shipments, 1997-99	III-3
III-3. Synthetic indigo: U.S. producer's export shipments, 1997-99	III-3
III-4. Synthetic indigo: U.S. producer's end-of-period inventories, 1997-99	III-3
III-5. Average number of production and related workers producing synthetic indigo, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1997-99	III-4
IV-1. Synthetic indigo: U.S. imports, by principal sources, 1997-99	IV-2
IV-2. Synthetic indigo: U.S. producer's imports from China, 1997-99	IV-3
IV-3. Synthetic indigo: U.S. shipments of domestic product, U.S. import shipments, by sources, and apparent U.S. consumption, 1997-99	IV-4
IV-4. Synthetic indigo: Apparent U.S. consumption and market shares, 1997-99	IV-5
IV-5. Synthetic indigo: U.S. imports of product manufactured/exported by selected Chinese producers/exporters, by month, 1999	IV-6
IV-6. Synthetic indigo: Conversion costs for U.S. importers	IV-6
V-1. Synthetic indigo (in paste and powder form, expressed on a 20-percent paste basis): Weighted-average delivered prices and quantities reported by the U.S. producer and U.S. importers from China, and margins of underselling/(overselling), by quarters, January 1997-December 1999	V-4
V-2. Synthetic indigo: U.S. producer's lost sales allegations	V-5
V-3. Synthetic indigo: U.S. producer's lost revenue allegations	V-6
VI-1. Results of operations of BCC in the production of synthetic indigo, fiscal years 1997-99	VI-1
VI-2. Net sales of BCC of synthetic indigo, fiscal years 1997-99	VI-1
VI-3. Cost of goods sold and SG&A expenses (per-pound) of BCC in the production of synthetic indigo, fiscal years 1997-99	VI-1
VI-4. Variance analysis for BCC's synthetic indigo operations, fiscal years 1997-99	VI-2
VI-5. Value of assets, capital expenditures, and research and development expenses of BCC for synthetic indigo, fiscal years 1997-99	VI-2
VII-1. Synthetic indigo: China's production capacity, production, shipments, and inventories, 1997-99 and projected 2000-01	VII-3
VII-2. Synthetic indigo: U.S. importers' end-of-period inventories of imports, 1997-99	VII-4
C-1. Synthetic indigo: Summary data concerning the U.S. market, 1997-99	C-3
E-1. The estimated effects of LTFV pricing of imports from China	E-1
F-1. Synthetic indigo: Summary data concerning U.S. converters, 1997-99	F-3

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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-851 (Final)

SYNTHETIC INDIGO FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of synthetic indigo, provided for in subheadings 3204.15.10, 3204.15.40, and 3204.15.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances exist with regard to imports of the subject merchandise.²

BACKGROUND

The Commission instituted this investigation effective June 30, 1999 following receipt of a petition filed with the Commission and the Department of Commerce by Buffalo Color Corporation, Parsippany, NJ, and the United Steelworkers of America, AFL-CIO/CLC. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of synthetic indigo from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of December 30, 1999 (64 FR 73581). The hearing was held in Washington, DC, on May 2, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioners Stephen Koplan and Thelma J. Askey found that critical circumstances do not exist with regard to imports of the subject merchandise.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of subject imports of synthetic indigo from China that the Department of Commerce (“Commerce”) found to be sold in the United States at less than fair value (“LTFV”). We also determine that critical circumstances exist with respect to the subject imports.¹

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”² Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”³ In turn, the Act defines “domestic like product” 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”⁴

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁵ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁶ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.⁷ Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.⁸

¹ Commissioners Askey and Koplan dissenting. See Commissioner Askey’s and Koplan’s Separate Views on Critical Circumstances.

² 19 U.S.C. § 1677(4)(A).

³ 19 U.S.C. § 1677(4)(A).

⁴ 19 U.S.C. § 1677(10).

⁵ See, e.g., NEC Corp. v. Dep’t of Commerce and U.S. Int’l Trade Comm’n, 36 F. Supp. 2d 380 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁶ See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁷ Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991).

⁸ Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found

B. Product Description

In its final determination, Commerce defined the imported merchandise within the scope of this investigation as follows:

[D]eep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as “Vat Blue 1.” Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre-reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (*e.g.*, powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this investigation are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁹

Synthetic indigo and its derivatives, pre-reduced indigo and solubilized indigo (“synthetic indigo” or “indigo”), are designated commercially as “Vat Blue 1.”¹⁰ Indigo is a vat dye¹¹ with a characteristic deep blue color that has good resistance to color degradation by light or heat.¹² Indigo dyes are used chiefly as fiber and fabric dyes, mostly in connection with the manufacture of denim products. A unique characteristic of indigo is that it fades evenly when washed.¹³ Approximately 98 percent of indigo dyes is used in the production of denim; the remaining two percent is used in the food industry and in other applications.¹⁴

All natural¹⁵ and synthetic dyes are classified according to the Colour Index, which is published jointly by the Society of Dyers and Colourists, Bradford, England, and the American Association of Textile Chemists & Colorists, Research Triangle, NC.¹⁶ The vast majority of indigo imported into the United States is generally in the form of water-insoluble dry powder which requires the addition of an alkaline reducing agent such as sodium hydroxide (caustic soda) to form a water-soluble salt that can be absorbed by the fabric to be colored.¹⁷ Indigo dyes which already contain enough of an alkaline reducing

five classes or kinds).

⁹ 65 Fed. Reg. 25706 (May 3, 2000).

¹⁰ Confidential Staff Report (“CR”) at I-2, Public Staff Report (“PR at I-2”).

¹¹ Vat dyes are water-insoluble dyes that can be chemically reduced (vatted) to a colorless water-soluble (leuco) form in which they can readily penetrate fibers. Subsequent oxidation then produces the insoluble colored form which remains in and colors the fiber. Vat dyes are generally used for dyeing cotton, wool, and cellulose acetate. CR at I-2, n.6

¹² CR at I-2, PR at I-2.

¹³ CR at I-2. PR at I-2.

¹⁴ CR at I-3, PR at I-2.

¹⁵ Synthetic indigo, which is made through the synthesis of various chemicals, has replaced natural indigo, which is extracted from the indigo plant, in commercial applications. Natural indigo is no longer cost effective to produce, although there is no chemical difference between natural and synthetic indigo. CR at I-2, n.5, PR at I-2, n.5.

¹⁶ CR at I-3, PR at I-2.

¹⁷ CR at I-2-I-3, PR at I-1.

agent and water to make them useful with a minimum of further preparation are said to be “pre-reduced” or “solubilized.”¹⁸

Most indigo dyes are used by denim manufacturers, with a small amount going to food colorists. Denim mills use dyes in the solution or paste form in their operations, which are supplied domestically by the petitioner, Buffalo Color Corporation (“BCC”), and also by the U.S. firms that convert the imported powder material into a paste form. BCC markets most of the dyes it makes directly to the end-user. The subject merchandise generally enters the United States in powder form in order to reduce shipping costs and is then processed into a solution or paste and sold to end-users. Both the domestic and imported indigo dyes are delivered to denim mills and are interchangeable at this point of use.¹⁹

C. Domestic Like Product

In the preliminary phase of this investigation, the Commission found one domestic like product, “synthetic indigo,” corresponding with Commerce’s description of the subject merchandise. In so doing, the Commission considered three domestic like product issues.²⁰ First, using the traditional six-factor like product analysis, the Commission rejected respondents’ contention that indigo powder and indigo paste should be separate like products. In reaching this finding, the Commission relied on shared fundamental characteristics and functions of both forms of indigo dye as well as common manufacturing processes.²¹ Second, the Commission considered whether indigo slurry, a crude form of indigo, should be a separate like product. Applying a semi-finished products analysis, the Commission determined that a separate like product finding was not warranted given that indigo slurry is used exclusively for indigo production and that no separate market exists for indigo slurry.²² Finally, applying the traditional six-factor analysis, the Commission determined that indigo used by the food coloring industry and indigo used by the textile industry were not separate like products. In making this finding, the Commission noted that while there are differences in physical characteristics and slight variations in composition exist, the two types of indigo had the same chemical composition, and at the critical chemical synthesis stage were produced by the same facilities and the same employees.²³

No party has challenged the Commission’s domestic like product determination in the final phase of this investigation and no new evidence has been obtained that would call into question the Commission’s reasoning in the preliminary determination. Consequently, we reaffirm the Commission’s finding in the preliminary determination that the domestic like product is synthetic indigo corresponding to Commerce’s scope.

¹⁸ CR at I-3, PR at I-2..

¹⁹ CR at I-5, PR at I-3.

²⁰ Preliminary Determination at 6.

²¹ Preliminary Determination at 6-7.

²² Preliminary Determination at 7.

²³ Preliminary Determination at 8-9.

II. DOMESTIC INDUSTRY

A. In General

Section 771(4) of the Act defines the relevant industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of that product.”²⁴ In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.²⁵

There are two issues in this investigation concerning the definition of the domestic industry. The first concerns whether the domestic industry should be defined to include entities that convert the Chinese indigo powder into paste (converters). The second concerns whether appropriate circumstances exist to exclude BCC from the domestic industry as a related party.

B. Whether Converters Are Part of the Domestic Industry

In the preliminary determination, the Commission found that converters should not be included in the domestic industry. While acknowledging that the information on the record on this issue was limited, the Commission concluded that converters were not engaged in sufficient production-related activity to be included in the domestic industry. In particular, the Commission found that the converters’ capital investment and employment levels appeared quite low, and the data were at best mixed as to the extent of the conversion process and the value added by it. Nevertheless, the Commission indicated that it would revisit this issue in the final investigation.^{26 27}

²⁴ 19 U.S.C. § 1677(4)(A).

²⁵ See e.g., DRAMs From Taiwan, Inv. No. 731-TA-811 (Final), USITC Pub. 3256 at 6 (Dec. 1999); Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan, Invs. Nos. 701-TA-373, 731-TA-769-775 (Final), USITC Pub. 3126, at 7 (Sept. 1998); Manganese Sulfate from the People’s Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 & n.10 (Nov. 1995) (the Commission stated it generally considered toll producers that engage in sufficient production-related activity to be part of the domestic industry); see generally, e.g., Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain (“OCTG”), Inv. Nos. 701-TA-363-364 (Final) and Inv. Nos. 731-TA-711-717 (Final), USITC Pub. 2911 (Aug. 1995) (not including threaders in the casing and tubing industry because of “limited levels of capital investment, lower levels of expertise, and lower levels of employment”).

²⁶ Preliminary Determination at 10-11.

²⁷ In deciding whether a firm qualifies as a domestic producer, the Commission generally analyzes the overall nature of a firm’s production-related activities in the United States, although production-related activity at minimum levels could be insufficient to constitute domestic production. The Commission generally considers six factors:

- (1) source and extent of the firm’s capital investment;
- (2) technical expertise involved in U.S. production activities;
- (3) value added to the product in the United States;
- (4) employment levels;
- (5) quantity and type of parts sourced in the United States; and
- (6) any other costs and activities in the United States directly leading to production of the like product.

In the final phase of the investigation, Petitioners argue that converters should be excluded from the domestic industry because "they fail every prong of the domestic producer analysis."²⁸ Conversely, Respondents argue that converters should be included in the domestic industry.²⁹

The information collected in the final phase of this investigation confirms the Commission's findings in the preliminary determination with respect to converters. Converter questionnaire responses indicate that the value added by converters is low, ranging from ***.³⁰ Capital investment by converters also appears to be low, particularly when compared to the capital investment required to establish and maintain a synthetic indigo facility. Respondents did not challenge the Commission's finding in the preliminary determination that it would require approximately \$3 million to build a new converting facility compared to \$60 million for a new manufacturing facility similar to BCC's.³¹

Converter questionnaire responses also reveal that the sophistication of the technology involved, the necessary technical expertise required, and the amount of research and development invested in the conversion process all appear to be minimal. According to the converters, the process of converting indigo powder into paste begins with mixing the indigo powder with water. The mixture is then ground, or slurred, at which point more water may be added as well as caustic soda to adjust the pH balance. Finally, the batch is stirred and standardized.³² In contrast, the record indicates that the manufacturing process for indigo is far more complex, particularly the synthesizing of indigo, which is a very precise

No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation. See OCTG, USITC Pub. 2911 at I-11 n.37. See also Large Newspaper Printing Presses, USITC Pub. 2988 (Aug. 1996) at 7-8. Commission practice has not clearly established a specific level of U.S. value added, or product finished value, required to qualify as a domestic producer; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 at I-8-I-9 & n.34 (June 1994) ("no single factor -- including value added -- is determinative and . . . value added information becomes more meaningful when other production activity indicia are taken into account); Low Fuming Brazing Copper Wire and Rod from New Zealand, Inv. No. 731-TA-246 (Final), USITC Pub. 1779 (Nov. 1985) (the Commission concluded that twenty percent value added by flux coaters was sufficient); Low Fuming Brazing Copper Wire and Rod from South Africa, Inv. No. 731-TA-246 (Final), USITC Pub. 1790 (Jan. 1986) (value added in the United States was ten to twenty percent).

The Commission has also stated that a "modest percentage of domestically sourced parts or raw materials as a percentage of cost does not necessarily mean that a firm is not a domestic producer." Certain All Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (Mar. 1989) at 13-14. Conversely, the Commission has decided not to include a firm in the domestic industry where its operations contributed only a "minor percentage of the total value" of the product. Certain Radio Paging and Alerting Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 (Aug. 1983) (operations involved assembly and soldering of foreign sourced parts involving little technical skill). See also Color Television Receivers from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-134 and 135 (Final), USITC Pub. 1514 (Apr. 1984) at 7-8 (Commission emphasized for the first time that no single factor--including value added--is determinative).

²⁸ Petitioners' Prehearing Br. at 6-11.

²⁹ Respondents state that converters should be part of the domestic industry based on the fact that the U.S. indigo converter industry produced *** indigo as did BCC in 1999. Chinese Respondent's Br. at 14. However, respondents did not address the factors traditionally examined by the Commission in determining whether a firm qualifies as a domestic producer.

³⁰ CR at Table IV-6, PR at Table IV-6. Conversion costs for reporting importers ranged from *** to *** percent of selling prices in 1999. Id.

³¹ Preliminary Determination at 10-11.

³² CR at IV-12, PR at IV-6.

and exacting process, involving a variety of corrosive and toxic material inputs.³³ Given the contrast in technologies, it is not surprising that the four converters employed only a total of *** employees in the period examined, compared to BCC's employment of *** individuals.³⁴

In sum, the record indicates that the converters are not engaged in sufficient production-related activity to support their inclusion in the domestic industry. In particular, capital investment and employment levels, and the value added by conversion are quite low. Moreover, the conversion process itself appears to be relatively simple, requiring little technical expertise. We, therefore, find that converters are not part of the domestic industry.

C. Related Parties

We must further decide whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or that are themselves importers.³⁵ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.³⁶

A related party issue arises in this case because BCC, the sole domestic producer of the domestic like product, imported the subject merchandise during the period of investigation. In the preliminary phase of this investigation, the Commission found that appropriate circumstances did not exist to exclude BCC from the domestic industry.³⁷

In the final phase of this investigation, none of the parties has argued for the exclusion of BCC, and no new evidence warrants changing the Commission's preliminary finding. According to its questionnaire response, BCC accounted for *** percent of total subject imports in 1998, down from *** percent in 1997.³⁸ The volume of BCC's subject imports declined substantially in 1999, accounting for only *** percent of the total subject imports.³⁹ Moreover, BCC does not sell the subject imports

³³ CR at I-4, PR at Table I-3.

³⁴ CR at F-3, Table F-1, C-4, Table C-1, PR at F-3, Table F-1, C-4, Table C-1.

³⁵ 19 U.S.C. § 1677(4)(B).

³⁶ Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g., Torrington Co. v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. *See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan*, Invs. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 at 14, n.81 (Feb. 1997).

³⁷ Preliminary Determination at 12.

³⁸ CR at IV-2, PR at IV-3.

³⁹ CR at IV-3, PR at IV-3.

domestically, but used its subject imports solely to supplement its export markets.⁴⁰ These facts, taken together, indicate that BCC is committed to the domestic production of synthetic indigo, and that BCC's primary interest lies in domestic production and not importation. Accordingly, we find that appropriate circumstances do not exist to exclude BCC from the domestic industry.

III. MATERIAL INJURY BY REASON OF LTFV IMPORTS OF SYNTHETIC INDIGO FROM CHINA

In the final phase of an antidumping duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.⁴¹ In making this determination, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁴² The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁴³ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁴⁴ No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."⁴⁵

For the reasons discussed below, we determine that the domestic industry producing synthetic indigo is materially injured by reason of LTFV imports of synthetic indigo from China.

A. Conditions of Competition

There are several conditions of competition that are relevant to our analysis in this investigation. From 1997 to 1998, apparent consumption of indigo in the United States grew by *** percent, from *** million pounds to *** million pounds.⁴⁶ However, in 1999, apparent consumption shrank by *** percent to *** million pounds.⁴⁷

The demand for indigo is largely dependent upon the demand for denim generally, and blue denim in particular.⁴⁸ Two main elements determine the amount of indigo demanded by denim mills. The first is the amount of indigo on the cotton substrate. To get a darker shade of blue, the dyer must run the fabric through the indigo vat multiple times. The darker the shade that is desired, the more indigo is

⁴⁰ CR at IV-4, PR at IV-3.

⁴¹ 19 U.S.C. § 1673d(b).

⁴² 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

⁴³ 19 U.S.C. § 1677(7)(A).

⁴⁴ 19 U.S.C. § 1677(7)(C)(iii).

⁴⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁴⁶ CR at Table IV-3, PR at Table IV-3.

⁴⁷ CR at Table IV-3, PR at Table IV-3.

⁴⁸ CR at II-5, PR at II-4.

necessary to achieve that shade. Thus, to the extent that darker shades of denim were popular in the last few years, the demand for indigo also increased.⁴⁹

Another element, which influences the overall demand for indigo, is the amount of blue denim produced.⁵⁰ Generally, apparent consumption of indigo has moved in tandem with blue denim production.⁵¹ In 1998, both blue denim production and indigo shipments increased significantly.⁵² These increases were due in part to the stockpiling of raw materials by denim manufacturers in anticipation of the end of federal cotton subsidies.⁵³ The record also indicates that the increase was a result of the cyclical nature of the demand of denim, as well as an overestimation of future demand by denim manufacturers.⁵⁴

More recently, the demand for denim has declined as fashion trends have moved toward khakis.⁵⁵ Additionally, domestic denim production has decreased as production of blue denim has moved abroad, specifically to Mexico.⁵⁶ These occurrences may result in smaller domestic shipments, but may also increase indigo exports.⁵⁷ Indeed, as domestic shipments fell from 1998 to 1999, relatively more of BCC's production went to service its export markets.⁵⁸

In addition to competition from the subject imports, the domestic product competes with fairly traded imports from Germany. In 1999, Germany accounted for *** percent of the total quantity of indigo imports and *** percent of the value.⁵⁹ One of the derivatives of synthetic indigo, C.I. 73001, or pre-reduced indigo, constitutes most of Germany's exports to the United States.⁶⁰ Because pre-reduced indigo is considered a higher quality good than standard indigo paste or powder, it often commands a price premium, reflected in its higher unit value.⁶¹

Finally, the record evidence indicates that the domestic product and subject imports are highly substitutable. The degree of substitution between domestic and imported synthetic indigo depends on a number of factors. The relative price of indigo has become an increasingly important factor in the

⁴⁹ CR at II-5-6, PR at II-4.

⁵⁰ CR at II-6, PR at II-4.

⁵¹ CR at II-6-7, PR at II-4.

⁵² CR at II-6, PR at II-4.

⁵³ CR at II-7-8, PR at II-7.

⁵⁴ CR at II-7, PR at II-4.

⁵⁵ CR at II-10-11, PR at II-7.

⁵⁶ CR at II-11, PR at II-7.

⁵⁷ CR at II-11-12, PR at II-7.

⁵⁸ CR at III-4, PR at III-2.

⁵⁹ CR at Table IV-1, PR at Table IV-1.

⁶⁰ According to BASF's importer questionnaire response, *** percent of imports from Germany were of pre-reduced indigo in 1999. CR at IV-5. BASF has been able to establish a relationship with one U.S. denim manufacturer, ***, whose manufacturing facility uses only pre-reduced indigo. Since pre-reduced indigo requires special machinery for processing and storage, switching from paste-form indigo to pre-reduced indigo usually requires some capital investment on the part of the manufacturer. Id.

⁶¹ CR at IV-5, PR at IV-3. According to one of BASF's customers, ***, the price of pre-reduced indigo is pegged to the price of 20-percent paste available in the United States. ***. Thus, as the price of 20-percent paste drops, so does the unit value of pre-reduced indigo. *** expects that if the antidumping duties are applied to subject imports, purchasers should expect a comparable rise in the unit value of pre-reduced indigo. CR at IV-5, n.11.

manufacture of denim, given the increased competition from denim produced overseas, and the movement of domestic firms offshore. Lead times, delivery reliability, technical service, and the quality of the indigo play roles in determining the ability of indigo purchasers to substitute one source for another. Although over three-quarters of responding purchasers listed quality the most important purchase factor, approximately 64 percent included price among the top three most important factors.⁶² In addition, eight purchasers compared Chinese indigo with domestic indigo on 14 factors. Of 112 possible comparisons, purchasers rated domestic and Chinese indigo as comparable 88 times.⁶³ Moreover, five out of eight responding importers reported that the products are interchangeable.⁶⁴

B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that 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.”⁶⁵

Subject imports increased from 26.7 million pounds in 1997 to 28.1 million pounds in 1998, but then fell to 20.6 million pounds in 1999.⁶⁶ In contrast, U.S. shipments of subject imports increased from *** million pounds in 1997 to *** million pounds in 1999, or by *** percent.⁶⁷ As a result, the subject imports’ share of the U.S. market witnessed a period of growth, increasing from 42.4 percent in 1997 to 52.1 percent in 1999.⁶⁸ Consequently, the domestic industry’s market share fell by *** percentage points from *** percent in 1997 to *** percent in 1999.⁶⁹ The domestic industry’s market share experienced its largest drop from 1998 to 1999, when its shipments declined sharply.⁷⁰ This loss of market share by the domestic industry occurred even though U.S. apparent consumption increased by *** percent from 1997 to 1999.

Based on the foregoing, we find that the volume of imports of the subject merchandise is significant both in absolute terms and relative to consumption in the United States.

⁶² CR at II-15; PR at II-10

⁶³ CR at II-17; PR at II-11.

⁶⁴ CR at II-18; PR at II-11.

⁶⁵ 19 U.S.C. § 1677(7)(C)(i).

⁶⁶ Increased subject imports in 1998 may be attributable to an anticipated strong increase in demand for denim in 1998. While demand did rise, it was not as strong as anticipated by U.S. importers. As a result, end-of-period inventories of subject imports rose in 1998. Subject imports declined as importers decided to draw off inventories to fill some of their shipments. Thus, subject import data alone do not capture the presence of imports in the U.S. market. CR at Table IV-1 and IV-2, n. 5.

⁶⁷ CR at Table IV-3, PR at Table IV-3. Subject import data contrast with U.S. shipments of subject imports during 1997-99 because BCC accounted for *** percent of total subject imports in 1997 and *** percent in 1998. That number declined substantially in 1999, when BCC accounted for only *** percent of total subject imports. CR at Table IV-2, PR at Table IV-2.

⁶⁸ CR at Table IV-4, PR at Table IV-4. Similarly, subject import share, by value, rose from 34.6 percent in 1997 to 45.9 percent in 1999.

⁶⁹ CR at Table IV-4, PR at Table IV-4.

⁷⁰ CR at Table IV-3, PR at Table IV-3.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic 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.⁷¹

Prices for domestic synthetic indigo were stable at \$*** per pound in 1997 and then fell thereafter, reaching \$*** per pound in 1999.⁷² Prices for domestic indigo suffered their sharpest decline of *** percent at the beginning of 1998, and then fell in each subsequent quarter.⁷³ In comparison, prices for imported indigo from China fell consistently over the period of investigation, declining 27 percent, from \$1.12 per pound in the first quarter of 1997 to \$0.81 per pound in the fourth quarter of 1999.⁷⁴

In every quarter during the period examined, subject imports were priced below the domestic like product, with margins of underselling ranging from 10.1 percent to 27.7 percent.⁷⁵ As confirmed by Commission staff, the domestic producer lost sales totaling \$*** and involving *** pounds and lost revenues totaling \$*** on sales of *** since January 1996 due to the lower-priced subject imports.⁷⁶

Based on the declining domestic prices, the consistent underselling of the subject imports, and in light of the relatively high degree of substitutability between the subject imports and the domestic like product, we find that underselling by the subject imports is significant and that the subject imports have depressed prices for the domestic like product to a significant degree.

D. Impact of the Subject Imports on the Domestic Industry^{77 78}

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on

⁷¹ 19 U.S.C. § 1677(7)(C)(ii).

⁷² CR at V-5, Table V-1, PR at V-4, Table V-1.

⁷³ CR at V-5, Table V-1, PR at V-4, Table V-1.

⁷⁴ CR at V-5, Table V-1, PR at V-4, Table V-1.

⁷⁵ CR at V-6, Table V-1, PR at V-4, Table V-1.

⁷⁶ CR at V-8, PR at V-5.

⁷⁷ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). Commerce’s final antidumping duty margins are 77.89 percent for the specified producers/exporters and 129.60 percent for the China-wide rate. 65 Fed. Reg. 25706, 25707 (May 3, 2000).

⁷⁸ Chairman Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles From China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

the state of the industry.”⁷⁹ These factors 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 dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the industry.”⁸⁰

Consistent with our finding that the volume of the subject imports during 1997-1999 was significant, and that the decline in prices for domestically-produced indigo from 1997 to 1999 was due to the subject imports to a significant degree, we find that the subject imports are having a significant adverse impact on the domestic industry.

As noted earlier, from 1997 to 1999, domestic apparent consumption of indigo grew by *** percent in quantity terms, increasing from *** million pounds in 1997 to *** million pounds in 1999,⁸¹ while U.S. shipments of synthetic indigo fluctuated downward during the same period.⁸² Domestic shipments experienced some growth by quantity between 1997-1998, increasing *** percent, before declining *** percent in 1999.⁸³ However, domestic shipments also declined in value by *** percent during 1997-1999.⁸⁴ The decline in value of domestic shipments resulted from a significant decline in the unit value of domestic indigo, dropping \$*** per pound from 1997 to 1999, from \$*** in 1997 to \$*** in 1999.⁸⁵ Total net sales of the domestic industry dropped during 1997-1999, falling from *** million pounds in 1997 to *** million pounds in 1999. As the volume of net sales fell, the value of these sales also dropped over the same period, from \$*** million in 1997 to \$*** million in 1999.

U.S. production steadily declined by *** percent during the period of investigation.⁸⁶ With capacity remaining unchanged during 1997-1999, the fall in U.S. production resulted in declining capacity utilization rates, which dropped from *** in 1997, to *** percent in 1999.⁸⁷ As U.S. production fell, the workforce also shrank. The average number of production and related workers declined by *** percent,⁸⁸ while hours worked also fell throughout 1997-1999, declining by *** percent.⁸⁹

As net sales values per pound declined, net operating income declined in each annual period, from \$*** million in 1997 to a loss of \$*** million in 1999, resulting in operating margins falling from *** percent in 1997 to a negative *** percent in 1999.⁹⁰

⁷⁹ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” *Id.* at 885).

⁸⁰ 19 U.S.C. § 1677(7)(C)(iii).

⁸¹ CR at Table IV-3, PR at Table IV-3.

⁸² CR at III-5, Table III-2, PR at III-3, Table III-2.

⁸³ CR at III-5, Table III-2, PR at III-3, Table III-2.

⁸⁴ CR at III-5, Table III-2, PR at III-3, Table III-2.

⁸⁵ CR at III-5, Table III-2, PR at III-3, Table III-2.

⁸⁶ CR at III-3, Table III-1, PR at III-2, Table III-1.

⁸⁷ CR at III-3, Table III-1, PR at III-2, Table III-1.

⁸⁸ CR at III-8, Table III-5, PR at III-4, Table III-5.

⁸⁹ CR at III-8, Table III-5, PR at III-4, Table III-5.

⁹⁰ CR at Table VI-1, PR at Table VI-1.

Based on the foregoing, we find that the subject imports are having an adverse impact on the domestic industry.

IV. CRITICAL CIRCUMSTANCES

Because Commerce made affirmative critical circumstances determinations with respect to certain imports from China and we have determined that the domestic synthetic indigo industry is materially injured by reason of subject imports from China, we must further determine “whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping order to be issued.”⁹¹ The URAA SAA indicates that the Commission is to determine “whether, by massively increasing imports prior to the effective date of the relief, the importers have seriously undermined the remedial effect of the order.”⁹²

In its final determination, based on the facts available, Commerce made affirmative findings of critical circumstances with respect to all the specified producers and all other producers and exporters.⁹³

Consistent with Commission practice, in considering the timing and volume of subject imports, we have compared import quantities prior to the filing of the petition with those subsequent to the filing of the petition.⁹⁴ Although Commerce typically compares the import volume of the subject merchandise for the three months immediately preceding and following the filing of the petition,⁹⁵ we are not required to analyze the same comparison periods that Commerce analyzed.⁹⁶

We generally consider a period encompassing several months before and after the filing of the petition for purposes of the critical circumstances analysis, unless circumstances warrant examining a different period.⁹⁷ Petitioners argued that the Commission should examine the three months prior to the

⁹¹ 19 U.S.C. § 1673d(b)(4)(A)(i)(emphasis added). The statute further provides that in making this determination: the Commission shall consider, among other factors it considers relevant--

- (I) the timing and volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.

19 U.S.C. § 1673d(b)(4)(A)(ii).

⁹² SAA at 877.

⁹³ 65 Fed. Reg. 25706 (May 3,2000).

⁹⁴ See Certain Preserved Mushrooms from China, India, and Indonesia, Inv. Nos. 731-TA-777-779 (Final), USITC Pub. 3159 (Feb. 1999) at 24 (Views of Vice Chairman Miller and Commissioners Hillman and Koplan), 28 (Views of Chairman Bragg and Commissioners Crawford and Askey); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 19 (April 1997).

⁹⁵ See 19 C.F.R. § 351.206(i); Notice of Preliminary Determination of Sales at Less Than Fair Value Stainless Steel Sheet and Strip in Coils From Japan, 64 Fed. Reg. 108, 112 (Jan. 1, 1999).

⁹⁶ See Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 (April 1997) at 34.

⁹⁷ See, e.g., Certain Hot-rolled Steel Products from Japan, Inv. No. 731-TA-807 (Final), USITC Pub. ____ (June 1999) at 33-34; Certain Preserved Mushrooms from China, India, and Indonesia, Inv. Nos. 731-TA-777-779 (Final), USITC Pub. 3159 (Feb. 1999) at 24 (Views of Vice Chairman Miller and Commissioners Hillman and Koplan), 28 (Views of Chairman Bragg and Commissioners Crawford and Askey); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 (April 1997) at 19; Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 (April 1997) at 34.

filing of the petition and the three months immediately after on the grounds that subject imports may have been suppressed because they would have been within 90 days of Commerce's pending preliminary determination scheduled for December 1999. Respondents did not indicate which period should be examined.⁹⁸

In this investigation, the petition was filed on June 30, 1999. We considered the data relevant to critical circumstances for the periods of April-June 1999 and July-September 1999, which roughly correspond to the three-month period preceding the filing of the petition and the three month period after the filing of the petition. Based on the examination of this period for this investigation, we find that the imports subject to Commerce's affirmative critical circumstances determinations would undermine seriously the remedial effect of the order.

In the three-month period preceding the filing of petition on June 30, 1999 (April, May, June), imports from the Chinese producers totaled *** pounds.⁹⁹ However, in the three-month period after the filing of the petition, the subject imports surged to *** pounds, an increase of more than 300 percent.¹⁰⁰ Import volumes fell significantly following this three month surge, and thereafter remained well below previous levels.¹⁰¹

During this massive increase in subject imports, prices for subject imports fell to their lowest levels for the period of investigation. Prices for synthetic indigo declined from \$0.84 per pound in April- June 1999 to \$0.81 per pound in July-September 1999.¹⁰² At the same time, domestic prices declined sharply, from \$*** during April-June 1999 to \$*** during July-September 1999.^{103 104}

The timing and volume of subject imports, the substitutability of the subject imports from China with the domestic like product described above in the analysis on price effects, falling domestic prices and high inventories support a conclusion that there was a subject import surge that is likely to seriously undermine the effect of the antidumping duty order. Accordingly, we make an affirmative critical circumstances finding.

CONCLUSION

For the foregoing reasons, we determine that the domestic industry producing synthetic indigo is materially injured by reason of imports of synthetic indigo from China that Commerce found to be sold in the United States at LTFV. We also determine that critical circumstances exist with respect to subject imports from China.

⁹⁸ Petitioners' Br. at Posthearing Br., Appendix 3. Chinese Respondent's Posthearing Br. at 8.

⁹⁹ CR at IV-10, Table IV-5, PR at IV-6, Table IV-5.

¹⁰⁰ CR at IV-10, Table IV-5, PR at IV-6, Table IV-5.

¹⁰¹ CR at IV-10, Table IV-5, PR at IV-6, Table IV-5.

¹⁰² CR at Table V-1, PR at Table V-1.

¹⁰³ CR at Table V-1, PR at Table V-1.

¹⁰⁴ We have also considered information in the record on inventories of the subject imports. While the record data do not correspond directly to the period examined for critical circumstances, we note the 1999 inventory level of subject imports of 2.3 million pounds is not insignificant, and is equal to *** percent of U.S. shipments of the subject imports in 1999. CR at VII-4, Table VII-2, PR at VII-4, Table VII-2.

VIEWS OF COMMISSIONERS STEPHEN KOPLAN AND THELMA J. ASKEY ON CRITICAL CIRCUMSTANCES

Commerce made affirmative final determinations of critical circumstances with respect to exports of synthetic indigo by each of the Chinese exporters receiving separate rates, as well as producers/exporters receiving the PRC-wide rate. When Commerce makes an affirmative critical circumstances determination, the Commission is required to determine, for each domestic industry for which it makes an affirmative determination of material injury by reason of subject imports, “whether the imports subject to the affirmative [Commerce critical circumstances] determination ... are likely to undermine seriously the remedial effect of the antidumping order to be issued.”¹

Consistent with Commission practice in considering the timing and volume of imports, we have compared import quantities six months prior to the filing of the petition with those six months after the filing of the petition.² We note that the Commission is not required to examine the same period that Commerce examined in performing its critical circumstances analysis.³ In this investigation, the petition was filed mid-year on June 30, 1999. Accordingly, the data we considered relevant to critical circumstances was that for all of 1999.

Subject imports covered by Commerce’s affirmative critical circumstances finding totaled *** pounds six months prior to the filing of the petition and *** pounds six months after the filing of the petition.⁴ We note that during the final three months of 1999, imports from *** producers of subject merchandise who may be subject to Commerce’s affirmative critical circumstances determinations completely left the market. Thus, we carefully examined import levels for the nine months of 1999 when there were sufficient subject imports to determine whether there was a post-petition surge. Those data reveal that subject import volumes totaled between *** and *** pounds in each month but two, April and June. The import levels for those two months appear aberrational when viewed in the context of imports for the first nine months of 1999. As to the three months immediately following the filing of the petition, we find that imports in July were below the levels for January, February and March, imports in August were close to the levels in February and March, and imports for September were roughly at the January level. Thus, there was no surge in subject imports after the filing of the petition.

¹ 19 U.S.C. § 1673d(b)(4)(A)(I).

² See, e.g., Certain Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, The Republic of Korea, Mexico, Taiwan, and The United Kingdom, Inv. Nos. 701-TA-380-382 and 731-TA-797-804 (Final), USITC Pub. 3208 (Jul. 1999) at 20-22; Certain Hot-rolled Steel Products from Japan, Inv. No. 731-TA-807 (Final), USITC Pub. 3202 (Jun. 1999) at 33-34 & n. 129; Certain Preserved Mushrooms from China, India, and Indonesia, Inv. Nos. 731-TA-777-779 (Final), USITC Pub. 3159 (Feb. 1999), at 24 (Views of Vice Chairman Miller and Commissioners Hillman and Koplan), at 28 (Views of Chairman Bragg and Commissioners Crawford and Askey); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 19 (April 1997); Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 (April 1997) at 34.

³ See Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 (April 1997) at 34.

⁴ CR and PR at Table IV-5.

Moreover, importers' inventories of subject merchandise fell by 62.2 percent, from 6.0 million pounds in 1998 to 2.3 million pounds in 1999.⁵ Finally, we note that prices of subject imports prior to the filing of the petition were only slightly higher than those after filing.⁶

In sum, we do not find that the record evidence indicates that the relevant subject imports from China would undermine seriously the remedial effect of the order. Accordingly, we make a negative critical circumstances finding with respect to the relevant producers in China.

⁵ CR and PR at Table VII-2.

⁶ CR and PR at Table V-1.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Buffalo Color Corporation (“BCC”), Parsippany, NJ, and the United Steelworkers of America, AFL-CIO/CLC, on June 30, 1999, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of synthetic indigo¹ from China. Information relating to the background of the investigation is provided below.²

<i>Date</i>	<i>Action</i>
June 30, 1999	Petition filed with Commerce and the Commission; institution of Commission investigation
July 28, 1999	Commerce’s notice of initiation
August 16, 1999	Commission’s preliminary determination
December 14, 1999	Commerce’s preliminary determination; scheduling of final phase of Commission investigation (64 FR 73581, December 30, 1999)
May 3, 2000	Commerce’s final determination (65 FR 25706) ³
May 2, 2000	Commission’s hearing ⁴
June 5, 2000	Commission’s vote
June 12, 2000	Commission determination transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on the questionnaire response of one firm that accounted for 100

¹ Synthetic indigo and its derivatives subject to this investigation are provided for in subheadings 3204.15.10, 3204.15.40, and 3204.15.80 of the Harmonized Tariff Schedule of the United States (“HTS”) with a column 1-general or normal-trade-relations tariff rate of 1.3 cents/kg + 9.7 percent *ad valorem* (or 10.0 percent *ad valorem* equivalent in 1999), 9.9 percent, and 11.9 percent *ad valorem*, respectively, applicable to imports from China. Over 80 percent of U.S. imports of synthetic indigo from all sources in 1999 were classified under 3204.15.10. Because pre-reduced indigo (Colour Index 73001) is imported under both subheadings 3204.15.10 and 3204.15.40, the exact percentage is not known.

² *Federal Register* notices cited in the tabulation are presented in app. A.

³ Commerce made a final affirmative LTFV determination with respect to China, finding the following margins: for Wonderful Chemical Industrial, Ltd./Jiangsu Taifeng Chemical Industry Co., Ltd., 77.89 percent; China National Chemical Construction Jiangsu Co., 77.89 percent; China Jiangsu International Economic Technical Cooperation Corp., 77.89 percent; Shanghai Yongchen International Trading Co., Ltd., 77.89 percent; Hebei Jinzhou Import & Export Corp., 77.89 percent; Sinochem Hebei Import & Export Corp., 77.89 percent; Chongqing Dyestuff Import & Export United Corp., 77.89 percent; Wuhan Tiangin Chemicals Import & Export Corp., Ltd., 77.89 percent; and for the PRC-wide rate, 129.60 percent, all based on comparisons of normal value and export price. Commerce also made final affirmative critical circumstances determinations with respect to all the firms receiving separate rates as well as firms receiving the PRC-wide rate.

⁴ A list of witnesses appearing at the hearing is presented in app. B.

percent of U.S. production of synthetic indigo during 1997-99. U.S. imports are based on the questionnaire responses of 10 importers that accounted for approximately 98 percent of total U.S. imports of synthetic indigo in 1999.

THE PRODUCT

Physical Characteristics and Uses

Commerce has defined the scope of the investigation as follows:

The products subject to this investigation are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as "Vat Blue 1." Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre-reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (e.g., powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this investigation are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

The merchandise that is the subject of this investigation is synthetic indigo and certain derivatives thereof designated commercially as "Vat Blue 1" (hereinafter referred to as "indigo").⁵ Indigo is a vat dye⁶ with a characteristic deep blue color that has good resistance to color degradation by light or heat. Indigo dyes are utilized chiefly as yarn dyes, largely in connection with the manufacture of denim fabric. A unique characteristic of indigo is that it fades evenly when washed. About 98 percent of indigo is used in the production of denim. Very small quantities of indigo dye are used in the food industry and in other applications.

All natural and synthetic dyes are classified according to the *Colour Index*, which is jointly published by the Society of Dyers and Colourists, Bradford, England, and the American Association of Textile Chemists & Colorists, Research Triangle, NC. The vast majority of indigo produced and imported into the United States has a Colour Index Number ("C.I.") of 73000⁷ and is properly classified under HTS subheading 3204.15.10, covering "Vat blue 1 (synthetic indigo), 'C.I. 73000.'" This material is generally in the form of a water-insoluble dry powder which requires the addition of an alkaline reducing agent such as sodium hydroxide (caustic soda) to form a water-soluble salt that can be absorbed by the fabric to be colored. Indigo products which already contain enough of an alkaline reducing agent and water to make them useful with a minimum of further preparation are said to be "pre-reduced" or "solubilized." Derivatives of indigo with a C.I. of 73001 or 73002 are examples. These two derivatives are also covered by the scope of the investigation; both are also designated as Vat Blue 1 dyes, and both

⁵ Synthetic indigo, which is manufactured through the synthesis of various chemicals, is distinguishable from natural indigo, which is extracted from the indigo plant (*indigoferae*). Synthetic indigo has replaced natural indigo in commercial applications because the latter is no longer cost effective to produce, although there is no chemical difference between natural and synthetic indigo.

⁶ Vat dyes are water-insoluble dyes that can be chemically reduced (vatted) to a colorless water-soluble (leuco) form in which they can readily impregnate fibers. Subsequent oxidation then produces the insoluble colored form which remains in and colors the fiber. Vat dyes are generally used for dyeing cotton, wool, and cellulose acetate.

⁷ Indigo of Colour Index Number 73000 is also known as C.I. Pigment Blue 66.

can be substituted commercially for indigo with a C.I. of 73000. C.I. 73001 dye is known in the industry as a pre-reduced indigo or indigo white (in technical terms, as the disodium salt of indigo). C.I. 73002 dye is a solubilized indigo (in technical terms, it is the leuco sulfuric ester of indigo). C.I. 73001 is currently being supplied by one producer, BASF of Germany. C.I. 73002 is not currently being imported into the United States, nor is there any U.S. production of the derivative. The derivatives of indigo, C.I. 73001 and C.I. 73002, are properly classified under HTS subheadings 3204.15.40 or 3204.15.80, which cover vat dyes and coloring preparations other than indigo having a C.I. of 73000, depending upon whether the particular product's Chemical Abstracts Service (C.A.S.) registry number is listed in the Chemical Appendix to the HTS.

Manufacturing Process

The commercial production process for synthetic indigo uses a variety of caustic, corrosive, and toxic chemicals and requires careful process control to maximize product yields. It begins with the manufacturing of two chemical intermediates, the potassium salt of phenylglycine salt ("PGK") and sodium amide ("sodamide"). These intermediates are then reacted to form crude synthetic indigo, which is further processed into a powder, solution, or paste, and in any specified strength (e.g., 20 percent, 40 percent, 60 percent, 94 percent, 96 percent, etc.).

The Chinese and domestic manufacturers use different starting materials to produce PGK. The Chinese use a 2-step process in which chloroacetic acid, ferrous sulfate, and aniline are mixed to form the iron salt of phenylglycine, which is then mixed with potassium hydroxide (caustic potash) to get PGK. BCC uses a single step, reacting formaldehyde, cyanide, aniline, and potassium hydroxide to form PGK. The PGK produced is then further processed into raw (crude) indigo, which is filtered, standardized into specified strengths and grades, and packaged as finished dyes. The production of pre-reduced indigo requires additional steps. Typically, a reducing agent, such as sodium hydrosulfite, is added to a 20-percent indigo paste, and the solvent, which is usually water, is adjusted so as to return it to a 20-percent paste. The Chinese material is dried to a powder form for shipping, then reprocessed into a solution or paste for final sale in the United States to the denim mills.

The starting materials used by BCC, particularly the formaldehyde and the cyanide, are very toxic and environmentally unfriendly chemicals. As a result, compliance with the much more stringent U.S. environmental regulations could increase the domestic cost of production of this product relative to that of the Chinese product.

Most indigo dyes are used by denim manufacturers. These mills generally prefer to use dyes in solution or in paste form in their operations. These are the forms supplied domestically by both the U.S. producer and the firms that process and market the imported powdered material. The domestic producer markets most of the dyes it makes directly to the end-use consumer. Imported product generally enters the United States in powder form to reduce shipping costs. It is then processed back into a solution or paste and resold to end users. The imported and domestic dyes delivered to the principal consumers, denim mills, appear to be interchangeable at the point of use.

LIKE PRODUCT ISSUES

During the preliminary phase of this investigation, the Commission considered whether the domestic like product should be coextensive with the scope, synthetic indigo, in any form, any strength, and including its derivatives, as argued by the petitioners, or (1) separated into indigo powder and indigo paste, (2) identified as indigo paste, exclusive of "indigo slurry," or (3) separated into synthetic indigo for use in the textile industry and synthetic indigo for use in the food industry. Using its traditional six-

factor analysis and semi-finished product analysis, the Commission determined there is one domestic like product coextensive with the scope.⁸

⁸ *Inv. No. 731-TA-851 (Preliminary), Synthetic Indigo from China*, USITC Pub. 3222, August 1999, pp. 6-9.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION

Synthetic indigo is sold primarily to denim mills, although a small amount is sold to food dye manufacturers. The two principal forms of synthetic indigo sold in the United States are paste and powder. Indigo in paste form, which accounts for roughly 99 percent of the market for indigo, is used as a dye in the manufacture of denim, while indigo in powder form is used in the manufacture of food dyes. Indigo can be sold in differing strengths. Indigo sold in powder form is almost pure dye, with indigo content normally ranging between 94 percent and 98 percent. In paste form, indigo can be made to any strength requested by the customer, but the denim industry standard is 20 percent. *** buy 40-percent paste, but are the only domestic indigo consumers that do so.¹ BASF has begun to ship pre-reduced indigo paste to the U.S. market from Germany.² It is the same product, but already contains the caustic and hydro that the mills would normally measure and mix in with the indigo in their dyeing facilities.³ Buying the pre-reduced indigo saves them one step in the dyeing process, but gives the same results as if they mixed it themselves.

BCC, the sole domestic producer of synthetic indigo in the United States, produces both forms of indigo. The majority of its powder production is exported, while its 20-percent paste is sold inside the United States, mostly to the Southeast (where domestic denim mills are located) in 55-gallon drums. BCC also makes a 42-percent strength liquid, although it is for export only. It has a tolling agreement with a company in South Carolina that has the proper equipment to transform powder into the 42-percent liquid.⁴ Since international shipping companies charge on a volume basis, it is most cost-effective to ship indigo only in its most concentrated form. Thus, BCC exports indigo in powder and 42-percent liquid form, but not its 20-percent paste, since that form occupies at least twice the volume of the other two forms.

Indigo is imported from China only in powder form in bags. During 1997-99, BCC imported powder from China, mainly for export purposes, both directly and through other importers.⁵ Indigo that is imported and not intended for export or the food dye industry is converted into paste form by firms such as ***.⁶ The paste is then sold to denim manufacturers.

¹ Telephone conversation with *** and questionnaire response of ***.

² Responses to the Commission's importers' questionnaires.

³ In its regular, non-reduced form, indigo is not reactive with air. The caustic and hydro (also known as sodium hydrosulfate) act as reducing agents for the indigo paste. The reduction of oxygen in the indigo paste compound turns it clear (giving rise to the name "indigo white"). In this form, the reduced indigo will cling to fabrics such as cotton. Upon removing a piece of fabric or yarn from being dipped into a vat of the reduced indigo, it will first appear greenish while the indigo is beginning to come into contact with the air. When in contact with air, the indigo will take on oxygen and return to its deep blue state; this time, however, it will adhere to the fabric.

⁴ Conference transcript, p. 37.

⁵ Petition, exh. 13, and responses to the Commission's importers' questionnaires.

⁶ Some of these firms consider themselves as "manufacturers of indigo paste," using indigo powder as a raw material. They add small amounts of diluents and caustic ***, as well as a large amount of water to the indigo powder to convert it into paste form.

Since there are only a small (and declining) number of denim manufacturing mills in the United States, every account that is lost or gained is important. With the opening of mills offshore, such as Cone Mills and Burlington Industries, the export market has expanded and is poised to continue growing.⁷

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Indigo is synthesized and sold by only one U.S. firm, BCC. The producer is likely to respond to changes in demand with moderate changes in the quantity shipped to the U.S. market. Supply responsiveness is enhanced by the existence of substantial excess capacity at present and an appreciable export market, but decreased by the lack of production alternatives. Once capacity is reached, though, BCC must import powder to supply its markets with paste.

Industry Capacity

BCC's capacity remained steady throughout the period of study at *** pounds per year. Its utilization rate decreased from *** percent in 1997 to *** percent in 1998 and to *** percent in 1999.⁸ In order to remain profitable, BCC contends that the plant has to run at full capacity.⁹ BCC's plant has been running at full capacity since January 2000, having reached capacity orders for its indigo in December 1999 and capacity shipments in March 2000.¹⁰

Export Markets

BCC's export shipments from domestic production were significant compared to shipments to the U.S. market, and have been fluctuating during the period of investigation. BCC's major export markets are Europe and Mexico.¹¹ The percentage of the value of the U.S. producer's export shipments from domestic production relative to its total shipments decreased from *** percent in 1997 to *** percent in 1998 and then surged to *** percent in 1999. The percentage of the quantity of the U.S. producer's export shipments relative to its total shipments has also been fluctuating: from *** percent in 1997 down to *** percent in 1998, and then back up to *** percent in 1999.¹² The higher percentages in the quantity of shipments than the value of shipments reflect a lower unit value for BCC's export

⁷ Conference transcript, p. 40.

⁸ BCC's response to Commission's producers' questionnaire.

⁹ Conference transcript, pp. 10, 25, and 33.

¹⁰ Hearing transcript, p. 83.

¹¹ Conference transcript, p. 40.

¹² During staff's visit to BCC's plant, BCC estimated that exports accounted for roughly *** percent of their business in 1997 and *** percent in 1998, and expected them to account for *** percent in 1999. Although these estimates were a first approximation (and include shipments of powder that are imported from China and subsequently re-exported), the heart of the matter is that ***.

shipments than domestic shipments.¹³ Mexico has become an increasingly important market for BCC's exports of indigo. In 1997, exports to Mexico accounted for *** percent of BCC's total exports. In 1998, *** percent of its exports went to Mexico. The level increased in 1999, with Mexico absorbing *** percent of BCC's exported indigo.

Inventories

BCC continually produces some indigo, even during "shutdown periods," in order to avoid an extraordinarily long and costly set-up procedure. Inventories tend to be somewhat low in the synthetic indigo market and fluctuate greatly, since there is a high inventory turnover rate. BCC's storage tanks for indigo paste hold a maximum of *** pounds. In July 1999, while staff was visiting the plant during a "shutdown period," the inventory was at around *** pounds of paste. BCC expected it would again begin production around the time when its inventories dipped to *** pounds of paste. End-of-period inventory levels decreased from *** percent of the U.S. producer's domestic shipments in 1997 to *** percent of such shipments in 1998, and then rose to *** percent in 1999.¹⁴ Monthly data provided by BCC in its posthearing brief show inventories have been consistently declining since the beginning of 2000. Month-end inventories of paste and powder dropped from *** percent of 1999 domestic shipments in January to *** percent in February, *** percent in March, and *** percent in April.

Production Alternatives

No other products are made domestically using the same equipment and production workers as are used to produce synthetic indigo. Also, the process (known as the "Ludwigshafen process") has remained relatively unchanged for many years. New machinery has been added to make the process more efficient, however. ***. Although BCC also produces acid anhydrides and alkyl anilines at its Buffalo, NY plant, indigo production shares no direct workers or equipment with the production of these chemicals.¹⁵

U.S. Demand

Demand Characteristics

The vast majority of indigo is sold to denim mills.¹⁶ In general, the market for blue denim drives the indigo market.¹⁷ In turn, denim production is driven by the demand for blue jeans and jeans material clothing. From 1997 to 1998, apparent consumption of indigo in the United States grew by *** percent in quantity terms, from *** million pounds to *** million pounds, with the second and third quarters seeing the largest share of purchases. Apparent consumption shrank, however, in 1999 by *** percent to

¹³ BCC's response to Commission's producers' questionnaire.

¹⁴ BCC's response to Commission's producers' questionnaire.

¹⁵ USITC staff fieldwork, Buffalo, NY, July 14, 1999.

¹⁶ BCC's sales to denim manufacturers account for *** percent of its total sales. With the exception of ***, importers either sell to converters or convert the indigo powder to paste for sale to the denim market.

¹⁷ Conference transcript, pp. 24, 41.

*** million pounds. The fourth quarter of 1999 was the slowest quarter in the period of examination, with *** percent fewer pounds of indigo being sold in that quarter than a year earlier.

Two main elements determine the amount of indigo demanded by denim mills. The first is the amount of indigo to be placed on the cotton substrate. In order to get a darker shade of blue, the dyer must run the fabric through the indigo vat multiple times. The yarn will pick up more of the indigo dye with each pass, and thus become a darker shade.¹⁸ The denim is typically dyed to a 2- to 20-percent shade.¹⁹ Over time, the most popular shades have been 8- to 10-percent.²⁰ The darker the shade that is desired, the more indigo is necessary to achieve that shade. Denim manufacturers may substitute some sulfur dye for indigo, but only up to a point, since sulfur dyes and indigo have different washdown characteristics. A very dark denim could be produced using a combination of 1-percent sulfur black and 22-percent indigo dyes, or a 2-percent sulfur black and 18-percent indigo combination, but not one consisting of an 8-percent sulfur black and 6-percent indigo combination.²¹ BCC and eight of 10 responding purchasers have said that fashions have dictated darker denims to be popular for the past 2 to 3 years, although *** noted that the year 2000 appears to be moving toward lighter shades and fabrics.²² Furthermore, dyeing is done while the cotton is still in a string form. Once the cotton is woven to form denim, the amount of indigo on the denim fabric can only be decreased. Therefore, denim manufacturers have to put enough indigo on the yarn so that, once woven, the garment wet-processors can make the style (e.g., acid or stone washed) of blue jeans that fashion dictates.²³

The other element in determining the demand for indigo is the amount of blue denim produced. Apparent domestic indigo consumption has mostly moved hand-in-hand with blue denim production. U.S. blue denim production numbers are presented in table II-1.²⁴

Blue denim production decreased by 3.1 percent from 1995 to 1996, and slightly increased from 1996 to 1997. The slight increase in 1997 mirrors the increase in apparent domestic indigo consumption, with indigo's increase outpacing that of blue denim production. This difference could be accounted for by the increase in demand for darker shades mentioned earlier. In early to mid 1998, however, both blue denim production and indigo shipments increased significantly.²⁵ One reason may be the cyclical nature of the demand for denim fabric, causing increased production during the second quarter in preparation for the colder winter months. Another reason may have been that, in the first half of 1998, denim manufacturers might have overestimated what the demand for blue jeans and denim garments would be later in the year.²⁶ One final reason for this occurrence may have been the anticipation by denim manufacturers of the end of federal cotton subsidies under the Agriculture Act.

¹⁸ USITC staff fieldwork, Buffalo, NY, July 14, 1999.

¹⁹ Percent shade is computed by dividing the weight of the indigo on the fabric by the total weight of the fabric.

²⁰ Conference transcript, p. 20.

²¹ Telephone conversation with ***.

²² Conference transcript, pp. 9, 24, 41-42, and responses to purchasers' questionnaires.

²³ Petitioners' postconference brief, pp. 21-22.

²⁴ Data regarding blue denim and jeans are presented beginning in 1995 due to the growing importance of Mexico in these industries in the post-NAFTA era. Data are not presented for 1994 to allow enough time for companies to perform the necessary preparations before opening any operations in Mexico.

²⁵ It should be noted that there is a lag between indigo purchase and the production of blue denim of close to 2 months. Conference transcript, p. 77.

²⁶ Respondent *** postconference brief, p. 8.

Table II-1

U.S. blue denim production and imports for consumption from Mexico and all other countries, 1995-99

Period	U.S. production	Mexico	All other countries	Total
	(In millions of square yards)			
1995	879.7	18.4	188.9	1,087.0
1996	852.5	65.0	144.7	1,062.2
1997	853.8	93.9	105.2	1,052.9
1998:	922.3	78.1	104.6	1,105.1
1 st Quarter	221.3	18.1	22.5	261.9
2 nd Quarter	244.5	21.1	27.4	293.0
3 rd Quarter	240.9	21.4	31.0	293.3
4 th Quarter	215.6	17.5	23.7	256.8
1999:	832.9	72.6	92.2	997.7
1 st Quarter	201.7	18.7	20.4	240.8
2 nd Quarter	222.8	19.1	26.1	268.0
3 rd Quarter	212.5	16.3	23.5	252.3
4 th Quarter	195.9	18.5	22.2	236.6

Source: U.S. Bureau of the Census, "MQ313T" and USITC Trade Dataweb.

Although denim producers may have seen that blue jeans production was down, the end of the subsidies in the fourth quarter of 1998 may have made it more profitable to increase their inventories of raw materials than wait until the subsidies ended.^{27 28} Although all nine responding purchasers replied to Commission questionnaires that the end of federal cotton subsidies had no effect on the demand for, or the timing of purchases of, indigo, Mr. Henderson of Mt. Vernon Mills testified at the hearing that "some denim was manufactured probably in the last three months of 1998 in order to take advantage of that subsidy without a clear market for that fabric."²⁹ His explanation for the events that took place in the

²⁷ Ibid., p. 9.

²⁸ Domestic denim manufacturers must buy domestic cotton when available. The world price for cotton is typically lower than the domestic price for cotton. The Agriculture Act subsidizes the purchase of U.S. cotton when the gap between the prices is large enough, although it only does so for a predetermined length of time, or until the funding runs out. In order to take advantage of the program before the funds ran out in the fourth quarter of 1998, domestic denim producers stocked up on cotton.

²⁹ Mt. Vernon Mills added that the subsidies allowed it to gain a profit, rather than break even. Also, it

(continued...)

denim industry in 1998 is that demand was somewhat stronger in the early part of 1998 than in the latter.³⁰ Therefore, the overall 1998 production numbers are inflated due to strong demand in the first half and increased production in late 1998.

In comparison to a year earlier, all four quarters of 1999 witnessed decreased blue denim production, with an overall decrease of 9.7 percent for the year. Accounting for this, all six responding denim producers noted a decrease in production in 1999, that their plants closed their doors, or that the overall market for denim was soft. Mr. Henderson testified that some of the denim manufacturers stopped for weeks at a time in early 1999 in order to decrease their inventories.³¹ In its fourth quarter 1999 quarterly report, Cone president and CEO John Bakane remarked, "As expected, fourth quarter results were negatively impacted by denim inventory corrections both within Cone and among several major denim users." Its denim production facilities operated at 75 percent of capacity and reduced denim inventories by \$5.0 million due to industry oversupply conditions, retail inventory adjustments, weaker consumer interest in denim, and declining cotton prices.³² Cone and Burlington both noted lower volume and pricing in denim in 1999.³³ In 1999, *** noted that prices for denim in the United States dropped approximately 20 percent, mostly due to increased competition from Mexico, while *** has noticed a decrease in demand during 1999 of 14 percent. *** offered that some analysts estimate that the denim market is oversupplied, with capacity outpacing demand by 22 percent.

Over the next 12 to 24 months, the 10 responding indigo purchasers expect demand for denim to stay the same or only slightly increase. One purchaser noted that it hoped that global demand would increase by 3 to 5 percent. BCC noted at the hearing that both Cone and Burlington gave separate conference calls to announce earnings, at which Burlington said it had enough business to work six days a week, and that its opening of a Mexican mill will not cause it to close any U.S. plants.³⁴ Cone stated in its first quarter 2000 report that although volume was higher in its denim and khaki segment, revenues declined by 7.4 percent from first quarter 1999 due to lower denim prices, which resulted from "industry supply/demand imbalances and declining cotton costs which were passed on to customers because of market conditions."³⁵ Burlington's annual report states that in 2000, its "apparel products businesses will improve their performance with one exception: The denim business (16% of the company's sales), will be hurt by low selling prices and margins as a result of a global oversupply."³⁶ It also noted that "most observers think the denim picture will improve somewhat by summer."³⁷ In a press release dated April

²⁹ (...continued)

speculated that many of its competitors have consistently suffered losses since the end of the program. USITC staff fieldwork, Trion, GA, January 25, 2000.

³⁰ Hearing transcript, pp. 152-153.

³¹ Ibid., p. 153.

³² See <http://www.cone.com/US/Corporate/4Q99.html>.

³³ Ibid. See also <http://www.onlineproxy.com/burlington/ar/message.asp>.

³⁴ Hearing transcript, pp. 77-78.

³⁵ See <http://www.cone.com/US/Corporate/1Q00.html>.

³⁶ See <http://www.onlineproxy.com/burlington/ar/message.asp>.

³⁷ Ibid.

3, 2000,³⁸ though, Burlington's Chairman and CEO remarked, "The larger effect on earnings, however, comes from highly competitive denim pricing due to worldwide industry overcapacity. It is only a matter of time before this leads to elimination of inefficient capacity. With modern and efficient denim facilities in the United States, Mexico, and India, we remain in an excellent position to withstand these competitive pressures."³⁹

Domestic purchasers of indigo were asked what effect the imposition of antidumping duties on indigo from China would have on them. Seven of 11 purchasers responded that the duties would have a serious negative impact on their competitiveness. The complete text of their responses is provided in appendix D.

According to industry sources, although denim production (blue and otherwise) was up overall in 1998 due to the above factors, domestic production of blue jeans fell in every quarter of 1998 compared with a year earlier, and continued to fall in the first two quarters of 1999, but rose in the third quarter of 1999. The likely explanation for the downward trend is that the production of blue jeans is driven more by the retail demand for blue jeans than the supply of denim, especially in a time of depressed demand and/or increased foreign supply of blue jeans. This is what has occurred since 1998. First, some of the fall-off in demand for blue jeans has been due to the increased popularity of khakis and "Dockers."⁴⁰ The warm winter of 1998-99 also diminished demand for blue jeans and contributed to the build-up of blue jeans inventories.⁴¹ A third reason for decreased domestic blue jeans production is the movement of blue jeans producers' operations overseas.⁴²

The recent trend of offshore movement has affected not only the "cut and sew" operations, but also the denim manufacturers themselves, inherently reducing the domestic demand for indigo. NAFTA has played a large part in this movement. Under NAFTA, Mexico has quota-free and duty-free access to the United States as long as the fabric originates within the trade zone.⁴³ Burlington Industries opened a plant in Mexico in 1999 while reducing its domestic capacity by 40 percent by closing two Mid-Atlantic plants, although the plant in Hillsville, VA will open again soon under new ownership. It also has in operation in Mexico a jeans-making plant and a joint venture facility where jeans receive final processing. Burlington, however, also recently completed a \$60 million expansion of its state-of-the-art, primary U.S. weaving, dyeing, and finishing facility in Stonewall, MS. Cone and Guilford Mills announced on April 30, 1999 that they will create a new textile and industrial park in Tampico, Mexico that will produce up to 20 million square yards per year, and will be expandable to 40 million square yards. Charles Hayes, CEO and Chairman of Guilford Mills, stated that the move is to "take advantage of a fundamental shift in the textile industry, as more garment producers move to, and expand in, Mexico due to the benefits of NAFTA."⁴⁴ Tarrant Apparel Group announced that it completed the purchase of the assets of a 22 million square yard denim mill in Puebla, Mexico on April 5, 1999. Additionally,

³⁸ This may be the release accompanying the conference call that Mr. Funsten of BCC referenced at the hearing.

³⁹ See http://www.burlington.com/news/releases/release.asp?File_Name=86.

⁴⁰ Hearing transcript, p. 9.

⁴¹ USITC staff fieldwork, Buffalo, NY, July 14, 1999.

⁴² Respondent *** postconference brief, p. 9, and hearing transcript, p. 208.

⁴³ "The Great Quota Hustle," *Forbes*, March 6, 2000, or <http://www.forbes.com/forbes/00/0306/6506118a2.htm>.

⁴⁴ Online Textile News, "Guilford Mills, Cone Mills Join Forces to Create Mexican Industrial Park," May 3, 1999. Information at Internet address <http://www.onlinetextilenews.com/news/925829239145599.htm>.

Thomaston Mills exited the denim industry altogether on September 1, 1999, and Greenwood Mills reduced its denim capacity by 50 percent at one Georgia facility.⁴⁵

Through 1997, Mexico had been steadily becoming a more and more important player in the U.S. blue denim market. Five of eight purchasers listed Mexican denim mills as one of their major competitors. Imports for consumption of blue denim from Mexico sharply increased from 1995 to 1997, but decreased between 1997 and 1999.⁴⁶ One possible explanation for this trend is that textile manufacturers have increased their cut-and-sew operations in Mexico since 1997, so that the blue denim that is produced is exported to the United States as jeans rather than blue denim. Imports of blue denim fabric from all other countries have declined steadily since 1995. Therefore, the share of blue denim imported into the United States from Mexico has remained somewhat steady since 1997, decreasing from 47.2 percent to 42.7 percent in 1998 and then rebounding to 44.1 percent in 1999. These imports are shown in table II-1.

The relatively cheap labor that is available in Mexico has had a dramatic impact on the importation of finished blue jeans into the United States. Since 1995, imports for consumption of Mexican blue jeans for men, women, boys, and girls have increased from 71.6 million units to 189.0 million units, or an average of 27.5 percent per year.⁴⁷ While imports of jeans from Mexico have been climbing, such imports have not necessarily been at the expense of imports from other countries. Although imports from all other countries suffered a small decline in 1997, they have, on the whole, been increasing. From 1995 to 1999, imports from countries other than Mexico have increased by an average of 9.9 percent per year. Table II-2 gives detail about the magnitude of imports from Mexico as well as all other countries.

Table II-2
U.S. blue jeans production and blue denim trouser and breeches imports for consumption on a yearly basis, 1995-99

Period	U.S. production	Mexico	All other countries	Total
	(In millions of units)			
1995	443.6	71.6	92.8	608.0
1996	436.1	86.0	99.6	621.7
1997	418.8	115.9	98.6	633.3
1998	388.8	152.0	120.7	661.5
1999	366.8 - 391.0 ¹	189.0	135.1	690.9 - 715.1 ¹

¹ Projected on the basis of 9 months of data.

Source: U.S. Bureau of the Census, "MQ315A" and USITC Trade Dataweb.

⁴⁵ Respondent *** postconference brief, exh. 2.

⁴⁶ This includes blue denim classified under HTS subheading 5209.42.00.

⁴⁷ This includes trousers and breeches made of blue denim classified under HTS subheadings 6203.42.40 and 6204.62.40.

At the same time that imports from both Mexico and all other countries were increasing, domestic blue jeans production was steadily declining. Production fell from 443.6 million units in 1995 to 388.8 million units in 1998. Blue jean production numbers are not yet available for the fourth quarter of 1999, but are approximately on pace with 1998 levels (at 391.0 million units) if estimated using historical quarterly production numbers. However, if total domestic production plus imports grew at the same rate as between 1997 and 1998 (4.45 percent), domestic production for 1999 would be estimated at 366.8 million units.

New blue denim production and sewing plants are opening in Mexico.⁴⁸ This will most likely lower domestic shipments of indigo, but exports should increase. Even more damaging to the domestic demand for indigo, though, would be a continued growth in the popularity of khakis. Some in the fashion world believe that khakis may become the “updated version of the classic American look” instead of blue jeans, whereas others think that khakis will not catch on with young people as denim did, since denim has been a symbol of defiance of authority while khakis have “always been sort of respectable and clean-cut.”⁴⁹

Substitute Products

Chemically, there are no direct substitute products for synthetic indigo. Indigo is a chemical compound with the formula $C_{16}H_{10}O_2 N_2$. Bromine may be added to it to yield “brominated indigo.” However, the resulting chemical compound $C_{16}H_{10}O_2 N_2 Br_4$ is a brilliant shade of blue rather than a deep, dark blue and falls under the designation “Vat Blue 5” rather than “Vat Blue 1.” Other dark dyes exist, such as blue or black sulfur dyes, but these sulfur dyes are usually used in conjunction with, rather than as a substitute for, indigo.^{50 51} Indigo dye has specific properties that other dyes do not. It has poor wash fastness, poor drying qualities, poor bleach fastness, poor exhaustion (inability to build shades in a single application), and it crocks (rubs off easily).⁵² Jeans companies look for these properties in the denim that they buy in order to get whatever style is in fashion at the time (e.g., stone wash, acid wash, enzyme wash).⁵³

Cost Share

Indigo accounts for a moderate percentage of the cost of denim production. The exact percentage varies by producer. Domestic purchasers indicated that synthetic indigo accounts for *** percent of the direct cost of domestic denim production. Darker shades require more indigo, so the direct

⁴⁸ For example, Lucky Star Industries opened a new jeans sewing operation in Aguascalientes in early 1998 with a capacity of approximately 1,200 workers, which Burlington Industries agreed on March 15, 1999 to purchase. See <http://www.onlinetextilenews.com/news/9215507185284.htm>.

⁴⁹ Respondent *** postconference brief, exh. 2.

⁵⁰ Responses to the Commission’s importers’ questionnaires.

⁵¹ Usually denim is dyed with around *** percent indigo and *** percent sulfur dye, but this depends on the shading that is desired. USITC staff fieldwork, Buffalo, NY, July 14, 1999.

⁵² Conference transcript, p. 20 and USITC staff fieldwork, Buffalo, NY, July 14, 1999.

⁵³ Conference transcript, p. 22.

cost will be higher for darker denim. Also, *** reported that synthetic indigo accounts for *** percent of the cost of producing the food dye FD&C Blue #2.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported synthetic indigo depends on a number of factors. The relative price of indigo has become an increasingly important factor in the manufacture of denim, given the increased competition in denim from overseas, and the movement of domestic firms offshore. Lead times, delivery reliability, technical service, and, most importantly, the quality of the indigo play roles in determining the ability of indigo purchasers to substitute one source for another. In addition, denim manufacturer preferences have been switching toward maintaining multiple suppliers of indigo for reliability and availability purposes. Maintaining relationships with more than one indigo source will increase the degree of substitution among the suppliers.

Factors Affecting Purchasing Decisions

Available data indicate that a variety of factors influence purchasing decisions for synthetic indigo. Purchasers were asked to list the top three factors that they consider in choosing a supplier of synthetic indigo. Nine of 11 purchasers listed quality as the top factor, with the other two ranking it second behind either the form of the finished product (***) or that the indigo come from a “traditional supplier.” Eight of 11 purchasers noted product availability or reliability of delivery as the second or third most important factor. Seven of 11 included price among the top three most important factors, and another listed it as an important factor (but not among the top three). Although price is important, all nine purchasers replied that the lowest price offered will not always win their contracts or sales. Technical support and/or service also was reported as among the three most important factors for four of nine purchasers, while another two listed it as important, but not among the top three. Other factors taken into consideration when purchasing indigo are the stability of the supplier, consignment of inventory, packaging, safety, contractual arrangements, and where the purchaser fits into the supplier’s business plan. Given the focus on quality, nine of 11 purchasers responded that 100 percent of their purchases of indigo in 1999 required certification or pre-qualification. Another claimed 75 percent of its 1999 indigo purchases required certification or pre-qualification, while the last did not require it.

When purchasers were asked if they made changes in the relative levels of indigo purchases from different countries in the past three years, two purchasers of domestic indigo indicated that they bought less due to plant closings and decreased business. ***, a purchaser of both domestic and Chinese indigo, simply stated that its volume of consumption is driven by the demand for denim. ***, a purchaser of Chinese indigo, noted a decrease in demand due to ***. ***, another purchaser of Chinese indigo, noted an increase in purchases due to improvements and pricing. *** reported that although its level of total purchases has not changed, it switched from domestic indigo to Chinese indigo due to cost considerations.⁵⁴ *** switched to all Chinese-produced indigo from an 80-percent Chinese/20-percent German mix based on price. *** noted that it only buys domestic indigo, and that its quantities are very depressed due to ***. Finally, *** buys almost all of its indigo in pre-reduced form, a solution that is sold only by BASF (Germany).

⁵⁴ ***.

When asked what characteristics they consider in determining the quality of a supplier's indigo, purchasers replied that consistency of indigo solids, viscosity of 20-percent paste, shade consistency, alkalinity, mixability, washdown characteristics of fabric after processing, metals content, and the ability to pass a filtration test are the important factors in the denim industry, whereas *** are those considered in the food dye industry.

All purchasers knew where the indigo they purchased was produced, with nine of 11 always aware. However, only four were always aware of who mainly produced the indigo they bought, whereas three were usually aware, three were sometimes aware, and one was never aware.

Only three of 11 purchasers replied that they specifically order one country's indigo over another's. *** said that it prefers U.S. indigo "primarily because of consistency of quality, no fluctuation in availability, and the quality of technical service." *** stated it bought U.S. indigo because of its perceived reliability, quality, and availability. *** only buys from *** because it is confident that it will receive a high quality product, since its representatives have visited their factories.

However, some purchasers only buy from certain suppliers because other suppliers do not produce the desired type of indigo. Nearly all of ***'s purchases are of pre-reduced indigo, which is available only from BASF (Germany). *** can buy only from *** since they are the only suppliers of 40-percent paste.

Comparisons of Domestic Products and Subject Imports

Eight purchasers compared Chinese indigo with domestic indigo on 14 factors. Of 112 possible comparisons, purchasers rated domestic and Chinese indigo as comparable 88 times. Factors where more than one purchaser felt domestic indigo was inferior were availability, discounts offered, lowest price, and technical support/service. There were no factors where more than one purchaser felt domestic indigo was superior.

Interchangeability

BCC and indigo importers were asked if the domestic and Chinese products could be used interchangeably. Five out of eight responding importers reported that the products are interchangeable. *** added that customers often split sales between domestic paste and paste derived from imports. The other firms (including BCC) noted that the indigo that is imported is in powder form and the indigo that is produced domestically is in paste form.⁵⁵

In response to the Commission's question regarding any differences between Chinese and domestic indigo with reference to physical characteristics or sales conditions, two of seven importers and BCC responded that there were no differences. Five importers believed there were differences. *** noted it sold a 40-percent concentration that it believed could not be made from domestically produced indigo.⁵⁶ *** sells only for food color application and believed that BCC could not produce a powder for

⁵⁵ *** noted that its imports of powder were not interchangeable with domestic indigo, but it could not answer for ***'s product.

⁵⁶ While BCC does not supply a 40-percent solution domestically, it does produce a 42-percent liquid from the powder it synthesizes for export to Mexico and Europe through a tolling agreement it has with a firm in South Carolina.

this purpose.⁵⁷ *** echoed that powder cannot be used directly by domestic denim manufacturers. *** reported that BCC “offers quality technical service for all its customers,” has perceived quality advantages, and can deliver quickly.⁵⁸ *** referred to advantages of technical support and quick delivery times that U.S. converters such as itself have vis-a-vis Chinese producers, but did not reference domestic producers of indigo. All purchasers reported the same end uses for foreign and domestic indigo.

Quality

Indigo dye used in the manufacture of denim is a consistent commodity. With few exceptions, most denim manufacturers use a 20-percent paste indigo dye.⁵⁹ Although different importer/converters use different additives as dispersants and diluents, the basic form of indigo paste is the same.

BASF ships a pre-reduced indigo that no other indigo producer or converter sells. It has technical and environmental advantages (such as ***) over regular 20-percent paste sold in the United States.⁶⁰ Using it instead of the regular 20-percent paste means denim manufacturers do not have to mix in any caustic soda or hydro inside their dyeing operations. It is essentially a “ready-to-use” product.

Indigo paste contains heavy metals such as arsenic, lead, and mercury. The majority of these are washed out in the final phases of indigo production, but some remain. In order for the food color FD&C Blue #2 to be approved by the FDA, it must meet specific guidelines for content. Thus, indigo, as an intermediate in the food color’s production, may contain only very minute amounts of heavy metals and must meet purity guidelines. The indigo used for food manufacture “must meet a significantly higher quality standard than the indigo used for the denim industry.”⁶¹ BCC has responded that “the only difference between the two products is that powder sold to food coloring manufacturers is tested to ensure that it meets customer tolerances for heavy metals and other impurities and subjected to additional purification if it does not.”⁶² Further, it added that indigo used in production of FD&C Blue #2 can be used in the production of denim.

Lead Times/Delivery

BCC reported lead times of ***. Importers’ lead times are easily split into two categories. Those importers that sold indigo powder to domestic converters, as well as ***, reported lead times of 6 to 8 weeks since their shipments must come from overseas. The five responding domestic converters from powder to paste form are able to respond with much shorter lead times, between 1 and 7 days, because their inventory of paste is kept on-hand.

⁵⁷ BCC has testified that it can produce powder for food color applications. It had previously supplied *** and continues to supply another food color manufacturer with indigo produced domestically. Petitioners’ postconference brief, p. 8.

⁵⁸ ***’s response to the Commission’s importers’ questionnaire.

⁵⁹ *** uses pre-reduced indigo, *** uses only 40-percent paste, and *** uses 40-percent paste in addition to 20-percent paste.

⁶⁰ ***’s response to the Commission’s importers’ questionnaire.

⁶¹ Conference transcript, p. 83.

⁶² Petitioners’ postconference brief, p. 9.

Comparisons of Domestic Products and Nonsubject Imports

All nonsubject imports since 1996 have been imported from either Germany, Hong Kong (however, these are actually Chinese product), the United Kingdom, Japan, or the Netherlands.⁶³ Shipments from Japan and the Netherlands stopped in 1996 and 1998, respectively. During 1999, all nonsubject imports came from Germany.⁶⁴

Only three purchasers compared domestic and German indigo. They found the two to be comparable on nearly all 14 factors, except two noted inferior (higher) domestic prices, one noted inferior domestic product range, technical support/service, and transportation costs, and a different purchaser noted superior technical support/service. BCC responded to Commission questions that nonsubject indigo is no different in physical characteristics and is completely interchangeable with both its indigo paste and imports from China.

Three of five responding importers answered that the U.S. and nonsubject synthetic indigo are generally used interchangeably. However, four of the five importers mentioned that BASF's pre-reduced indigo is somewhat different from domestic indigo. For example, *** replied, “{w}ith pre-reduced indigo, it is not necessary to add the caustic and reducing agent,” as is necessary to add to domestic indigo.

In addition, all five responding importers noted that there are differences in physical characteristics or sales conditions between the U.S. and nonsubject imports. Four of the five importers differentiated the German pre-reduced indigo paste from the U.S. paste. Specifically, *** noted that the pre-reduced indigo yields more consistency during denim production runs and BASF added that its pre-reduced indigo has technical and environmental advantages. *** did not mention pre-reduced indigo, but reiterated that the local source (BCC) offers quality technical service, quick deliveries, and is perceived to have quality advantages.

Comparisons of Subject and Nonsubject Imports

Three purchasers compared German and Chinese indigo on 14 factors. The results were nearly unanimous. All three responded that Germany and China are comparable on 10 factors, and two purchasers believe they are comparable on 3 more factors. The only dissension was that one purchaser rated Germany as superior on product range, technical support/service, and U.S. transportation costs. Meanwhile, Germany was reported to have inferior (higher) prices by all three purchasers.

When asked about the interchangeability between nonsubject and Chinese indigo, each of the five importers mimicked its answer to the question of domestic and nonsubject interchangeability. *** stated that the Chinese product is unreduced powder, and *** acknowledged that powder cannot be used by the denim manufacturers; it must be pasted and reduced first to be interchangeable. As stated previously, BCC noted that the two are completely interchangeable.

In comparing the physical characteristics and sales conditions of nonsubject imports to Chinese imports, four of five responding importers answered that differences did exist between German and Chinese indigo. *** responded “Yes” to the existence of differences, explaining that “obviously,

⁶³ A small amount of imports in 1997 came from Mexico, but this was indigo shipped from BCC originally, coming back to be reworked. The Netherlands supplied less than 1 percent of total U.S. imports of indigo in 1998 and zero in the other years.

⁶⁴ Petition, exh. 13.

Chinese indigo powder is not even close to comparing with {the German producer's} pre-reduced indigo," considering the inability to use the Chinese powder without first pasting and reducing it. *** again stated that the German product gives more consistent results, and BASF again offered that its indigo has technical and environmental advantages. *** replied affirmatively, noting that perhaps there is a difference because the German producer is a manufacturer and offers a large company name, as well as domestic technical service and laboratories.

ELASTICITY ESTIMATES

The elasticity estimates below are those that were used in the COMPAS analysis that is presented in appendix E.

U.S. Supply Elasticity

The domestic supply elasticity for synthetic indigo measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of indigo. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which the producer can alter capacity, producer's ability to shift to production of other products, the existence of inventories, and the availability of alternative markets for U.S.-produced indigo. There is only one domestic producer of synthetic indigo. It has no production alternatives using the same facilities, and it locks into price contracts on a 6- to 12-month basis. However, the firm has excess capacity, the ability to store up to *** pounds of 20-percent paste at the production facility, and the ability to ship domestically more quickly than importers if inventories become depleted. On balance, these factors indicate that the U.S. industry is somewhat able to increase or decrease shipments to the U.S. market when there is a change in price. However, once the one domestic facility is running at full capacity, the only way to supply indigo is through importation. Therefore, an estimate in the range of 0.5 to 2 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for synthetic indigo measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of indigo. This estimate depends on factors discussed earlier such as the lack of existence and commercial viability of substitutes for indigo, as well as its importance in the production of its downstream products (i.e., denim and food dye). Based on the available information, the aggregate demand for indigo is likely to be moderately inelastic. An elasticity in the range of -0.25 to -1 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of differentiation between the domestic and imported products.⁶⁵ Differentiation in indigo, in turn, depends upon such factors as quality (e.g., chemistry, appearance, fastness, color, etc.) and conditions of sale (availability, sales terms/discounts/

⁶⁵ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like product to changes in their relative prices. This reflects how easily purchasers switch from the U.S. indigo to the subject indigo (or vice versa) when prices change.

rebates, etc.). Although domestically produced indigo produces a redder color than imported indigo,⁶⁶ it still possesses commodity-like interchangeability, once the Chinese indigo is pasted. All six responding importers replied that subject and domestic indigo are used in the same applications. Based on available information, the elasticity of substitution between U.S.-produced indigo and indigo imported from China is likely to be in the range of 3 to 6.

⁶⁶ USITC staff fieldwork, ***.

PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in parts IV and V. Information on the other factors specified is presented in this section and/or part VI and (except as noted) is based on the questionnaire responses of one firm that accounted for 100 percent of U.S. production of synthetic indigo during 1999.¹

U.S. PRODUCER

BCC is the sole producer of synthetic indigo in the United States and therefore accounted for 100 percent of U.S. production during 1997-99. BCC has been the only U.S. producer of synthetic indigo since the early 1960s when DuPont ceased production of this dye.² Its plant is located in Buffalo, NY, and the company is a wholly owned subsidiary of Lanesborough Corp., formerly a NYSE-listed corporation. BCC's indigo plant has been in operation since 1879 and has produced indigo since 1924.³ BCC produces both a powder and a paste form of synthetic indigo which it sells to the U.S. and export markets from its Buffalo plant.⁴ It also imports indigo in powder form from China, some of which it sends to *** to be tolled into a 42-percent liquid form, and some of which is shipped in powder form directly to its export markets.⁵ ***.⁶ BCC also produces, in separate facilities at its Buffalo plant, a range of intermediate chemicals for use in pharmaceuticals, electronics applications, and in the curing of epoxy resins. Synthetic indigo accounted for approximately *** percent of total sales in 1999. Its primary customers for synthetic indigo are denim mills, which use the indigo as a dyestuff for denim manufacturing. A small percentage of indigo sales also goes to the food industry.

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

As shown in table III-1, U.S. production⁷ of synthetic indigo steadily declined by *** percent during the period for which data were collected. With capacity remaining unchanged during 1997-99, the resulting effect was an overall decline in capacity utilization by *** percentage points to a rate of *** percent in 1999. Production of indigo was strong in 1997, with a capacity utilization rate of *** percent. The reason for this, according to petitioners, was an anticipated increase in demand from the denim mills, which in 1997 had recovered from high inventory levels that had previously caused a glut in the

¹ Data on U.S. converters of synthetic indigo from powder to paste are presented in Part IV of this report.

² Hearing transcript, p. 13.

³ Ibid., p. 13.

⁴ While the company produces both powder and paste, the majority of its domestic sales are of paste.

⁵ One step in BCC's tolling arrangement with *** involves ***. In addition, BCC occasionally ***. See BCC's producer questionnaire response, statement 4 and petitioners' posthearing brief, Appendix, pp. 9 and 11.

⁶ Petitioners' posthearing brief, Appendix, p. 6.

⁷ All quantity data presented in this report are on a 20-percent paste form basis.

denim market.⁸ BCC attributes the significant fall in production during 1999 to the company's inability to compete with imports of Chinese indigo and notes that 1999 was the lowest output it had ever experienced.⁹

Table III-1

Synthetic indigo: U.S. producer's capacity, production, and capacity utilization, 1997-99

* * * * *

BCC reported in its questionnaire response that in 1997 and 1998, it was ***.¹⁰ ***.¹¹ However, BCC is in the process of installing equipment to make 42-percent paste, allowing the company to produce an additional *** pounds per year.¹² BCC believes that the firm will witness cost benefits in producing 42-percent paste in-house as opposed to tolling the production out to ***.¹³

U.S. PRODUCER'S DOMESTIC SHIPMENTS AND EXPORT SHIPMENTS

The U.S. producer's domestic shipments of synthetic indigo fluctuated downward during 1997-99, as shown in table III-2.¹⁴ Domestic shipments witnessed some growth by quantity between 1997 and 1998, increasing by *** percent, before declining by *** percent in 1999. A depressed unit value of \$*** in 1999, down by \$*** from 1997, resulted in the value of indigo shipments declining absolutely by *** percent during 1997-99.¹⁵

U.S. export shipments of synthetic indigo trended downward during 1997-99. Exports decreased by *** percent from 1997 to 1998, before recovering somewhat in 1999 by *** percent. The overall effect, however, was a decline of *** percent during the period for which data were collected. The unit value of export shipments also declined during 1997-99, falling by \$*** to \$*** in 1999. The unit value of export shipments followed a similar trend as that for U.S. commercial shipments of synthetic indigo although export shipments had a consistently lower unit value than U.S. shipments. As domestic shipments fell from 1998 to 1999, relatively more of BCC's production went to service its export markets.

⁸ Clune, Ray: "Denim business back on the road to recovery. Pickup in retail jeans sales help reduce mills' saturated inventory," *DNR*, October 22, 1997. Information at Internet address <http://www.cone.com/US/Corporate>.

⁹ BCC's response to the Commission's producers' questionnaire, statement 2 and hearing transcript, p. 28.

¹⁰ BCC admits that given its current capacity and apparent consumption during the period of investigation, ***. See petitioners' posthearing brief, Appendix, p. 2.

¹¹ BCC's response to the Commission's importers' questionnaire, statement 1.

¹² The added capacity BCC projected at the Commission's hearing was strictly for paste production destined for the U.S. market. ***. See petitioners' posthearing brief, Appendix, p. 10.

¹³ Petitioners' posthearing brief, Appendix, p. 8. Presumably, this capacity expansion would not affect the company's ability to synthesize indigo, but rather add the capability to convert it from powder to paste form.

¹⁴ As there are no U.S. company transfers or internal consumption, only data for commercial shipments are reported.

¹⁵ In its response to the Commission's producer questionnaire, BCC noted that since the issuance of Commerce's preliminary determination, the firm has had some success in acquiring additional sales but that prices for indigo remain depressed. (See BCC's producers' questionnaire, statement 2.) ***. See petitioners' posthearing brief, Appendix, pp. 1-2.

Table III-2
Synthetic indigo: U.S. producer's shipments, 1997-99

* * * * *

As noted earlier, BCC also imports indigo in powder form from China in order to supplement its export shipments. As shown in table III-3, total exports from BCC, including those that were sourced in China and those produced in Buffalo, amounted to *** in 1999, surpassing U.S. domestic shipments. In 1997, exports, including those domestically produced and those sourced in China, constituted approximately *** percent of BCC's total shipments. That share dropped to *** percent in 1998 but then rebounded to *** percent in 1999. According to hearing testimony and staff fieldwork during the preliminary phase of this investigation, Mexico is the largest of BCC's export markets.¹⁶ Many U.S. denim mills have moved to Mexico in order to take advantage of NAFTA benefits. In fact, according to the largest U.S. denim mill, Mexico poses the greatest competition to U.S. denim manufacturing.¹⁷

Table III-3
Synthetic indigo: U.S. producer's export shipments, 1997-99

* * * * *

U.S. PRODUCER'S INVENTORIES

The U.S. producer's inventories of synthetic indigo trended downward during the period for which data were collected, as shown in table III-4. Inventories dropped by *** percent from 1997 to 1998, due to stronger U.S. commercial shipments in 1998, before rising again by *** percent in 1999.¹⁸ Higher inventories, caused by reduced sales, in turn led to prolonged shutdown periods in 1999. According to BCC, the normal shutdown cycle for indigo production is 4 weeks a year. During 1999, production was shut down for 13 weeks.¹⁹ The ratios of inventories to production, U.S. shipments, and total shipments all trended upward during 1997-99.

Table III-4
Synthetic indigo: U.S. producer's end-of-period-inventories, 1997-99

* * * * *

¹⁶ Hearing transcript, p. 45, and USITC staff fieldwork, Buffalo, NY, July 14, 1999.

¹⁷ USITC staff fieldwork, Trion, GA, January 25, 2000.

¹⁸ According to data supplied by BCC, inventories ***. See petitioners' posthearing brief, Appendix, p. 9.

¹⁹ Hearing transcript, p. 28.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

As shown in table III-5, the average number of production and related workers (PRWs) declined during 1997-99 by *** percent, or *** employees. According to BCC, the majority of these employees were terminated in August 1999 due to a company reorganization forced on BCC by competition with imports of Chinese indigo.²⁰ Along with the decline of PRWs, hours worked also declined by *** percent during 1997-99. Wages paid declined by roughly the same amount, ***, given the decline in PRWs. Hourly wages did increase slightly during the period by \$***.²¹ Productivity witnessed a gain during 1997-99, increasing by *** percent, possibly due to recent investments made by the company.²² Unit labor costs remained fairly constant during the period for which data were collected.

Table III-5

Average number of production and related workers producing synthetic indigo, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1997-99

* * * * *

²⁰ See BCC's response to the Commission's producers' questionnaire, statement 2.

²¹ BCC noted in its producers' questionnaire response, however, that ***.

²² USITC staff fieldwork, Buffalo, NY, July 14, 1999.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent questionnaires to 18 firms believed to be importers of synthetic indigo from all sources; 14 of these supplied questionnaire responses, 10 of which reported importing the subject product. The responding firms accounted for all known imports from China and Germany in 1999. Imports from China accounted for *** percent of total U.S. imports of synthetic indigo in 1999 while imports from Germany accounted for the remaining *** percent.

Importers of the subject product are geographically concentrated in North Carolina and New Jersey. Two of the importers, ***, are U.S. subsidiaries of European firms, and a third is wholly owned by a Japanese firm. Two importers have supplier relationships with Chinese firms-- one, ***, with a firm located in China and the second, ***, with a Hong Kong-based firm.¹ Four firms, ***, convert indigo powder from China into indigo paste, appropriate for sale to the U.S. denim mills.² A fifth firm, BCC, the petitioner, imports indigo powder for purposes of re-export after having the powder toll-produced into a paste form. Four firms, ***, do not convert powder but rather sell the powder to other importers/converters. Only one firm, ***, imports synthetic indigo for use in the food industry and therefore does not require indigo in a paste form.

U.S. IMPORTS

Imports of synthetic indigo shown in table IV-1 are based on the responses of 10 importers to the Commission's questionnaire. Imports of synthetic indigo are reported in paste form.³ While all subject indigo from China is imported as powder, which is cheaper to ship than a water-weighted paste form, the Commission requested that importers convert their import quantities from a powder to a paste form, based on a 4.8 conversion factor, to match domestic shipments.⁴ Subject imports from China trended downward by quantity during 1997-99, first rising by 5.4 percent from 1997 to 1998 before falling in 1999 by 26.5 percent.⁵ Subject imports declined steadily by value during the period, by 38.5 percent. Most of the decline in value reflects a declining unit value of synthetic indigo, which dropped by \$0.16

¹ *** was the sales office in the United States for *** of Hong Kong. Its sole customer, ***, canceled its deliveries through *** after the first quarter of 1998. The firm has since left the indigo business.

² Based on their conversion of Chinese indigo powder into paste form, these firms believe themselves to be U.S. producers of synthetic indigo.

³ Questionnaire data were used in lieu of official statistics of the Commerce Department because all known imports from both subject and nonsubject sources were accounted for in the questionnaire responses, and because official statistics would have to be converted from powder to paste form for consistency with data in the remainder of the report.

⁴ Imports from BASF of Germany enter the United States in a pre-reduced paste form.

⁵ Trends in import data by quantity contrast with trends in import shipments during 1997-99. Increased imports, particularly in 1998, may be attributable to an anticipated strong increase in demand for denim in 1998. While demand did rise, it was not as strong as anticipated by U.S. importers; as a result, end-of-period inventories of subject imports rose in 1998. (See part VII of this report.) Imports declined in 1999 as importers decided to draw off inventories to fill some of their shipments.

Table IV-1
Synthetic indigo: U.S. imports, by principal sources, 1997-99

Source	Calendar year		
	1997	1998	1999
Quantity (1,000 pounds)			
China ¹	26,661	28,093	20,639
Germany/United Kingdom ²	***	***	***
All other	***	***	***
Total	***	***	***
Value (\$1,000)			
China	20,123	19,450	12,372
Germany/United Kingdom	***	***	***
All other	***	***	***
Total	***	***	***
Unit value (per pound)			
China	\$0.76	\$0.69	\$0.60
Germany/United Kingdom	***	***	***
All other	***	***	***
Average	***	***	***
Share of quantity (percent)			
China	***	***	***
Germany/United Kingdom	***	***	***
All other	***	***	***
Total	100.0	100.0	100.0
Share of value (percent)			
China	***	***	***
Germany/United Kingdom	***	***	***
All other	***	***	***
Total	100.0	100.0	100.0
¹ Including Hong Kong. ² ***			
Note: All import figures are reported in paste form. Totals may not add because of rounding. Values are landed, duty-paid.			
Source: Compiled from data submitted in response to Commission questionnaires.			

from 1997 to 1999, falling to a 4-year low of \$0.60 per pound in 1999.⁶ China's share of indigo imports declined by both quantity and value during the period for which data were collected. By quantity, subject imports' share declined from *** percent in 1997 to *** percent in 1999. By value, the decline was even more significant, falling from *** percent in 1997 to *** percent in 1999.

BCC was a *** importer of the subject product during the period of investigation (table IV-2).⁷ BCC's imports represented *** percent of total subject imports in 1998, down from *** percent in 1997. That number declined significantly in 1999, when the company accounted for only *** percent of total subject imports. BCC imports indigo powder from China in order to service its export markets. According to company officials, BCC can only produce approximately *** pounds of powder to be toll-produced into a 42-percent liquid form appropriate for export.⁸ This capacity is not sufficient to supply demand for indigo in its foreign markets. BCC therefore supplements its own production with Chinese indigo which is toll-produced by a converter in South Carolina into the 42-percent liquid.⁹ ***.¹⁰

Table IV-2

Synthetic indigo: U.S. producer's imports from China, 1997-99

* * * * *

Besides China, Germany is the other significant exporter of synthetic indigo to the United States. According to the questionnaire response of the importer of the German product, one of the derivatives of synthetic indigo, C.I. 73001, or pre-reduced indigo, constitutes most of Germany's exports to the United States.¹¹ According to BASF's importer questionnaire response, *** percent of imports from Germany were of pre-reduced indigo in 1999. Germany accounted for *** percent of the quantity of indigo imports in 1999 and *** percent of the value. Because C.I. 73001 is considered a higher quality good than standard C.I. 73000 paste or powder, it often commands a price premium, reflected in its higher unit value. The unit value of German imports decreased, however, by \$*** during 1997-99.¹²

⁶ The unit value of subject indigo in 1996 was roughly \$0.82 per pound.

⁷ Besides its imports for consumption, BCC also imported synthetic indigo into *** in 1998. Imports from both programs totaled ***.

⁸ As explained in part III, BCC's powder capacity is limited by its ***. See petitioners' posthearing brief, p. 10.

⁹ During the period examined, BCC did ship synthetic indigo to its export markets in powder form as well. ***. See petitioners' posthearing brief, pp. 9 and 11.

¹⁰ BCC's response to the Commission's producers' questionnaire.

¹¹ BASF has been able to establish a relationship with one U.S. denim manufacturer, ***, in which the mill uses only pre-reduced indigo. Switching from paste-form indigo to pre-reduced indigo usually requires some capital investment on the part of the denim manufacturer in order to store and process the dye.

¹² According to one of BASF's customers, ***, the price of pre-reduced indigo is pegged to the price of 20-percent paste available in the United States. Thus, as the price of 20-percent paste drops, so does the unit value of pre-reduced. *** expects that if antidumping duties are applied to subject imports, purchasers should expect a comparable rise in the unit value of pre-reduced indigo. (See ***'s response to the Commission's purchasers' questionnaire, question III-43.)

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of synthetic indigo, based on the U.S. producer's and U.S. importers' U.S. commercial shipments, are shown in table IV-3. Apparent consumption of synthetic indigo fluctuated upward by *** percent in quantity but fluctuated downward by *** percent in value during 1997-99. Consumption showed strong growth from 1997 to 1998, rising by *** percent in quantity. Most of this growth is attributable to strong demand for indigo from the denim industry, as denim production increased following a previous inventory glut among the mills and as demand for darker jeans continued.¹³ ¹⁴ Some of this gain was lost in 1999 as consumption dropped by *** percent. The decline in 1999 is attributable to a decline in U.S. producer shipments of *** percent from 1998 to 1999. A U.S. purchaser of indigo also noted that demand for darker jeans began to drop off in 1999 as consumers were purchasing more of the standard (lighter) shade denim.¹⁵ The downward trend in apparent consumption of indigo by value, as contrasted to its upward fluctuation in quantity, is an indication of the continuing decline in the unit value of the dye.¹⁶

Table IV-3

Synthetic indigo: U.S. shipments of domestic product, U.S. import shipments, by sources, and apparent U.S. consumption, 1997-99

* * * * *

U.S. MARKET SHARES

Market shares based on the U.S. producer's shipments and U.S. importers' shipments are presented in table IV-4. The U.S. producer's share declined in both quantity and value during 1997-99, by *** and *** percentage points, respectively. BCC's market share dropped off most from 1998 to 1999, when its shipments declined sharply. While China's share grew by quantity, increasing to 52.1 percent, China and Germany both witnessed significant gains in value, *** to capture 45.9 percent and *** percent of the market by value in 1999, respectively.

¹³ See Clune, Ray: "Denim business back on the road to recovery. Pickup in retail jeans sales helps reduce mills' saturated inventory," *DNR*, October 22, 1997. Information at Internet address <http://www.cone.com/US/Corporate>, and conference transcript, p. 44.

¹⁴ Respondents believe that the denim producers are the actual price leaders for indigo. As the U.S. denim industry faces greater competition from Mexican mills, denim producers are putting pressure on their upstream suppliers to reduce their indigo prices in order to enable the denim producers to cut costs.

¹⁵ USITC staff fieldwork, Trion, GA, January 25, 2000.

¹⁶ Respondents propose that the U.S. price of indigo is linked to indigo prices in Mexico, with price declines in Mexico preceding declines in the United States. They note that price competition between *** has also been intense in Mexico as both companies continue to drop their prices in order to gain sales. (See Clariant's posthearing brief, pp. 6-7).

Table IV-4

Synthetic indigo: Apparent U.S. consumption and market shares, 1997-99

Item	Calendar year		
	1997	1998	1999
Quantity (1,000 pounds)			
Apparent consumption	***	***	***
Value (\$1,000)			
Apparent consumption	***	***	***
Share of quantity (percent)			
U.S. producer's shipments	***	***	***
U.S. import shipments from--			
China ¹	42.4	45.2	52.1
Germany/ United Kingdom ²	***	***	***
All other	***	***	***
Total import shipments	***	***	***
Share of value (percent)			
U.S. producer's shipments	***	***	***
U.S. import shipments from--			
China	34.6	39.7	45.9
Germany/United Kingdom	***	***	***
All other	***	***	***
Total import shipments	***	***	***
¹ Including Hong Kong. ² ***			
Note: Totals may not add because of rounding.			
Source: Compiled from data submitted in response to Commission questionnaires.			

CRITICAL CIRCUMSTANCES

Commerce made affirmative final determinations of critical circumstances with respect to exports of synthetic indigo by each of the Chinese exporters receiving separate rates, as well as producers/exporters receiving the PRC-wide rate. Firms receiving separate rates include Wonderful Chemical Industrial, Ltd./Jiangsu Taifeng Chemical Industry Co., Ltd.; Tianjin Hongfa Group Co.; China National Chemical Construction Jiangsu Co.; China Jiangsu International Economic Technical Cooperation Corp.; Shanghai Yongchen International Trading Company, Ltd.; Hebei Jinzhou Import & Export Corp.; Sinochem Hebei Import & Export Corp.; Chongqing Dyestuff Import & Export United

Corp.; and Wuhan Tianging Chemicals Import & Export Corp., Ltd.¹⁷ Data on monthly imports into the United States in 1999 from Chinese producers/exporters identified in importer questionnaire responses, corresponding to the 6-month period before and after the filing of the petition on June 30, 1999, are shown in table IV-5. If retroactive duties are imposed, they would be effective September 15, 1999, or 90 days prior to the publication of Commerce's preliminary affirmative antidumping determinations on December 14, 1999.

Table IV-5
Synthetic indigo: U.S. imports of product manufactured/exported by selected Chinese producers/exporters, by month, 1999

* * * * *

INDIGO CONVERTERS

During the preliminary phase of the investigation, several U.S. importers of synthetic indigo from China claimed to be U.S. producers by virtue of their conversion of synthetic indigo from the powder form into the paste form.¹⁸ At that time, the Commission found the available information on the record suggested that the converters are not engaged in sufficient production-related activity for the Commission to find that they are part of the domestic industry for purposes of the preliminary investigation. In particular, the Commission noted, capital investment and employment levels appeared low, and the data were mixed as to the extent of the conversion process and the value added by it. However, the Commission stated that it would collect additional data regarding this matter during the final phase of the investigation. Four companies, Clariant, Passaic Color, ***, are converters of synthetic indigo from powder form to paste form.¹⁹ Data on these companies' conversion costs are shown in table IV-6, and summary data on the converters' U.S. production and financial information are presented in appendix F.

Table IV-6
Synthetic indigo: Conversion costs for U.S. importers

* * * * *

While the conversion process may vary some by importer, the conversion of indigo powder to paste begins with mixing the indigo powder with water. The mixture is then ground,²⁰ or slurred, at which point more water may be added as well as caustic soda to adjust the pH balance. Finally, the batch is stirred and standardized.

¹⁷ All of the referenced companies are exporters of Chinese indigo rather than producers. The Department of Commerce only considers a separate rate request from exporters or producers/exporters.

¹⁸ B.F. Goodrich's postconference brief, p. 7.

¹⁹ Conversion costs for the reporting importers range from *** of selling prices in 1999.

²⁰ According to information supplied by *** in its response to the Commission's producers' questionnaire, the mix is ground *** times. Passaic simply noted in its producers' questionnaire that ***.

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

The most important factors in determining the price of synthetic indigo are production costs, transportation costs, tariffs, and, as always, the competitive environment.

Raw Material Inputs

The four important material inputs into the domestic production of synthetic indigo are aniline, formaldehyde, cyanide, and elemental sodium. These products account for approximately *** percent of the cost of BCC's indigo production on a per-pound, 20-percent basis.¹ Other important inputs are caustic soda (sodium hydroxide), caustic potash (potassium hydroxide), direct labor, and energy.

U.S. Transportation Costs

Synthetic indigo is usually packaged in drums. All paste is packaged as such, but powder may be packaged in woven bags (imports from China) or cartons (exports from BCC). Inland shipping takes place via truck. BASF uses tanker trucks for shipping its pre-reduced indigo to domestic denim manufacturers. BCC reported that transportation accounted for *** percent of its total delivered cost of indigo. The seven responding importers reported that U.S. inland transportation costs are between 1 and 6 percent of the total delivered price of synthetic indigo. Of these, four reported costs between 1 and 2 percent. The seven responding purchasers reported that transportation costs range between 0.6 and 5 percent. All responding importers ship 100 percent of their material within 1,000 miles of the warehouse or port of entry. Four importers further replied that 20, 25, 100, and 100 percent of their sales occur within 100 miles of their storage facility or port of entry. The domestic producer and eight of nine importers arrange for the product to be shipped. One importer noted that the shipping was arranged by ***. Indigo is sold with delivery charges included for all but two of the importers and for the domestic producer. *** sells f.o.b. its plant, and *** sold its indigo *** to ***.

U.S. Tariff Rates

Synthetic indigo that is considered "Vat Blue 1" is imported into the United States under three separate HTS classifications. Vat Blue 1 (synthetic indigo), C.I. 73000, and preparations based thereon are classified in HTS subheading 3204.15.10. Its reduced forms, reduced indigo or indigo white (C.I. 73001) and solubilized indigo (C.I. 73002), are classified in HTS subheadings 3204.15.40 (vat dyes (including those usable as pigments) and preparations based thereon) and 3204.15.80 (vat dyes (including those usable in that state as pigments) and preparations based thereon), respectively. The synthetic indigo imported from China under HTS subheading 3204.15.10 is currently subject to a tariff of \$0.013 per kilogram plus a 9.7 percent *ad valorem* component under normal-trade-relations (NTR) status (for a total equivalent *ad valorem* tariff of 10.0 percent using 1999 import data). Tariffs for countries with NTR status are scheduled to decrease to 6.5 percent by 2004. Imports from China classified in HTS subheadings 3204.15.40 and 3204.15.80 carry 9.9 percent and 11.9 percent *ad valorem* tariffs,

¹ Petition, pp. 18-20.

respectively, for countries with NTR status. In 1998, at least 89 percent of indigo was imported under HTS subheading 3204.15.10, with the remainder under HTS subheading 3204.15.40.²

Exchange Rates

The Chinese yuan remained steady relative to the U.S. dollar throughout 1997-99. The yuan had been slightly appreciating against the dollar from 8.295 yuan per dollar in the first quarter of 1997 to 8.278 yuan per dollar in the fourth quarter of 1998, but has remained around 8.278 yuan per dollar since the fourth quarter of 1998.³

PRICING PRACTICES

Pricing Methods

Importers of synthetic indigo were mixed in their responses to the Commission's questions regarding on what basis indigo is sold. Four sell solely on a spot basis, while three sell only on a contract basis. The remaining two sell *** percent and *** percent of their indigo using contractual arrangements. BCC reported that *** of its sales are on a contract basis. Suppliers quote prices according to product specifications given by the purchaser (e.g., strength of paste or, for the food industry, maximum amount of certain heavy metals such as lead, arsenic, and mercury).⁴ Contracts for both importers and BCC typically last 6 months to a year and usually fix only price.⁵ None have meet-or-release provisions.

Sales Terms and Discounts

All purchasers reported that prices are quoted on a delivered basis, except for ***, which noted that both delivered and f.o.b. warehouse are quoted. Only one importer, ***, uses a set price list, but it also will negotiate on a transaction-by-transaction basis off that price list. Indigo sellers who use contracts negotiate pricing before the contract is written, while those who sell on the spot market negotiate prices on a transaction-by-transaction basis. No discounts are granted, except in credit terms. All importers and BCC have net 30-day payment terms. *** all offer a 1-percent discount if payment is made within 10 days and *** offers the same discount if payment is made within 15 days.⁶

² Since some of the pre-reduced indigo (C.I. 73001) may have been classified under 3204.15.10 or 3204.15.40, the exact percentage is not known. Indigo classified in 3204.15.80 is currently not produced anywhere.

³ International Financial Statistics, February 2000.

⁴ Conference transcript, p. 87.

⁵ The exception to this is *** whose contracts typically last 4 months, and is the only importer whose contracts fix both price and quantity.

⁶ Compiled from responses to the Commission's importers' and producers' questionnaires.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly quantity and value data between January 1997 and December 1999 for the following two products:

Product 1: Vat Blue 1, 18-22 percent strength, in paste form.

Product 2: Vat Blue 1, 94-98 percent strength, in powder form.

BCC and nine importers provided usable pricing data for sales of the requested products, although not necessarily for all products or all quarters.

Since most importers buy Chinese indigo powder and then convert it into a paste form to sell to U.S. denim manufacturers, there were no sales of powder from importers to end users, only paste. Only three importers of indigo from China sold powder directly, and this was sold to converters, especially ***. *** itself imports powder from China, both directly into the United States, and into the United States through Germany (without any further processing), some of which is pasted domestically for sale domestically. BASF did not report any shipments or data for pre-reduced indigo (C.I. 73001) using Chinese powder, since all shipments of pre-reduced indigo that were imported from Germany used German-synthesized powder to make the solution. BCC does not produce indigo powder for domestic consumption in the textile industry; it simply tests, repackages (sometimes adding dispersants), and exports the powder. Alternatively, it may sell the powder to the food color industry on a very limited basis. It does not export the 20-percent paste form of indigo since the majority of the shipment would be water, thus increasing the cost of shipping by a large amount. Although BCC imports indigo from China, its shipments have not been included in the data presented below.

Due to the lack of powder being sold in the United States, and the fact that the powder that is sold is almost always turned into paste or is exported, all prices are given in 20-percent paste form. Importers reported their sales in paste form, except for those who imported indigo to sell to converters. Their quantities were converted into paste-equivalent quantities on a 20-percent paste basis using a conversion factor of 4.8.

U.S. producer and importer weighted-average pricing data and margins of underselling are presented in table V-1 and figure V-1. Domestic synthetic indigo ranged in price between \$*** per pound and \$*** per pound. Pricing for domestic indigo suffered its sharpest decline (of *** percent) at the beginning of 1998 and has continued to drop since then. Its price dropped significantly again in the first quarter of 1999, this time suffering a smaller decline of *** percent. In 1997 and 1998, domestic prices stayed relatively flat during the middle of the year, after appearing to adjust to market conditions at the beginning of each calendar year. Since contracts are often renegotiated at the beginning of the calendar year,⁷ these first quarter prices may in part reflect renegotiations. Still, domestic prices continued to drop throughout 1999, falling another *** percent in the fourth quarter.⁸

In contrast, the price for synthetic indigo from China has been trending downward fairly consistently, dropping a total of 27.3 percent, or 31 cents per pound over the period examined, from

⁷ Telephone conversation with BCC's counsel, June 21, 1999.

⁸ *** notified staff that in December 1999, BCC offered it ***. When asked ***. USITC staff fieldwork, ***. ***. Fax from ***.

Table V-1

Synthetic indigo (in paste and powder form, expressed on a 20-percent paste basis): Weighted-average delivered prices and quantities reported by the U.S. producer and U.S. importers from China, and margins of underselling/(overselling), by quarters, January 1997 - December 1999

Period	United States		China		
	Price (per pound)	Quantity (1,000 pounds)	Price (per pound)	Quantity ¹ (1,000 pounds)	Margin (percent)
1997--					
January - March	\$***	***	\$1.12	3,068	***
April - June	***	***	1.07	4,719	***
July - September	***	***	1.09	5,017	***
October - December	***	***	1.05	3,959	***
1998--					
January - March	***	***	0.97	4,477	***
April - June	***	***	1.02	4,439	***
July - September	***	***	0.91	6,151	***
October - December	***	***	0.86	6,267	***
1999--					
January - March	***	***	0.85	5,686	***
April - June	***	***	0.84	4,654	***
July - September	***	***	0.81	5,681	***
October - December	***	***	0.81	4,080	***
<p>¹ The quantities do not include the amount of pre-reduced indigo that was imported from Germany that used Chinese indigo in its production or powder that came from Germany that was not of Chinese origin.</p>					
<p>Source: Compiled from data submitted in response to Commission questionnaires.</p>					

\$1.12 per pound in the first quarter of 1997 to \$0.81 per pound in the fourth quarter of 1999. It saw a precipitous drop in the third quarter of 1998, dropping by 10.5 percent, although some of that drop may be due to the 5-percent increase in price during the prior quarter. The price of Chinese indigo has leveled off in the last two quarters of 1999 at \$0.81 per pound.

Figure V-1

Synthetic indigo (in paste and powder form, expressed on a 20-percent paste basis): Weighted-average net delivered prices (per pound), by sources and by quarters, January 1997 - December 1999

* * * * *

The Chinese respondents contend that the movement to Mexico of denim and jeans producers, coupled with effects from the Asian economic crisis, has led to substantially increased import competition in the U.S. denim and jeans market. They allege that this has instigated a “cost squeeze” for U.S. denim and jeans manufacturers, causing them to seek lower prices for their inputs such as indigo, starting in 1997.⁹ The affidavit of Donald R. Henderson states that the “cost squeeze” phenomenon began in 1997 due to imports from Asia. It has continued from 1998 to the present as imports of both denim and denim garments from Mexico began to increase. Further, “U.S. denim and apparel (especially jeans) manufacturing has survived in the face of this import competition only by forcing its suppliers, such as U.S. indigo producers, to lower their prices. The ‘bottom line’ is that the drop in the prices for indigo sold in the United States from 1997 to 1999 has been the result of increased imports of denim and apparel, rather than due to allegedly unfair imports of indigo from China.”¹⁰

In every quarter during the period reviewed, prices for Chinese indigo have been below those of the domestic producer. The margins of underselling ranged from *** percent to *** percent, with the smallest margin occurring in the most recent quarter.

LOST SALES AND LOST REVENUES

The Commission requested BCC to report any instances of lost sales or revenues it experienced due to competition from imports of the subject product from China since January 1996. It reported 14 lost sales allegations totaling \$*** and involving *** pounds (on a 20-percent paste basis) and 32 lost revenue allegations totaling \$*** and involving *** pounds. Of these, 11 lost sales allegations were confirmed (with at least partial agreement), totaling \$*** and *** pounds, and 27 lost revenue allegations were confirmed (with at least partial agreement), totaling \$*** and *** pounds (including all adjustments due to partial agreements). In addition, *** lost sales were corroborated by *** that were not included in BCC’s allegations. These total \$*** and involve *** pounds.

The Commission sent a brief survey to each of the purchasers named in the allegations, requesting their comments. The specifics of these allegations are shown in tables V-2 and V-3. A discussion of purchaser comments based on the allegations follows.

Table V-2

Synthetic indigo: U.S. producer’s lost sales allegations

* * * * *

⁹ Chinese respondents’ posthearing brief, pp. 3-4.

¹⁰ Affidavit of Donald R. Henderson, Mt. Vernon Mills, p. 1.

Table V-3
Synthetic indigo: U.S. producer's lost revenue allegations

* * * * *

_ agreed to all *** allegations as set forth by BCC.¹¹

_ filled out the brief questionnaire the Commission sent on behalf of *** and agreed with the allegations. In its response, *** noted that the prices alleged by BCC for imported indigo reflected the price that was available to denim producers throughout the world. It feared that any increase in U.S. tariffs or duties on indigo would bring about a monopoly in the U.S. indigo market. This, coupled with the fact that the denim industry "is a pennies industry" and is already under intense price competition from China, Mexico, India, and other countries, has led *** to believe that the result would simply be an accelerated flight of domestic denim producers to offshore locations.¹²

***_This firm agreed with all of the *** allegations set forth by BCC and presented in the Commission's brief questionnaire.¹³ However, it only partially agreed with the last *** allegation, stating that "the major reason for the reduction in pricing was a result of growing global pressures," with China playing a significant role.

_ disagreed with the *** allegations from BCC, covering ***. In 1996 and 1997, it claimed that it continued to buy from BCC at BCC's stated price despite lower-cost foreign goods being available. *** had not negotiated prices for indigo. In 1998, it began to negotiate more aggressively with all suppliers in order to lower costs. Therefore, it disagreed with the allegation, citing this new negotiating technique as the cause rather than the availability of lower-priced Chinese imports. *** noted that it has to compete globally ***, therefore it has to look at the international producers to determine what the market price is. Although it continues to purchase from BCC, it wanted to diversify its indigo suppliers ***. Therefore, it disagreed with the ***. It did agree, however, with the *** allegations. *** was more specific in the price it received from BCC during the second half of 1998, however. The price it paid was *** per pound, and never got as low as *** per pound as in the allegation.¹⁴

_ agreed with all *** allegations, at least partially. It stated that "prices were reduced as a result of lower prices for Chinese indigo." However, it informed the Commission that the *** allegation should have been for *** pounds, and should have included a lost sale of *** pounds. Additionally, the *** allegation should have been for *** pounds, and should have included a lost sale of *** pounds.¹⁵

_ disagreed with *** of the *** allegations, and partially agreed with the remaining ***. The situations regarding the allegations are similar. Every six months, BCC put out a bid for ***'s business. The *** should have been priced at *** per pound. However, *** feels BCC was quoting prices for indigo paste made from imported powder, as per ***. It disagreed with the ***, stating that BCC's bids were simply "throw-away quotes" and that BCC might not even have been interested in ***'s business. BCC raised its prices to *** per pound, stating ***. Finally, *** partially agreed with

¹¹ Fax from ***.

¹² Fax from *** and telephone conversation with ***.

¹³ Fax from ***.

¹⁴ Faxes from *** and ***.

¹⁵ Fax from ***.

the *** allegations, but noted that BCC offered indigo produced in the United States at *** per pound, while offering Chinese material (pasted by BCC with an equivalent quality guarantee) at *** per pound in 1998.¹⁶ It further stated that it would not have used *** pounds in six months, but rather an estimate closer to *** pounds.¹⁷

_ partially agreed to all of the *** allegations. Although it agreed that the quantities and prices sounded correct, it believed that BCC's claim that the *** were because of Chinese powder is false. *** stated that the losses were due to many things in addition to price: quality, service, and technical support. *** asserted that BCC was built as a technical supplier with a huge technical staff. *** does not need BCC's technical staff any longer because ***. Therefore, BCC did not lose ***'s business due solely to the pricing of Chinese powder, but rather they lost out on the business strategy they employed.¹⁸

_ agreed with all *** allegations, further injecting that "it is a fact that the price of Chinese material has been driving down the price for indigo paste in the U.S. market. U.S. producers were most certainly lowering their prices due to import competition."¹⁹

_ disagreed with the *** allegation, stating that it bought ***, but then returned to BCC's product to fulfill the remaining *** of their contract at *** per pound. Also, it disagreed with the *** allegation, noting that although BCC decreased its price *** to *** per pound on a 20-percent basis, BCC actually lost ***'s business to Chinese material for which *** paid *** per pound on a 20-percent basis. This ***, however, was mainly due to the fact that ***.²⁰

¹⁶ Fax from *** and telephone conversation with ***.

¹⁷ Telephone conversation with ***.

¹⁸ Telephone conversation with ***.

¹⁹ Fax from ***.

²⁰ Fax from *** and telephone conversations with ***.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

BCC submitted financial data¹ on its operations in the production of synthetic indigo. The company manufactures a variety of chemical products in one business segment, with the net sales of synthetic indigo accounting for approximately *** percent of revenue in 1999. BCC is the principal subsidiary of the Lanesborough Corp., which has experienced financial difficulties and defaulted on its 10% Senior Notes on April 15, 1997. Subsequently, the parent company experienced a change in control (it is indirectly owned by the 10% bondholders), resignation of directors,² and a termination of its registration with the SEC in June 1998.³

OPERATIONS ON SYNTHETIC INDIGO

The results of the synthetic indigo operations of BCC are presented in table VI-1. Total sales quantities remained relatively flat from 1997 to 1998, but from 1998 to 1999 the steep decline in domestic shipments was not nearly offset by the increase in export shipments ***, as presented in table VI-2. The impact of this change on sales revenue was significant, as the per-pound values for export trade shipments declined from 1998 to 1999 ***, while the values for domestic shipments dropped from ***.

Table VI-1

Results of operations of BCC in the production of synthetic indigo, fiscal years 1997-99

* * * * *

Table VI-2

Net sales of BCC of synthetic indigo, fiscal years 1997-99

* * * * *

Cost of goods sold on a per-pound basis was fairly flat between 1997 and 1998 and declined by *** between 1998 and 1999, but not nearly enough to cover the *** decline in per-pound net sales values, which resulted in significantly declining gross profit margins. As presented in table VI-3, total costs and expenses (cost of goods sold and selling, general, and administrative (SG&A)) on a per-pound basis dropped from 1997 to 1998, but increased to slightly over the 1997 level in 1999.

Table VI-3

Cost of goods sold and SG&A expenses (per-pound) of BCC in the production of synthetic indigo, fiscal years 1997-99

* * * * *

¹ BCC's fiscal year ends December 31.

² 8-K filing with the SEC by Lanesborough Corp. on Apr. 17, 1997.

³ Public filing with the SEC on June 19, 1998.

Operating income and margins declined in each annual period, dropping to a *** in 1999. Net income followed a similar trend.

Environmental expenditures that relate to current operations are expensed or capitalized as appropriate (capital expenditures are used to maintain the company's plant and equipment and to comply with requirements under numerous environmental, health, and safety laws and regulations). Expenditures that relate to an existing condition caused by past operations, and which do not contribute to current or future revenue generation, are expensed.⁴ The petitioner indicated that the remediation environmental expenditures were ***.

A variance analysis showing the effects of prices and volume on BCC's net sales of synthetic indigo and of costs and volume on its total costs is presented in table VI-4. The analysis shows that the decrease in operating income between 1998 and 1999 was attributable to ***. The variance analysis indicates that price was the most detrimental factor in the drop in operating income between all three annual periods.

Table VI-4
Variance analysis for BCC's synthetic indigo operations, fiscal years 1997-99

* * * * *

**CAPITAL EXPENDITURES, R&D EXPENSES,
AND INVESTMENT IN PRODUCTIVE FACILITIES**

Capital expenditures, research and development (R&D) expenses, and the original cost and book value of property, plant, and equipment used in BCC's production of synthetic indigo are shown in table VI-5. Capital expenditures increased to ***. The book value of fixed assets increased from 1997 to 1998, but dropped slightly in 1999. R&D expenses were ***.

Table VI-5
Value of assets, capital expenditures, and research and development expenses of BCC for synthetic indigo, fiscal years 1997-99

* * * * *

CAPITAL AND INVESTMENT

BCC's comments regarding any actual or potential negative effects of imports of synthetic indigo from China on the firm's growth, investment, ability to raise capital, and/or development and production efforts (including efforts to develop a derivative or more advanced version of the product) are as follows:

* * * * *

⁴ 10-K filing with the SEC by Lanesborough Corp. for the period ending December 31, 1996, p. F-8.

In response to a question regarding any anticipated negative impact of imports of synthetic indigo from China, in the absence of relief, BCC indicated that it further anticipates that the following will occur:

* * * * *

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN CHINA

There are seven known producers of synthetic indigo in China: Beijing Dyestuffs Plant; Chongqing Dyestuff Import & Export United Corp.; Hebei Huiquan Dye-Chemical Co., Ltd.; Taixing Taifeng Dyestuff Co., Ltd.; Jiangsu Taifeng Chemical Co., Ltd.; Sichuan Dyestuffs; and Tianjin Jiahui Dyestuffs & Chemical Plant.^{1 2} The Commission received usable data from six of these producers. Associated with the producers are a number of exporters based in both Hong Kong and mainland China.³ Questionnaire responses suggest that the Chinese producers manufacture synthetic indigo only in a powder form.⁴ Only one of these producers, ***, reported producing indigo for use in both the food and the textile industries. Both *** supply synthetic indigo to BCC.

The indigo industry in China is relatively new compared with the indigo industries in the United States and Europe. The plants in China are approximately 25 years old.⁵ While petitioners note that Chinese indigo has had a presence in the U.S. market since the 1970s, they believe the recent rise in Chinese exports did not begin until the mid-1990s when price erosion began to accelerate.⁶ Respondents argue that the price erosion of indigo was due to several factors, chief among them that Chinese manufacturers have found a superior way of producing synthetic indigo based on their product mix of raw materials.⁷ The Chinese use a combination of chloroacetic acid, ferrous sulfate, and aniline to form a PGFe molecule. The PGFe molecule is then combined with potash to form a PGK molecule. From there, the manufacture of indigo in China and the United States is the same (see *The Product* section of

¹ In 1998, Taixing Taifeng split into two sister companies for purposes of the tax code in China. The two companies are located at the same address and are managed by the same staff, but are considered separate in terms of production and export. They are now Taixing Taifeng and Jiangsu Taifeng.

² According to respondents, *** stopped producing in September 1999 because of competition among the Chinese producers. See respondents' posthearing brief, p. 8.

³ Ten Chinese exporters of indigo were identified by Commerce. All 10 received separate rates.

⁴ Neither respondents nor petitioners mentioned China's capability to produce indigo paste.

⁵ Conflicting answers have been given regarding the age of the Chinese industry. Estimates range from 20 to 25 years old. Passaic Color's testimony at the preliminary staff conference, conference transcript, pp. 66-67, and Chinese respondents' prehearing brief, p. 6.

⁶ Petitioners' posthearing brief, p. 8. Petitioners believe that the growing number of firms in China, with an accompanying expansion in capacity, has created serious price competition among the Chinese producers, causing export prices to decline dramatically. (See hearing transcript, pp. 66-67).

⁷ Hearing transcript, p. 127.

this report). Petitioners note that besides the initial raw materials used, the manufacturing processes of the Chinese and domestic producers are nearly identical.⁸

As presented in table VII-1, reported Chinese capacity to produce indigo increased overall by 10.6 percent during 1997-99. However, production of synthetic indigo decreased by 9.5 percent from 1997 to 1999 and exports to the United States declined by 41.0 percent. Exports to the United States constituted 16.9 percent of total export shipments in 1999, down from 30.5 percent the previous year. Chinese producers project that exports to the United States will continue to decline in 2000. Manufacturers operated at a 74.0-percent capacity utilization rate in 1999, down from 78.2 percent in 1998. Capacity utilization is forecasted to decline an additional 20.7 percentage points in 2000, to 53.3 percent.

⁸ Hearing transcript, pp. 18-19.

Table VII-1

Synthetic indigo: China's production capacity, production, shipments, and inventories, 1997-99 and projected 2000-01¹

Item	Actual experience			Projections	
	1997	1998	1999	2000	2001
Quantity (1,000 pounds)					
Capacity	22,162	25,204	24,504	24,504	24,504
Production	20,035	19,709	18,136	13,057	13,057
End-of-period inventories	1,267	1,773	1,039	632	632
Shipments:					
Internal consumption	0	82	480	0	0
Home market	4,774	4,444	5,791	3,595	3,595
Exports to--					
The United States	5,420	5,852	3,196	1,225	1,225
All other markets ²	9,203	8,824	9,404	8,365	8,365
Total exports	14,623	14,676	12,600	9,590	9,590
Total shipments	19,397	19,202	18,871	13,185	13,185
Ratios and shares (percent)					
Capacity utilization	90.4	78.2	74.0	53.3	53.3
Inventories to production	6.3	9.0	5.7	4.8	4.8
Inventories to total shipments	6.5	9.2	5.5	4.8	4.8
Share of total quantity of shipments:					
Internal consumption	0.0	0.4	2.5	0.0	0.0
Home market	24.6	23.1	30.7	27.3	27.3
Exports to--					
The United States	27.9	30.5	16.9	9.3	9.3
All other markets	47.4	46.0	49.8	63.4	63.4
Total exports	75.4	76.4	66.8	72.7	72.7
¹ All quantities are reported in powder form. ² Exports to other markets do not include exports to Hong Kong, but do include ***'s exports to all other markets.					
Note.--Totals may not add because of rounding.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. INVENTORIES OF PRODUCT FROM CHINA

Inventories held by U.S. importers of merchandise from China and other sources are shown in table VII-2. Importers' inventories of synthetic indigo from China fluctuated downward by 57.7 percent during 1997-99. All of the decline occurred from 1998 to 1999, when inventories fell by 62.2 percent.

Table VII-2

Synthetic indigo: U.S. importers' end-of-period inventories of imports, 1997-99¹

Item			
	1997	1998	1999
Imports from China:			
Inventories (<i>1,000 pounds</i>)	5,354	6,005	2,267
Ratio to imports (<i>percent</i>):	20.1	21.4	11.0
Ratio to U.S. shipments of imports (<i>percent</i>):	***	***	***
Imports from Germany/United Kingdom:			
Inventories (<i>1,000 pounds</i>)	***	***	***
Ratio to imports (<i>percent</i>):	***	***	***
Ratio to U.S. shipments of imports (<i>percent</i>):	***	***	***
All other imports:			
Inventories (<i>1,000 pounds</i>)	***	***	***
Ratio to imports (<i>percent</i>):	***	***	***
Ratio to U.S. shipments of imports (<i>percent</i>):	***	***	***
Total imports:			
Inventories (<i>1,000 pounds</i>)	***	***	***
Ratio to imports (<i>percent</i>):	***	***	***
Ratio to U.S. shipments of imports (<i>percent</i>):	***	***	***
¹ Inventories of imported synthetic indigo are reported in paste form. Note.--Totals may not add because of rounding. Source: Compiled from data submitted in response to Commission questionnaires.			

APPENDIX A

FEDERAL REGISTER NOTICES

with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 26, 2000.

Joseph A. Spetrini,
Acting Assistant Secretary for Import
Administration.

[FR Doc. 00-10926 Filed 5-2-00; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-856]

Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value

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

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

SUMMARY: On December 14, 1999, the Department of Commerce published its preliminary determination of sales at less than fair value of synthetic indigo from the People's Republic of China. The period of investigation is October 1, 1998, through March 31, 1999.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled "Final Determination of Investigation."

EFFECTIVE DATE: May 3, 2000.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Dinah McDougall, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-4136 or (202) 482-3773, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations refer to 19 CFR Part 351 (April 1999).

Background

On December 14, 1999, the Department published the Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Synthetic Indigo from the People's Republic of China ("PRC") (64 FR 69723) ("Preliminary Determination"). The period of investigation is October 1, 1998 through March 31, 1999. We invited parties to comment on our preliminary determination of the investigation. The Department has conducted this investigation in accordance with section 731 of the Act.

Verification of the responses to the Department's sales and factors of production questionnaires took place in January 2000 (see the "Verification" section below).

The petitioners, Buffalo Color Corporation and the United Steelworkers of America, AFL-CIO/CLC, and the respondents, the China Chamber of Commerce of Metals, Minerals and Chemicals, and its respondent member firms, filed case and rebuttal briefs on March 23 and 28, 2000, respectively.

Scope of Investigation

The products subject to this investigation are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as "Vat Blue 1." Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre-reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (e.g., powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this investigation are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" ("Decision Memorandum") from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated April 27, 2000, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B-099 of the Department. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at: www.ita.doc.gov/import_admin/records/frn/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Separate Rates

All responding exporting entities have requested separate, company-specific antidumping duty rates. In the Preliminary Determination we determined that, based on the information contained in the questionnaire responses, the mandatory respondents, Wonderful Chemical Industrial Ltd. ("Wonderful") and its affiliate Jiangsu Taifeng Chemical Industry Co. ("Jiangsu Taifeng"), and Tianjin Hongfa Group Co. ("Tianjin Hongfa"), had met the de jure and de facto criteria for the application of separate antidumping rates. See Preliminary Determination, 64 FR at 69725-6. However, during the course of verification, the Department was unable to completely verify the reported separate rates information for Tianjin Hongfa, and therefore, has determined that Tianjin Hongfa is not eligible to receive a separate rate. Accordingly, we have assigned Tianjin Hongfa the PRC-wide rate, as discussed in the "PRC-Wide Rate" section below. For a discussion of our determination with respect to separate rates and the application of the PRC-wide rate, see the "Separate Rates" section of the Decision Memorandum, which is available in B-099 and on the Web at www.ita.doc.gov/import_admin/records/frn/.

Margins for Exporters Whose Responses Were Not Analyzed

With respect to the responding companies that provided all of the questionnaire responses requested of them and otherwise fully cooperated with the Department's investigation, but nonetheless, were not fully analyzed by the Department due to limited resources (see Preliminary Determination, 64 FR at 69726), we assigned to them the rate calculated for the only mandatory respondent which was fully analyzed and which established its eligibility for a separate rate in this investigation (*i.e.*, Wonderful/Jiangsu Taifeng), as a non-adverse facts available rate. Companies receiving this rate are identified by name in the "Continuation of Suspension of Liquidation" section of this notice. For a discussion of our determination with respect to the cooperating, non-mandatory respondents, see the "Separate Rates" section of the Decision Memorandum.

PRC-Wide Rate

As explained in the Preliminary Determination, the PRC-wide antidumping rate is based on adverse facts available, in accordance with section 776(b) of the Act. See Preliminary Determination, 64 FR at 69726. Information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC in addition to the companies participating in this investigation. U.S. import statistics show that the responding companies did not account for all imports of synthetic indigo into the United States from the PRC. Given this discrepancy, it appears that not all PRC exporters of synthetic indigo responded to our antidumping duty questionnaire. Consistent with our preliminary determination, we have applied a single antidumping duty deposit rate ("PRC-wide rate") to all synthetic indigo

exporters in the PRC, except those specifically identified in the "Continuation of Suspension of Liquidation" section of this notice, based on our presumption that the export activities of the companies that failed to respond to the Department's questionnaire are controlled by the PRC government. We have also applied this rate to Tianjin Hongfa based on its failure to establish its eligibility for a separate rate, as discussed in the "Separate Rates" section above. The PRC-wide rate, which in this case is the highest margin from the petition, has been corroborated pursuant to section 776(c) of the Act using the method outlined in the Preliminary Determination. See 64 FR at 69726.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our Preliminary Determination, where applicable. Any programming or clerical errors alleged by the parties with which we do not agree are discussed in the relevant sections of the Decision Memorandum.

Critical Circumstances

In our Preliminary Determination, we found, pursuant to section 733(e)(1) of the Act, that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise from the mandatory and non-mandatory respondents and all other producers/exporters. As discussed in detail in the Preliminary Determination, we first found that importers either knew or should have known that imports of synthetic indigo from the PRC were being sold at less than fair value and there was likely to be material injury. We then analyzed the import volume and value data placed on the record, in

accordance with 19 CFR 351.206, and preliminarily determined that imports of the subject merchandise have been massive over the short period of time subsequent to the filing of the petition. In accordance with section 735(a)(3) of the Act, and based upon our verification of the shipment data placed on the record, we determine that critical circumstances exist with respect to synthetic indigo from the mandatory respondents in this investigation as well as the non-mandatory respondents and all other producers/exporters. Therefore, we are directing the Customs Service ("Customs") to continue to suspend liquidation of any unliquidated entries of subject merchandise on or after the date 90 days prior to the date of publication of the preliminary determination in the **Federal Register**, as discussed below in the "Continuation of Suspension of Liquidation" section.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing Customs to continue to suspend liquidation of all imports of the subject merchandise from the PRC that are entered, or withdrawn from warehouse, for consumption on or after September 15, 1999, the date 90 days prior to the date of publication of the preliminary determination in the **Federal Register**, in accordance with our critical circumstances finding.

Effective on or after the date of publication of the Department's final determination, Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or constructed export price, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry Co., Ltd	77.89	Yes.
China National Chemical Construction Jiangsu Company	77.89	Yes.
China Jiangsu International Economic Technical Cooperation Corp	77.89	Yes.
Shanghai Yongchen International Trading Company Ltd	77.89	Yes.
Hebei Jinzhou Import & Export Corporation	77.89	Yes.
Sinochem Hebei Import & Export Corp	77.89	Yes.
Chongqing Dyestuff Import & Export United Corp	77.89	Yes.
Wuhan Tianjin Chemicals Imports & Exports Corp., Ltd	77.89	Yes.
PRC-wide Rate	129.60	Yes.

Except for entries of synthetic indigo from exporters that are identified individually above, the PRC-wide rate applies to all other entries of the subject merchandise.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 27, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

I. Respondent Selection

Comment 1: Tianjin Hongfa vs. Kwong Fat as Exporter

Comment 2: Wonderful vs. Intermediate Trading Company as Exporter

II. Separate Rates

Comment 3: Separate Rate for Tianjin Hongfa

Comment 4: Separate Rate for Wonderful/Jiangsu Taifeng

Comment 5: Cooperating Non-Mandatory Respondents

III. Factor Valuation

Comment 6: Valuation of Factory Overhead, SG&A, and Profit

Comment 7: Valuation of International Freight

Comment 8: Valuation of Certain Minor Inputs

Comment 9: Valuation of Water

Comment 10: Classification of "Managerial Remuneration" in Surrogate Value Financial Data

Comment 11: Date of Sale

Comment 12: Labor Hours Factor Reporting

Comment 13: Deduction of Trading Company Fees

[FR Doc. 00-11034 Filed 5-2-00; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00-009 *Applicant:* Purdue University, Department of Biological Sciences, Lilly Hall of Life Sciences, West Lafayette, IN 47907-1392. *Instrument:* Electron Microscope, Model CM300. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument is intended to be used in cryoelectron microscopy studies to determine the structure of some biological complexes. Samples studied will include non-icosahedral viruses, human rhinovirus, poliovirus, coxsackievirus, Ross River virus, Sindbis virus, Togavirus and Flavivirus families, Moloney murine leukemia virus, human papillomavirus, RNA-protein complexes, Band-3 protein in red blood cells, caveolae in the plasma membrane, KP4 fungal toxin, protein-protein complexes, photosynthetic membranes, large proteins, Colicin and other transmembrane transport systems. In addition, the instrument will be used for educational purposes in the graduate level courses BIO595 and BMS517. Application accepted by Commissioner of Customs: April 14, 2000.

Frank W. Creel,

Director, Statutory Import Programs Staff.
[FR Doc. 00-10927 Filed 5-2-00; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042600C]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Capacity Committee in May. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on May 18, 2000, at 10:00 a.m.

ADDRESSES: The meeting will be held at the New England Fishery Management Council Office, 50 Water Street—Mill 2, Newburyport, MA 01950; telephone: (978) 465-0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION: The Committee will continue its exploration of fishing capacity issues. The Committee will discuss and continue to develop three proposals to reduce capacity by allow the transfer of fishing permits and/or days-at-sea allocations contingent on reductions of days-at-sea upon such transfers. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul

subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each of the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1993.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1999 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from each of the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1999 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S.

commercial shipments of Subject Merchandise imported from each of the Subject Countries; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each of the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in each of the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1999 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each of the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each of the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in each of the Subject

Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: December 21, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-33965 Filed 12-30-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-851 (Final)

Synthetic Indigo From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-851 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of synthetic indigo, provided for in subheadings 3204.15.10, 3204.15.40, and 3204.15.80 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, hearing procedures, 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 C (19 CFR part 207).

¹ For purposes of this investigation, synthetic indigo is defined as the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as "Vat Blue 1." Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives; pre-reduced indigo or indigo white (Color Index No. 73001); and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (e.g., powder, granular, paste, liquid, or solution) and in any strength.

EFFECTIVE DATE: December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Jozlyn Kalchthaler (202-205-3457), 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. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of synthetic indigo from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 30, 1999, by Buffalo Color Corp., Parsippany, NJ, and the United Steelworkers of America, AFL-CIO/CLC.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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 the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later

than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on April 19, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on May 2, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 24, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 27, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 26, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 9, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a

written statement of information pertinent to the subject of the investigation on or before May 9, 2000. On May 25, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 30, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: December 22, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-33904 Filed 12-29-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation 332-409]

The Impact on the U.S. Economy of Including the United Kingdom in a Free Trade Arrangement with The United States, Canada, and Mexico

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: December 21, 1999.

SUMMARY: Following receipt of a request on November 18, 1999, from the Senate Committee on Finance (Committee), the Commission instituted investigation No. 332-409, The Impact on the U.S. Economy of Including the United Kingdom in a Free Trade Arrangement

APPENDIX B
LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Synthetic Indigo from China

Inv. No.: 731-TA-851 (Final)

Date and Time: May 2, 2000 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, DC.

OPENING REMARKS

Petitioner (**Paul C. Rosenthal**, Collier Shannon Scott, PLLC)
Respondents (**Bruce Aitken**, Aitken Irvin Berlin & Vrooman, LLP)

In Support of the Imposition of Antidumping Duties:

Collier Shannon Scott, PLLC
Washington, D.C.
on behalf of

Buffalo Color Corporation

Kenneth B. Funsten, Chairman of the Board

Edward Schultz, Acting CEO and CFO

Michael Lindaman, Manager of Operations

Charles Brock, Director, Indigo Sales

Robert Bronstein, Supervisor of Plant R&D

John Fijol, Accountant

Brad Hudgens, Economic Consultant, Georgetown Economic Services, LLC

Paul C. Rosenthal)
Michael R. Kershow)—OF COUNSEL
Sanford B. Ring)

**In Opposition to the Imposition of
Antidumping Duties:**

Aitken Irvin Berlin & Vrooman, LLP
Washington, D.C.
on behalf of

China Chamber of Commerce of Metals, Minerals and Chemicals (“CCCCMC”)

Lui Jianwei, Deputy Director, Foreign Affairs Department, CCCC MC

Harry Anand, President, Royce International

A.J. Royce IV, Product Manager Textile Dyes Division

Bruce Aitken--OF COUNSEL

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

Clariant Corporation

Gerald Jones, Director of Denim, Clariant Corporation

Donald R. Henderson, Vice President - Denim Manufacturing,
Mount Vernon Mills

Matthew T. McGrath--OF COUNSEL

CLOSING REMARKS

Petitioner (**Paul C. Rosenthal**, Collier Shannon Scott, PLLC)
Respondents (**Bruce Aitken**, Aitken Irvin Berlin & Vrooman, LLP and
Matthew T. McGrath, Barnes, Richardson & Colburn)

APPENDIX C
SUMMARY DATA

Table C-1
Indigo: Summary data concerning the U.S. market, 1997-99

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound;
period changes=percent, except where noted)

Item	Reported data			Period changes		
	1997	1998	1999	1997-98	1998-99	1997-99
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producer's share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Germany	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producer's share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Germany	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from:						
China:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	5,354	6,005	2,267	12.2	-62.2	-57.7
Germany:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued
 Indigo: Summary data concerning the U.S. market, 1997-99

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound;
 period changes=percent, except where noted)

Item	Reported data			Period changes		
	1997	1998	1999	1997-98	1998-99	1997-99
U.S. producer's:						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (pounds per hour)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX D

**PURCHASER RESPONSES TO THE QUESTION OF HOW
ANTIDUMPING DUTIES WOULD AFFECT THEIR BUSINESSES**

The Commission requested purchasers describe how the imposition of antidumping duties on synthetic indigo would affect their business (question III-43). The responses of all purchasers are listed below. In addition, one purchaser has made a statement, and another has filed an affidavit, regarding the same issue, although not in direct response to question III-43.

American Cotton Growers

Avondale Mills

Burlington Industries

Cone Mills

Dan River Inc.

Greenwood Mills

Mount Vernon Mills

Donald Henderson, Vice President of Manufacturing for Mt. Vernon submitted in his affidavit that:

“Inevitably, if antidumping duties are imposed on PRC indigo, the following will happen:

- (a) German imports of premium indigo will continue to increase, and its price likely will increase;
- (b) The U.S. indigo converter industry will be destroyed, and BCC will attempt to increase prices for its U.S. indigo;
- (c) U.S. denim and apparel/jeans manufacturers will seek an alternative source of supply for imports of indigo; and

- (d) If we fail to find such an alternative source of supply for imported indigo, the movement to Mexico of U.S. denim and apparel/jeans production will be greatly accelerated, resulting in the loss of thousands of U.S. jobs.”

Swift Denim

Thomaston Mills

UCO Fabrics

Warner-Jenkinson

APPENDIX E
COMPAS PRESENTATION

ASSUMPTIONS

The COMPAS model¹ is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the discussion contained in part II of this report, the staff selects a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticity) in the U.S. indigo market. The model uses these estimates with data on market shares, Commerce's estimated margins of dumping, transportation costs, and current tariffs to analyze the likely effect of unfair pricing of subject imports on the U.S. domestic like product industry.

FINDINGS²

Estimated effects of the LTFV imports on the U.S. indigo industry are as follows: 25.7 percent to 57.0 percent reduction in revenue, 9.4 percent to 43.1 percent reduction in output, and 11.5 percent to 33.6 percent reduction in price. More detailed effects of the dumping and the full range of scenarios are shown in table E-1.

Table E-1
The estimated effects of LTFV pricing of imports from China

* * * * *

¹ COMPAS version 1.4 (dumping, 6/1/93).

² Estimates are based on 1999 data. Commerce's period of investigation for the antidumping duty investigations was October 1998 through March 1999.

APPENDIX F

SUMMARY DATA CONCERNING U.S. CONVERTERS

Table F-1
 Synthetic indigo: Summary data concerning U.S. converters, 1997-99

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound;
 period changes=percent, except where noted)

Item	Reported data			Period changes		
	1997	1998	1999	1997-98	1998-99	1997-99
U.S. producer's:						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (pounds per hour)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis.

Source: Compiled from data submitted in response to Commission questionnaires.

