

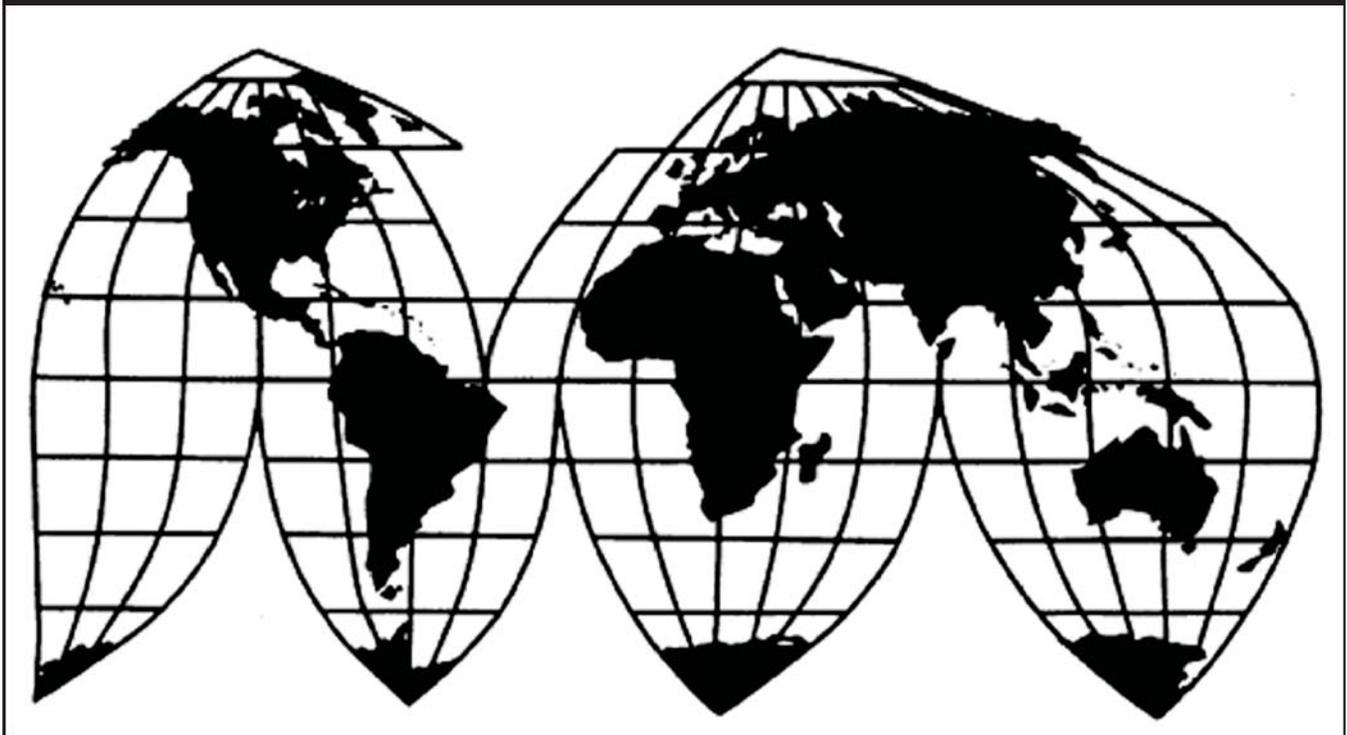
Xanthan Gum from Austria and China

Investigation Nos. 731-TA-1202-03 (Final)

Publication 4411

July 2013

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1202-03 (Final)

XANTHAN GUM FROM AUSTRIA AND CHINA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (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 not materially injured or threatened with material injury by reason of imports from Austria of xanthan gum provided for in subheading 3913.90.20 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value.

The Commission also 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 threatened with material injury by reason of imports from China of xanthan gum provided for in subheading 3913.90.20 of the Harmonized Tariff Schedule of the United States, that have been found by Commerce to be sold in the United States at less than fair value.²

BACKGROUND

The Commission instituted these investigations effective June 5, 2012, following receipt of a petition filed with the Commission and Commerce by CP Kelco U.S., Atlanta, Georgia. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of xanthan gum from Austria and 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 final phase of the Commission's investigations 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 February 27, 2013 (78 FR 13379). The hearing was held in Washington, DC, on May 23, 2013, 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 Commissioner Dean A. Pinkert and Commissioner Meredith M. Broadbent determine that an industry in the United States is materially injured by reason of imports from China of xanthan gum.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of xanthan gum from Austria that are sold in the United States at less than fair value (“LTFV”). We also find that an industry in the United States is threatened with material injury by reason of imports of xanthan gum from China that are sold at LTFV.¹

I. Background

The petition in these investigations was filed by C.P. Kelco U.S. (“CP Kelco” or “Petitioner”), the larger of two domestic producers of xanthan gum in the United States. Representatives and counsel for CP Kelco appeared at the hearing and submitted prehearing and posthearing briefs. Although it did not appear at the hearing, Archer Daniels Midland Company (“ADM”), the other U.S. producer of xanthan gum, filed a posthearing brief.

Representatives and counsel for Jungbunzlauer Austria AG (“JBL”), the sole Austrian producer of xanthan gum, and Jungbunzlauer Inc., a U.S. importer of the subject merchandise (collectively “Austrian Respondents”), appeared at the hearing and jointly submitted prehearing and posthearing briefs. Representatives and counsel for Deosen Biochemical Ltd., and Deosen Biochemical (Ordos) Ltd. (“Deosen”), a Chinese producer of xanthan gum, and Deosen USA, a U.S. importer of the subject merchandise (collectively “Chinese Respondents”), appeared at the hearing and jointly submitted prehearing and posthearing briefs. Representatives and counsel for Halliburton Energy Services Inc. (“Halliburton”), a U.S. importer and purchaser of the subject merchandise, also appeared at the hearing and submitted prehearing and posthearing briefs in opposition to the imposition of duties.

U.S. industry data are based on the questionnaire responses of the two U.S. producers that accounted for all U.S. production of xanthan gum in 2012.² U.S. import data are based on questionnaire responses from importers whose imports are believed to have accounted for a majority of subject imports during the period of investigation (“POI”), which encompasses calendar years 2010 through 2012.³ The Commission received questionnaire responses from six Chinese producers/exporters of the subject merchandise that accounted for an estimated *** percent of reported xanthan gum production in China in 2012,⁴ and a questionnaire response from the sole Austrian producer of the subject merchandise.⁵

¹ Commissioners Pinkert and Broadbent determine that an industry in the United States is materially injured by reason of imports of xanthan gum from China that are sold at LTFV, and that an industry in the United States is not materially injured or threatened with material injury by reason of subject imports from Austria. *See* Separate and Concurring Views of Commissioners Dean A. Pinkert and Meredith B. Broadbent. They join Section I. (Background), II. (Domestic Like Product), III. (Domestic Industry), V. (Legal Standards), VI. (Conditions of Competition), and VII(A)(3), (B)(3), and (C)(3) (Negative Threat Determination With Respect to Austria), except as noted.

² Confidential Report (“CR”) at Table III-1, Public Report (“PR”) at Table III-1.

³ The Commission received a questionnaire from a U.S. importer accounting for *** percent of reported exports of Austrian subject merchandise to the United States and questionnaires from U.S. importers accounting for an estimated *** percent of reported exports to United States from China. CR at IV-1- IV-4; PR at IV-1-IV-3.

⁴ CR at VII-9; PR at VII-3-VII-4.

⁵ CR at VII-3; PR at VII-2.

II. Domestic Like Product

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁶ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole 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.”⁷ In turn, the Tariff 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.”⁸

The decision regarding the appropriate domestic like product 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.⁹ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹⁰ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹¹ Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹² the Commission determines what domestic product is like the imported articles Commerce has identified.¹³

⁶ 19 U.S.C. § 1677(4)(A).

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(10).

⁹ See, e.g., *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors, including the following: (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).

¹⁰ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹¹ *Nippon*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

¹² See, e.g., *USEC, Inc. v. United States*, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), *aff’d*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

¹³ *Hosiden Corp. v. Advanced Display Mfrs.*, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Cleo*, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); *Torrington*, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations in which Commerce found five classes or kinds).

B. Product Description

In its final determinations, Commerce defined the imported merchandise within the scope of these investigations as follows:

Dry xanthan gum, whether or not coated, blended with other products (“blends”), regardless of physical form, including but not limited to solutions, slurries, dry powders of any particle size, or unground fiber. Xanthan gum that has been blended with other products is included in this scope when the resulting mix contains 15 percent or more xanthan gum to dry weight. Other products with which xanthan gum may be blended include, but are not limited to, sugars, minerals, and salts.¹⁴

Xanthan gum is a polysaccharide produced by the fermentation of a carbohydrate source using the strain of bacteria known as *Xanthomonas campestris*.¹⁵ Due to its unique molecular structure, it is a naturally derived stabilizer of water-based solutions.¹⁶

Xanthan gum, sold in the form of a milled, granular powder and in a variety of grades, is used primarily for its thickening, stabilizing, and suspension properties in a wide variety of products and industries.¹⁷ Xanthan gum is principally used by five major end-use industries: oilfield, which accounted for *** percent of the U.S. xanthan gum shipments in 2012; food and beverages, which accounted for *** percent of the U.S. xanthan gum shipments in 2012; industrial, which accounted for *** percent of the U.S. xanthan gum shipments in 2012; consumer goods, which accounted for *** percent of the U.S. xanthan gum shipments in 2012; and pharmaceutical products, which accounted for just *** percent of the U.S. xanthan gum shipments in 2012.¹⁸

C. Analysis

In the preliminary determinations, the Commission found a single domestic like product coextensive with the scope of the investigations.¹⁹ The Commission found that all grades of xanthan gum are derived from fermentation of the bacteria *Xanthomonas campestris* and, as such, each grade shares the same basic physical characteristics and chemical composition.²⁰ The different grades of xanthan gum primarily were used for a variety of purposes in three end-use industries: food and beverage, oil and industrial applications, and consumer applications (e.g., cosmetics and pharmaceutical products).²¹ The Commission observed that there was somewhat limited interchangeability among the various grades of xanthan gum because lower-level purity grades (such as those used in the oil segment) cannot be used in products that require higher purity levels due to government regulations (such as food products); nonetheless, higher purity level grades could be substituted for lower purity level grades of xanthan

¹⁴ 78 Fed. Reg. 33350, 33353 (June 4, 2013) (China); 78 Fed. Reg. 33354, 33355 (June 4, 2013) (Austria).

¹⁵ CR at I-6; PR at I-5.

¹⁶ CR at I-6; PR at I-5.

¹⁷ CR at I-7; PR at I-5-I-6.

¹⁸ CR/PR at Table IV-3.

¹⁹ *Xanthan Gum from Austria and China*, Inv. Nos. 731-TA-1202-03, USITC Pub. 4342 at 6 (Preliminary) (July 2012) (“USITC Pub. 4342”).

²⁰ The Commission found that the various grades differed as to purity level or grain size based on specific needs of purchasers or regulatory standards for end-use applications. USITC Pub. 4342 at 5.

²¹ USITC Pub. 4342 at 5.

gum.²² The Commission found that the different grades of xanthan gum were generally sold in the same channels of distribution, with most xanthan gum being sold directly to end users and the remainder to distributors.²³

The Commission found that all xanthan gum is made in similar manufacturing facilities, using similar production processes and employees.²⁴ It further determined that the production process for xanthan gum may vary slightly depending on the grade being produced, such as one requiring additional enzymes or a different particle size.²⁵ It found that all grades of xanthan gum were perceived by both producers and customers to be the same product, although certain food and consumer product grades must meet the necessary regulatory requirements.²⁶ Finally, it observed that prices vary among the end-use industries, and that food and consumer grades, which required higher purity levels, were generally higher-priced than oil grades.²⁷

The record in the final phase investigations pertinent to the Commission's domestic like product analysis is not materially different from that in the preliminary phase investigations.²⁸ Moreover, no party has argued that the Commission should engage in a further analysis of the domestic like product in the final phase investigations.²⁹ Accordingly, we again define a single domestic like product, xanthan gum, coextensive with the scope of investigation.

III. Domestic Industry

The domestic industry is defined as the domestic "producers as a whole 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."³⁰ In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. In its preliminary determinations, the Commission defined the domestic industry as all producers of xanthan gum.³¹

In these final phase investigations, we must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic

²² USITC Pub. 4342 at 5-6.

²³ USITC Pub. 4342 at 6.

²⁴ USITC Pub. 4342 at 6.

²⁵ The Commission also observed that, while government regulations require that food grade production limit contamination, all xanthan gum can be produced on the same production lines that are GMP (good manufacturing process) compliant. USITC Pub. 4342 at 6.

²⁶ USITC Pub. 4342 at 6.

²⁷ USITC Pub. 4342 at 6.

²⁸ See CR at I-6 to I-13; PR at I-6 to I-9.

²⁹ Instead, Petitioner again argues that the Commission should define a single domestic like product coextensive with the scope of investigations. Petitioner Prehearing Br. at 3. Respondents do not object.

³⁰ 19 U.S.C. § 1677(4)(A).

³¹ USITC Pub. 4342 at 6. There were three domestic producers: CP Kelco, ADM, and Tate & Lyle. The Commission found that CP Kelco was a related party in light of its imports of subject merchandise and corporate affiliation with a producer of subject merchandise but found that appropriate circumstances did not exist to exclude it from the domestic industry. *Id.* at 7. Tate & Lyle discontinued xanthan gum manufacturing in 2009 and hence did not produce the domestic like product during the period of investigation for the final phase investigations. See CR at III-2; PR at III-2.

industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.

CP Kelco is a related party under the statute because it imported subject merchandise during the POI and because its wholly-owned subsidiary, CP Kelco (Shandong) Biological Co., Ltd., produces xanthan gum in China and exports xanthan gum from China to the United States.³² We consequently must determine whether appropriate circumstances exist for its exclusion from the domestic industry. No party argues for its exclusion.

CP Kelco was the larger domestic producer in 2012, accounting for *** percent of domestic production.³³ CP Kelco stated that it invested in the Chinese production facility "as its initial attempt to compete with low-priced subject imports by providing a sourcing alternative for the lowest-priced applications."³⁴ CP Kelco indicated that ***.³⁵

CP Kelco's imports of subject merchandise from China, which declined irregularly during the POI, were *** pounds in 2010, *** pounds in 2011, and *** pounds in 2012.³⁶ Its ratio of total subject imports to domestic production, which also declined irregularly during the POI, was *** percent in 2010, *** percent in 2011, and *** percent in 2012.³⁷

Although CP Kelco's subject import quantities during the POI were not insubstantial, its principal interest is in domestic production. It is the larger domestic producer and its domestic production substantially exceeded its imports of subject merchandise.³⁸ Moreover, it continued to ***.³⁹ Additionally, because CP Kelco accounts for the *** of domestic production, its exclusion would skew the data for the domestic industry. Given these considerations, we find that appropriate circumstances do not exist to exclude CP Kelco as a related party from the domestic industry.

In light of the definition of the domestic like product, we define the domestic industry to include all U.S. producers of xanthan gum.

IV. Cumulation^{40 41}

A. Legal Framework

For purposes of evaluating the volume and price effects for a determination of material injury by reason of subject imports, section 771(7)(G)(i) of the Tariff Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by

³² CR/PR at Tables III-1 n.1 & IV-1.

³³ CR/PR at Table III-1.

³⁴ Petition at 24.

³⁵ CR at III-18 to III-19; PR at III-4.

³⁶ CR/PR at Table III-8.

³⁷ CR/PR at Table III-8.

³⁸ CR/PR at Tables III-1 & III-8.

³⁹ CR/PR at Table VI-6.

⁴⁰ Based on official import statistics, during the most recent 12-month period preceding the filing of the petition for which data were available, subject imports from Austria and China accounted respectively for 16.3 percent and 68.2 percent of total imports of xanthan gum. CR at IV-4; PR at IV-3. Because subject imports from each of the subject countries were above the applicable statutory negligibility thresholds, we find that subject imports from Austria and China are not negligible under 19 U.S.C. § 1677(24). CR at IV-4; PR at IV-3.

⁴¹ Commissioners Pinkert and Broadbent do not join this section of the opinion.

Commerce on the same day, if such imports compete with each other and with the domestic like product in the U.S. market. In assessing whether subject imports compete with each other and with the domestic like product, the Commission generally has considered four factors:

- (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.⁴²

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.⁴³ Only a “reasonable overlap” of competition is required.⁴⁴

In the preliminary phase of the investigations, the Commission cumulated subject imports from Austria and China in its analysis of reasonable indication of material injury by reason of subject imports.⁴⁵ In these final phase investigations, Petitioner contends that the Commission should cumulate subject imports from Austria and China as there is a reasonable overlap of competition.⁴⁶ While the Chinese respondents did not address the issue of cumulation, the Austrian respondents argued for the first time in their posthearing brief that the Commission should not cumulate subject imports based upon a lack of fungibility between subject imports from Austria and China.⁴⁷ According to the Austrian respondents, in the food and beverage segment of the market where subject imports from Austria are most concentrated,

⁴² See *Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff'd*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).

⁴³ See, e.g., *Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁴⁴ The Statement of Administrative Action (SAA) to the Uruguay Round Agreements Act (URAA), expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” H.R. Rep. No. 103-316, Vol. I at 848 (1994) (*citing Fundicao Tupy, S.A. v. United States*, 678 F. Supp. at 902; see *Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) (“cumulation does not require two products to be highly fungible”); *Wieland Werke, AG*, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

⁴⁵ USITC Pub. 4342 at 9-11.

⁴⁶ Petitioner Prehearing Br. at 9-10.

⁴⁷ Austrian Respondents' Posthearing Br., Exh. 1 at 19-23. We note, however, that Austrian respondents indicated at the hearing that they did not contest cumulation for purposes of present material injury. Hearing Tr. at 227 (“We will address it in post-hearing, but candidly, Commissioner Pearson, we’ve looked at the cumulation standard for present material injury and based on the findings in the staff report we don’t see much ground to till there.”).

there is minimal customer overlap between purchasers of Austrian and Chinese xanthan gum, and subject merchandise from China is perceived to be of inferior quality by most purchasers.⁴⁸

B. Cumulation for Material Injury Analysis

Based on the factors that the Commission considers in analyzing cumulation, we find that there is a reasonable overlap of competition.

Fungibility. The questionnaire responses indicate that market participants perceive domestic xanthan gum and the subject imports to be interchangeable. All responding producers, and the majority of U.S. purchasers and importers of the subject merchandise from Austria and China, indicated that subject imports from each country are always or frequently interchangeable with domestically produced xanthan gum.⁴⁹ Furthermore, the majority of responding purchasers indicated that they perceived the domestic like product and subject imports from Austria and China to be comparable in virtually all non-price factors.⁵⁰

In particular, the record does not support the Austrian Respondents' contention that purchasers perceive subject imports from China to be of inferior quality to subject imports from Austria.⁵¹ Food/beverage and oilfield applications are the two largest end-use segments of the U.S. market.⁵² Substantial quantities of domestically produced xanthan gum, subject import shipments from Austria, and subject import shipments from China were used in food and beverage applications.⁵³ In 2012, *** pounds of domestically produced xanthan gum was sold into the food and beverage segment, along with *** pounds of subject import shipments from Austria and *** pounds of subject import shipments from China.⁵⁴ During the POI, one of the largest purchasers of xanthan gum, ***, reported purchasing substantial amounts of subject imports from both China and Austria, as did eight smaller purchasers.⁵⁵ Furthermore, U.S. shipments of domestically produced xanthan gum and subject imports from China were each present in substantial volumes in the oilfield segment.⁵⁶ While only a *** of Austrian subject

⁴⁸ Austrian Respondents' Posthearing Br., Exh. 1 at 19-23.

⁴⁹ CR/PR at Table II-6.

⁵⁰ CR/PR at Tables II-4 & II-5. All responding purchasers indicated that they perceived domestically-produced xanthan gum and subject imports to be comparable. CR at Table II-4. The majority of purchasers also indicated that subject imports from Austria and China were comparable, although they perceived subject imports from Austria to be superior to subject imports from China in terms of product consistency and technical support. CR/PR at Table II-5; CR at II-13; PR at II-10.

⁵¹ For example, 14 of 17 purchasers reported subject imports from Austria and China to be comparable concerning quality meeting industry standards and 11 of 17 reported subject imports from Austria and China to be comparable concerning quality exceeding industry standards. CR/PR at Table II-5.

⁵² CR/PR at Table IV-3. The vast majority of subject imports from Austria (**% percent to **% percent) were sold to the food and beverage segment of the U.S. market during the POI. Domestic producers' U.S. shipments of xanthan gum to the food and beverage segment of the U.S. market ranged from **% percent to **% percent between 2010 and 2012. Also, substantial volumes of subject imports from China (ranging from **% percent to **% percent) were sold to the food and beverage segment of the market during the same period. CR/PR at Table IV-3.

⁵³ CR/PR at Tables IV-3 & IV-4.

⁵⁴ CR/PR at Table IV-3.

⁵⁵ *** Purchaser Questionnaire at Section II-1; *** USA Purchaser Questionnaire at Section II-1; *** Purchaser Questionnaire at Section II-1; and *** Purchaser Questionnaire at Section II-1.

⁵⁶ CR/PR at Table IV-3.

import shipments were sold in the oilfield segment, Austrian Respondents testified at the hearing that their product was qualified for use in that segment.⁵⁷

Consequently, the record indicates that the domestic like product and subject imports from Austria and China are perceived as reasonably interchangeable, that a majority of purchasers believe they are comparable in most non-price respects, and that both are used in substantial quantities for food and beverage applications. As previously discussed, the contrary arguments raised by Austrian Respondents are not supported by the record, and do not, in any event, indicate that any distinctions between subject imports from Austria and China are so great that they do not satisfy a “reasonable overlap” standard. Therefore, based upon the record in these investigations, we find that there is fungibility between and among subject imports and the domestic like product.

Geographic Overlap. The record reflects that the domestic like product and subject merchandise from Austria and China are sold throughout the United States.⁵⁸

Channels of Distribution. Subject import shipments from Austria and China and the domestic like product were sold to end users and distributors during the POI, with the domestic like product, subject import shipments from Austria, and subject import shipments from China each predominantly being sold to end users.⁵⁹

Simultaneous Presence. Subject import shipments from Austria and China and the domestic like product were present in substantial volumes during each year of the POI.⁶⁰

Conclusion. We find that the four cumulation criteria are satisfied in these investigations. We therefore conclude that there is a reasonable overlap of competition between imports from each subject country and the domestic like product and between subject imports from Austria and China. Consequently, we cumulatively assess the volume and effects of subject imports for determining material injury by reason of the subject imports.

C. Cumulation for Threat Analysis

Because our determinations address the issue of threat of material injury by reason of subject imports, we must also consider whether to cumulate subject imports from Austria and China for purposes of a threat analysis. In contrast to cumulation for material injury, cumulation for threat analysis is discretionary. Under section 771(7)(H) of the Tariff Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation in the material injury context are satisfied.⁶¹

In the preceding section, we found that the requirements for cumulating subject imports for purposes of our material injury analysis are satisfied. For our analysis of threat of material injury, however, we find that subject imports from Austria and China are not likely to compete under similar conditions of competition in the U.S. market in the imminent future, based on the following considerations.

First, subject import shipments from Austria and China showed different volume trends during the POI: subject import shipments from China were larger and grew at a faster rate than subject imports

⁵⁷ Hearing Tr. at 159 (Rainville).

⁵⁸ CR/PR at Table II-1; CR/PR at II-1.

⁵⁹ CR/PR at Table II-1.

⁶⁰ CR/PR at Tables IV-4 & C-1.

⁶¹ 19 U.S.C. § 1677(7)(H).

from Austria.⁶² The volume of subject import shipments from Austria decreased from *** pounds in 2010 to *** pounds in 2011, but increased to *** pounds in 2012, for an overall increase of *** percent from 2010 to 2012.⁶³ The volume of subject import shipments from China, however, increased from *** pounds in 2010 to *** pounds in 2011, and increased again to *** pounds in 2012, for an overall increase of *** percent from 2010 to 2012.⁶⁴

Subject import shipments from Austria and China also showed very different trends in terms of their respective market shares throughout the POI with subject import shipments from China gaining market share and subject import shipments from Austria losing market share. As a share of the quantity of U.S. apparent consumption, subject import shipments from China increased from 41.6 percent in 2010 to 43.8 percent in 2011, and increased again to 45.7 percent in 2012.⁶⁵ By contrast, as a share of the quantity of U.S. apparent consumption, subject import shipments from Austria declined from *** percent in 2010 to *** percent in 2011, and declined again to *** percent in 2012.⁶⁶

Second, subject imports from Austria and China were concentrated in different market segments. Subject imports from Austria competed *** of the market, while subject imports from China competed ***.⁶⁷ Thus, subject imports from Austria and China were concentrated in different pricing products. Pricing products 3 and 4 (food and beverage) accounted for over *** percent of subject imports from Austria, while subject imports from China were concentrated in pricing product 6 (oilfield).⁶⁸ Moreover, subject imports from Austria and China showed different pricing behavior during the POI. Subject imports from Austria were priced higher than subject imports from China in virtually all pricing comparisons.⁶⁹ As discussed below, on their highest-volume product (Product 6), subject imports from China undersold the domestic like product in virtually all price comparisons; however, a substantial percentage of subject imports from Austria were sold at prices above the domestic like product with respect to their highest-volume product (Product 3).⁷⁰ Moreover, the underselling margins of subject imports were higher for Chinese imports than for Austrian imports.⁷¹

Because subject imports from Austria and China exhibited differences in volume and pricing behavior and trends during the POI, for purposes of our analysis of threat of material injury by reason of subject imports we exercise our discretion not to cumulate subject imports from Austria and China.

⁶² In these final phase investigations, we collected data on subject imports (CR/PR at Table IV-2) and U.S. shipments of subject imports (CR/PR at Tables IV-3 and IV-4). We generally rely on subject import shipments since the market share and segment data are based upon import shipments. We note, however, that we would reach the same result with respect to our affirmative determination for China and negative determination for Austria by relying upon the import data.

⁶³ CR/PR at Table C-1.

⁶⁴ CR/PR at Table C-1.

⁶⁵ CR/PR at Table C-1.

⁶⁶ CR/PR at Table C-1.

⁶⁷ CR/PR at Tables IV-3 to IV-5.

⁶⁸ Derived from CR/PR at Tables V-4 to V-12 & C-1.

⁶⁹ CR/PR at Tables V-4 to V-12.

⁷⁰ CR/PR at Table V-17.

⁷¹ During the POI, Chinese subject import shipments undersold the domestic like product by margins ranging from *** percent to *** percent, while subject import shipments from Austria undersold the domestic like product by margins ranging from *** percent to *** percent. CR at V-37; PR at V-8.

V. Legal Standards

A. In General

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.⁷² In making this determination, the Commission must consider the volume of 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.⁷³ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁷⁴ 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.⁷⁵ 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.”⁷⁶

Although the statute requires the Commission to determine whether the domestic industry is “materially injured or threatened with material injury by reason of” unfairly traded imports,⁷⁷ it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.⁷⁸ In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.⁷⁹

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must

⁷² 19 U.S.C. §§ 1671d(b), 1673d(b).

⁷³ 19 U.S.C. § 1677(7)(B). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each {such} factor ... and explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

⁷⁴ 19 U.S.C. § 1677(7)(A).

⁷⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁶ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁷ 19 U.S.C. §§ 1671d(a), 1673d(a).

⁷⁸ *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), *aff’g*, 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

⁷⁹ The Federal Circuit, in addressing the causation standard of the statute, observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” *Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred “by reason of” the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” *See also Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass’n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.⁸⁰ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.⁸¹ Nor does the “by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury of an industry.⁸² It is clear that the existence of injury caused by other factors does not compel a negative determination.⁸³

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”^{84 85} Indeed, the

⁸⁰ SAA at 851-52 (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); *accord Mittal Steel*, 542 F.3d at 877.

⁸¹ SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); *Taiwan Semiconductor Industry Ass’n*, 266 F.3d at 1345 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); *Asociacion de Productores de Salmon y Trucha de Chile AG v. United States*, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e.*, it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), *citing Gerald Metals*, 132 F.3d at 722 (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

⁸² S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

⁸³ *See Nippon Steel Corp.*, 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

⁸⁴ *Mittal Steel*, 542 F.3d at 877-78; *see also id.* at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.”) *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

⁸⁵ Commissioner Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in *Bratsk*, 444 F.3d 1369, and *Mittal Steel*, held that the Commission is required, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of nonsubject imports, albeit without reliance upon presumptions or rigid formulas. *Mittal Steel* explains as follows: (Continued...)

Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”⁸⁶

The Federal Circuit’s decisions in *Gerald Metals*, *Bratsk*, and *Mittal Steel* all involved cases where the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in *Bratsk* as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.⁸⁷ The additional “replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago* determination that underlies the *Mittal Steel* litigation.

Mittal Steel clarifies that the Commission’s interpretation of *Bratsk* was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record” to “show that the harm occurred ‘by reason of’ the LTFV imports,” and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.⁸⁸ Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to *Bratsk*.

The progression of *Gerald Metals*, *Bratsk*, and *Mittal Steel* clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.⁸⁹

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence

(...Continued)

What *Bratsk* held is that “where commodity products are at issue and fairly traded, price-competitive, non-subject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

⁸⁶ *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also *Mittal Steel*, 542 F.3d at 879 (“*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

⁸⁷ *Mittal Steel*, 542 F.3d at 875-79.

⁸⁸ *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of *Bratsk* as a reminder to conduct a non-attribution analysis).

⁸⁹ To that end, after the Federal Circuit issued its decision in *Bratsk*, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission’s causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

standard.⁹⁰ Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.⁹¹

B. Material Injury by Reason of Subject Imports

Section 771(7)(C)(i) of the Tariff 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.”⁹²

Section 771(7)(C)(ii) of the Tariff Act provides that 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.⁹³

Section 771(7)(C)(iii) of the Tariff Act provides that examining the impact of subject imports, the Commission “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”⁹⁴ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. 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.”

C. Threat of Material Injury by Reason of Subject Imports

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted.”⁹⁵ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as

⁹⁰ We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

⁹¹ *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp.*, 458 F.3d at 1350, citing *U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 (“The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.”).

⁹² 19 U.S.C. § 1677(7)(C)(i).

⁹³ 19 U.S.C. § 1677(7)(C)(ii).

⁹⁴ 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.”).

⁹⁵ 19 U.S.C. § 1677(7)(F)(ii).

a whole” in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.⁹⁶ In making our determination, we consider all statutory threat factors that are relevant to these investigations.⁹⁷

VI. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is material injury or threat of material injury by reason of subject imports.

A. Demand Considerations

Demand for xanthan gum is driven by demand in the major end-use segments of the U.S. market: food and beverage, oilfield, industrial, consumer, and pharmaceutical.⁹⁸ During the POI, the oilfield and food and beverage segments were the largest segments of the U.S. market for xanthan gum, followed by the industrial segment, with the consumer and pharmaceutical segments accounting for the smallest portions of the market.⁹⁹

⁹⁶ 19 U.S.C. § 1677(7)(F)(ii).

⁹⁷ These factors are as follows:

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

19 U.S.C. § 1677(7)(F)(i). To organize our analysis, we discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to our material injury analysis. Statutory threat factors (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the analysis of subject import price effects. Statutory factors (VIII) and (IX) are discussed in the analysis of impact. Statutory factor (I) is inapplicable to these investigations, because there are no subsidy allegations. Statutory factor (VII) concerning agricultural products also is inapplicable to these investigations.

⁹⁸ CR at II-6-II-7; PR at II-4-II-5.

⁹⁹ CR/PR at Table IV-3.

Apparent U.S. consumption of xanthan gum dropped slightly from 2010 to 2011, but increased sharply from 2011 to 2012. Apparent U.S. consumption decreased from 55.3 million pounds in 2010 to 54.5 million pounds in 2011, but then increased to 74.0 million pounds in 2012.¹⁰⁰

Demand in the oilfield segment fueled the increase in demand during the POI, with the quantity of U.S. shipments of xanthan gum to this segment almost doubling from 2010 to 2012.¹⁰¹ From 2011 to 2012, the quantity of U.S. shipments of xanthan gum to this segment increased by *** percent, increasing from *** pounds in 2011 to *** pounds in 2012.¹⁰² Thus, by 2012, the oilfield segment represented the largest segment of the U.S. market, replacing food and beverage.¹⁰³ Demand in the oilfield sector is expected to continue to increase in the imminent future.¹⁰⁴

The other market segments were much smaller than oilfield and food and beverage, and although these segments experienced some growth over the POI, they generally declined in terms of their share of the overall market. For example, the industrial segment, as a share of total U.S. shipments, was *** percent in 2010 and 2011, and then declined to *** percent in 2012.¹⁰⁵ The consumer and pharmaceutical segments represented the smallest shares of shipments of xanthan gum throughout the POI, accounting for approximately *** percent of total shipments in 2012.¹⁰⁶

B. Supply Considerations

Xanthan gum is manufactured in only four countries: the United States, Austria, China, and France, all of which export xanthan gum.¹⁰⁷ During the period of investigation, the U.S. xanthan gum

¹⁰⁰ CR/PR at Table C-1.

¹⁰¹ The quantity of U.S. shipments of domestically produced xanthan gum and subject imports from Austria and China sold into the oilfield segment of the U.S. market increased from *** pounds in 2010 to *** pounds in 2011, and *** pounds in 2012. CR/PR at Table IV-3. During the POI, there were *** U.S. shipments of nonsubject imports to the oilfield segment. CR/PR at Table IV-3.

¹⁰² CR/PR at Table IV-3.

¹⁰³ The oilfield segment, as a share of the total U.S. market for xanthan gum, increased from *** percent in 2010 to *** percent in 2011 and to *** percent in 2012. CR/PR at Table IV-3. As a share of the total U.S. market, the food and beverage segment fell from *** percent in 2010 to *** percent in 2011 to *** percent in 2012. CR/PR at Table IV-3. The quantity of U.S. shipments of domestically produced xanthan gum and subject imports from Austria and China sold into the food and beverage segment of the U.S. market declined from *** pounds in 2010 to *** pounds in 2011, and then increased to *** pounds in 2012. CR/PR at Table IV-3. The quantity of U.S. shipments of nonsubject imports sold into the food and beverage segment declined from *** pounds in 2010 to *** pounds in 2011, and increased to *** pounds in 2012. CR/PR at Table IV-3.

¹⁰⁴ See, e.g., Halliburton Posthearing Br. at 5; Hearing Tr. at 179-80 (Bolen).

¹⁰⁵ The quantity of U.S. shipments of domestically produced xanthan gum and subject imports from Austria and China sold into the industrial segment declined from *** pounds in 2010 to *** pounds in 2011, and increased to *** pounds in 2012. CR/PR at Table IV-3. During the POI, there were *** U.S. shipments of nonsubject imports to the industrial segment. *Id.*

¹⁰⁶ The quantity of U.S. shipments of domestically produced xanthan gum and subject imports from Austria and China sold into the consumer segment increased from *** pounds in 2010 to *** pounds in 2011, and *** pounds in 2012. During the POI, the quantity of U.S. shipments from nonsubject sources was *** pounds in 2010, *** pounds in 2011, and *** pounds in 2012. CR/PR at Table IV-3.

The quantity of xanthan gum sold into the pharmaceutical segment increased from *** pounds in 2010 to *** pounds in 2011, and *** pounds in 2012. CR/PR at Table IV-3. During the POI, there were *** U.S. shipments of nonsubject imports to the pharmaceutical segment. CR/PR at Table IV-3.

¹⁰⁷ CR at VII-24; PR at VII-10.

market was supplied by the domestic industry, subject imports, and nonsubject imports. Subject imports supplied the largest share of the U.S. market throughout the POI, followed by the domestic industry and nonsubject imports.¹⁰⁸

As discussed above, during the POI, there were two domestic producers of xanthan gum: CP Kelco and ADM.¹⁰⁹ While CP Kelco was the larger domestic producer, ADM was the primary U.S. supplier of xanthan gum to the U.S. market.¹¹⁰ There were *** Chinese producers of xanthan gum (***),¹¹¹ and one Austrian producer (JBL).¹¹²

The respective market shares of domestic producers, subject producers, and nonsubject producers remained relatively constant throughout the POI. The domestic industry's market share was *** percent in 2010, *** percent in 2011, and *** percent in 2012.¹¹³ Cumulated subject imports' market share was *** percent in 2010, *** percent in 2011, and *** percent in 2012.¹¹⁴ Nonsubject imports' market share, which represents imports from France, was *** percent in 2010, *** percent in 2011, and *** percent in 2012.¹¹⁵

Both the domestic industry and subject imports supplied large quantities of xanthan gum to the food and beverage and oilfield segments of the U.S. market, and also supplied the smaller industrial and consumer segments.¹¹⁶ The small amounts of nonsubject imports during the POI were sold mostly in the food and beverage segment of the market.¹¹⁷

C. Substitutability and Other Considerations

Majorities of market participants reported that subject imports from Austria and China were always or frequently interchangeable with domestically produced xanthan gum.¹¹⁸ We find that there is somewhat limited substitutability among the various grades of xanthan gum because lower-level purity grades (such as those used in the oilfield segment) cannot be used in applications that require higher purity levels due to government regulations (such as food products) and customer specifications.¹¹⁹ The record indicates that the higher purity grades of xanthan gum, which are used in food, consumer, and

¹⁰⁸ CR/PR at Table C-1.

¹⁰⁹ CR/PR at Table III-1.

¹¹⁰ CR/PR at Table III-3. As noted previously, CP Kelco accounted for *** percent of domestic production in 2012, but accounted for *** percent of U.S. shipments in 2012. ADM accounted for *** percent of the domestic industry's U.S. shipments in 2012. CR at III-4; PR at III-2.

¹¹¹ *** and *** accounted for an estimated *** percent of total Chinese production of xanthan gum in 2012. CR at VII-9; PR at VII-3.

¹¹² CR at VII-3; PR at VII-2.

¹¹³ CR/PR at Table C-1.

¹¹⁴ CR/PR at Table C-1.

¹¹⁵ CR/PR at Table C-1.

¹¹⁶ CR/PR at Table IV-3.

¹¹⁷ CR/PR at Table IV-3.

¹¹⁸ For example, 9 of 11 U.S. importers and 19 of 23 U.S. purchasers reported that domestically-produced xanthan gum was always or frequently interchangeable with subject imports from Austria; 2 importers reported that they were sometimes interchangeable; and 4 purchasers reported that they were sometimes or never interchangeable. CR/PR at Table II-6. Eight of 14 U.S. importers and 19 of 27 U.S. purchasers reported that domestically-produced xanthan gum was always or frequently interchangeable with subject imports from China; 6 importers reported that they were sometimes interchangeable; and 8 purchasers reported that they were sometimes or never interchangeable. CR/PR at Table II-6.

¹¹⁹ CR at I-7; PR at I-6.

pharmaceutical applications, can be substituted for lower purity grades of xanthan gum in oil applications, although doing so is not viewed as cost-effective by industry participants.¹²⁰ The record indicates, however, that there is greater substitutability of products from different sources within a particular segment.^{121 122}

Market participants reported differing views as to the importance of non-price factors in purchasing decisions. Both U.S. producers indicated that differences in non-price factors between domestically produced xanthan gum and subject imports from Austria and China were never important in xanthan gum sales.¹²³ However, the majority of U.S. importers reported that differences in non-price factors between domestically produced xanthan gum and subject imports from Austria and China were always or frequently important, and a substantial number of U.S. purchasers reported the same.¹²⁴ U.S. purchasers also indicated that quality was the most important factor in purchasing decisions, followed by price and availability.¹²⁵ Given that domestically produced xanthan gum and subject imports are generally comparable in terms of quality,¹²⁶ we find that price will be of at least moderate importance in purchasing decisions, even though few purchasers reported that they consistently buy at the lowest price.¹²⁷

Twenty-six out of 27 purchasers require qualification processes for their suppliers of xanthan gum. All purchasers that have qualification processes require 100 percent qualification before acceptance.¹²⁸ Purchasers in the food and beverage segment tend to have more stringent processes, including FDA approval, and sometimes require re-qualification for different uses.¹²⁹ Oilfield applications generally require less-stringent qualification,¹³⁰ while pharmaceutical applications have the

¹²⁰ CR at I-7; PR at I-6.

¹²¹ Hearing Tr. at 36-38.

¹²² Commissioner Pinkert and Commissioner Broadbent do not join this sentence given their finding that Austrian and Chinese xanthan gum are not substitutable within the food and beverage segment.

¹²³ CR/PR at Table II-7.

¹²⁴ Six of 10 U.S. importers and 8 of 22 U.S. purchasers reported that differences in non-price factors between domestically produced xanthan gum and subject imports from Austria were always or frequently important; 4 importers and 14 purchasers reported that they were sometimes or never important. CR/PR at Table II-7. Ten of 14 U.S. importers and 13 of 28 U.S. purchasers reported that differences in non-price factors between domestically-produced xanthan gum and subject imports from China were always or frequently important; 4 importers and 15 purchasers reported that they were sometimes or never important. CR/PR at Table II-7.

¹²⁵ CR/PR at Table II-2.

¹²⁶ Seventeen of 18 U.S. purchasers reported that subject imports from Austria were comparable with domestically produced xanthan gum in terms of quality meeting industry standards. CR/PR at Table II-4. Twenty-three of 28 U.S. purchasers reported that subject imports from China were comparable with domestically produced xanthan gum in terms of quality meeting industry standards. CR/PR at Table II-4. Seventeen of 18 U.S. purchasers reported that subject imports from Austria were comparable with domestically produced xanthan gum in terms of quality exceeding industry standards. CR/PR at Table II-4. Sixteen of 28 U.S. purchasers reported that subject imports from China were comparable with domestically produced xanthan gum in terms of quality exceeding industry standards. CR/PR at Table II-4. Fourteen of 17 U.S. purchasers reported that subject imports from China and Austria were comparable in terms of quality meeting industry standards, and 11 of 17 U.S. purchasers reported that subject imports from China and Austria were comparable in terms of quality exceeding industry standards. CR/PR at Tables II-5.

¹²⁷ CR at II-12; PR at II-8.

¹²⁸ Petitioner Posthearing Br. Exhibit 1AB.

¹²⁹ CR at I-10; PR at I-8.

¹³⁰ Hearing Tr. at 173.

most stringent qualification requirements.¹³¹ In some cases, the subject imports and the domestic like product could not meet qualifications standards.¹³² Qualification processes vary among purchasers and can take up to 24 months; however, if multiple producers met a purchaser's qualification standard for a certain product or segment, price gained importance as a purchasing factor.¹³³

The domestic industry exports a significant quantity of its xanthan gum production. During the POI, the domestic industry's export shipments ranged from *** percent to *** percent of its total shipments.¹³⁴

Raw material costs account for a relatively small share of the cost of xanthan gum. Raw material costs increased from *** percent of the domestic industry's cost of goods sold ("COGS") in 2010 to *** percent in 2011, and increased again to *** percent in 2012.¹³⁵ The increase in raw material costs over the period of investigation is due in large part to the increase in the price of corn, the major raw material used in the production of xanthan gum.¹³⁶

VII. Material Injury and Threat of Material Injury by Reason of Subject Imports

Based on the record in these investigations, we find that an industry in the United States is threatened with material injury by reason of imports of xanthan gum from China that have been found to be sold in the United States at LTFV. We also find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of xanthan gum from Austria that have been found to be sold in the United States at LTFV.

A. Volume of Subject Imports

1. Analysis of Material Injury by Reason of Cumulated Subject Imports

The quantity of cumulated subject import shipments remained relatively constant from 2010 to 2011, and then increased in 2012. Cumulated subject import shipments were *** pounds in 2010, *** pounds in 2011, and *** pounds in 2012.¹³⁷

Notwithstanding the increase in absolute volumes of cumulated subject import shipments, the respective market shares of cumulated subject imports, the domestic like product, and nonsubject imports remained relatively constant throughout the POI.¹³⁸ Cumulated subject imports' market share was *** percent in 2010, *** percent in 2011, and *** percent in 2012.¹³⁹ The domestic industry's market share

¹³¹ Hearing Tr. at 242-243.

¹³² Hearing Tr. at 170-172.

¹³³ Hearing Tr. at 200.

¹³⁴ CR/PR at Table III-3.

¹³⁵ CR/PR at Table VI-1.

¹³⁶ CR/PR at V-1.

¹³⁷ CR/PR at Table C-1. Within the two largest segments of the U.S. market, the absolute volume of cumulated subject import shipments also witnessed most of their growth in 2012. In the oilfield sector, cumulated subject import shipments increased from *** pounds in 2010, to *** pounds in 2011, and *** pounds in 2012. CR/PR at Table IV-3. In the food and beverage sector, cumulated subject import shipments declined from *** pounds in 2010 to *** pounds in 2011, but increased to *** pounds in 2012. CR/PR at Table IV-3.

¹³⁸ CR/PR at Table C-1.

¹³⁹ CR/PR at Table C-1.

was *** percent in 2010, *** percent in 2011, and *** percent in 2012.¹⁴⁰ Nonsubject imports' market share was *** percent in 2010, *** percent in 2011, and *** percent in 2012.^{141 142}

In light of their consistently large presence in the U.S. market throughout the POI, we find the volume of cumulated subject imports to be significant in absolute terms.

2. Analysis of Threat of Material Injury by Reason of Subject Imports from China

Subject imports from China maintained a growing and significant presence in the U.S. market throughout the POI. The volume of subject import shipments from China increased from 23.0 million pounds in 2010 to 23.9 million pounds in 2011, and then to 33.8 million pounds in 2012, for an overall increase of 46.8 percent from 2010 to 2012.¹⁴³ The market share of subject import shipments from China increased from 41.6 percent in 2010 to 43.8 percent in 2011, and 45.7 percent in 2012, for an overall increase of 4.1 percentage points from 2010 to 2012.¹⁴⁴

On an absolute volume basis, subject import shipments from China increased their presence in the oilfield segment of the U.S. market, the largest and fastest growing segment of the market. In the oilfield segment, subject import shipments from China increased from *** pounds in 2010 to *** pounds in 2011, and increased again to *** pounds in 2012, resulting in a *** percent increase in the final year of the POI.¹⁴⁵ In light of the sharp increase in Chinese subject import volumes in the oilfield segment in 2012, the large volume of orders by U.S. importers for the oilfield segment,¹⁴⁶ and the reasonably relaxed qualification requirements in the oilfield segment compared to other segments,¹⁴⁷ the record indicates that significant additional volumes in that sector are likely in the imminent future.¹⁴⁸

Subject import shipments from China also increased their market presence during the POI in other segments besides oilfield. In the food and beverage segment, subject import shipments from China

¹⁴⁰ CR/PR at Table C-1.

¹⁴¹ CR/PR at Table C-1.

¹⁴² In the oilfield segment of the U.S. market, which accounted for the majority of growth in apparent consumption, the domestic industry's market share increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012; cumulated subject imports' market share declined from *** percent in 2010 to *** percent in 2011 and *** percent in 2012; nonsubject imports did not compete in the oilfield segment. CR/PR at Table IV-4. In the food and beverage segment of the U.S. market, the domestic industry's market share declined from *** percent in 2010 to *** percent in 2011, and *** percent in 2012; the cumulated subject imports' market share increased from *** percent in 2010 to *** percent in 2011 and *** percent in 2012; nonsubject imports' market share was *** percent in 2011 and 2012, and then increased to *** percent in 2012. CR/PR at Table IV-4.

¹⁴³ CR/PR at Table C-1.

¹⁴⁴ CR/PR at Table C-1.

¹⁴⁵ CR/PR at Table IV-3. The market share of subject import shipments from China in the oilfield segment declined from *** percent in 2010 to *** percent in 2011, and then *** percent in 2012, as the domestic industry gained market share in the oilfield sector during the POI. CR/PR at Table IV-4.

¹⁴⁶ *** alone, which imports subject merchandise from China for the oilfield sector, reported orders of xanthan gum totaling *** pounds for importation on or after December 31, 2012. CR at VII-23; PR at VII-10.

¹⁴⁷ See, e.g., ADM Posthearing Br. at 12; Hearing Tr. at 208-10, and 232-33; Petitioner Posthearing Br., Exh. 1 at 15.

¹⁴⁸ CR at VII-23; PR at VII-10. U.S. importers reported existing orders of xanthan gum from China totaling *** million pounds for importation on or after December 31, 2012. CR at VII-23; PR at VII-10. This amount exceeds Chinese subject producers' estimated exports to the U.S. market for either full year 2013 or 2014. CR/PR at Table VII-4.

increased from *** pounds in 2010 to *** pounds in 2012.¹⁴⁹ Subject imports from China gained market share at the expense of the domestic industry in the food and beverage sector.¹⁵⁰ Chinese subject imports also increased their market penetration at the expense of the domestic industry in the smaller, but higher priced, consumer¹⁵¹ and industrial¹⁵² segments of the U.S. market.¹⁵³

The presence of subject import shipments from China in the U.S. market has grown in other ways as well. U.S. importers increased their inventories of Chinese product during the POI. U.S. importers' inventories of Chinese subject imports were 5.7 million pounds in 2010, 8.0 million pounds in 2011, and 7.8 million pounds in 2012, for an overall increase of 36.4 percent.¹⁵⁴

The large and growing xanthan gum industry in China provides further grounds for why an increase in subject imports from China is imminent. Data reported in questionnaire responses by subject producers/exporters in China indicate that capacity to produce xanthan gum in China increased by *** percent from *** pounds in 2010 to *** pounds in 2012, and Chinese capacity is projected to remain near the 2012 level in the imminent future.¹⁵⁵ Chinese subject producers also reported that production increased by *** percent from *** pounds in 2010 to *** pounds in 2012.¹⁵⁶ Accordingly, the Chinese producers reported *** pounds of excess capacity in 2012, and this was projected to grow to *** in 2013 and 2014.¹⁵⁷ Moreover, these producers reported *** pounds of inventory in 2012, and anticipated inventories of *** pounds in 2013, and *** pounds in 2014.¹⁵⁸ Thus, the reported data indicate that unused xanthan gum capacity in China in the imminent future, particularly when combined with projected inventory levels, will be substantial in relation to apparent U.S. consumption and is sufficient to support significant further increases in subject imports from China.

Moreover, questionnaire data likely understate to some degree the total available Chinese capacity to produce and export xanthan gum to the United States. We did not receive a questionnaire

¹⁴⁹ CR/PR at Table IV-3.

¹⁵⁰ In the food and beverage segment, the market share of subject import shipments from China increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012; the market share of subject import shipments from Austria increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012; the market share of nonsubject import shipments increased from *** percent in 2010 and 2011 to *** percent in 2012; and the domestic industry's market share declined from *** percent in 2010 to *** percent in 2011, and *** percent in 2012. CR/PR at Table IV-4.

¹⁵¹ In the consumer segment, the market share of subject import shipments from China increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012; the domestic industry's market share declined from *** percent in 2010 to *** percent in 2011, and *** percent in 2012; and the market share of import shipments from sources other than China declined from *** percent in 2010 to *** percent in 2011, and increased to *** percent in 2012. CR/PR at Table IV-4.

¹⁵² In the industrial segment, the market share of subject import shipments from China increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012; the domestic industry's market share increased from *** percent in 2010 to *** percent in 2011, and then declined to *** percent in 2012. CR/PR at Table IV-4.

¹⁵³ CR/PR at Table IV-4.

¹⁵⁴ CR/PR at Table C-1. Chinese subject producers' inventories provide another source of increased exports of subject product to the United States. Chinese producers' end-of-period inventories of xanthan gum were significant throughout the POI, ranging from *** pounds to *** pounds, and they are projected to remain high in the imminent future. CR/PR at Table VII-4.

¹⁵⁵ The Chinese industry's production capacity is projected to be *** pounds in 2013 and 2014. CR/PR at Table VII-4.

¹⁵⁶ The Chinese industry's production is projected to be *** pounds in 2013 and 2014. CR/PR at Table VII-4.

¹⁵⁷ CR/PR at Table VII-4.

¹⁵⁸ CR/PR at Table VII-4.

response in the final phase of these investigations from the largest Chinese xanthan gum producer (***), and therefore extrapolated *** data from its questionnaire response submitted during the preliminary phase.¹⁵⁹ Accordingly, although the response by Chinese producers appears substantial, accounting for an estimated *** percent of total Chinese xanthan gum production in 2012, this includes estimated data for the largest Chinese producer, which limits the accuracy of the data. Indeed, although the questionnaire data show no anticipated increases in production capacity for 2013 or 2014, CP Kelco submitted Fufeng's most recent annual report that indicates Fufeng is adding capacity and increasing production.¹⁶⁰

Chinese subject producers' exports to the United States, as a percent of their total shipments, increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012.¹⁶¹ According to Global Trade Atlas data, the U.S. market was the largest single export market for Chinese xanthan gum.¹⁶² In short, the United States is an important export market for Chinese subject producers, and these producers have a history of exporting large quantities of xanthan gum to global markets.¹⁶³

In sum, we conclude that Chinese producers have both the ability and incentive to significantly increase the volume and market penetration of subject imports from China in the imminent future based on record information showing the following: subject imports from China maintained a growing and significant presence in the U.S. market throughout the POI, including the two largest segments of the market (oilfield and food and beverage); importers had already reported *** pounds of subject imports from China to be imported after December 31, 2012, which exceeded the volume of Chinese producers' projected exports to the U.S. market in all of 2013; and the Chinese industry is very large and growing, is export oriented, and possesses substantial unused capacity and inventories.¹⁶⁴

3. Analysis of Threat of Material Injury by Reason of Subject Imports from Austria

The volume of subject import shipments from Austria decreased from *** pounds in 2010 to *** pounds in 2011, but increased to *** pounds in 2012, for an overall increase of *** percent from 2010 to 2012.¹⁶⁵ While the quantity of subject import shipments from Austria increased overall between 2010 and 2012, their market share steadily declined from *** percent in 2010 to *** percent in 2011, and to *** percent in 2012.¹⁶⁶

Subject import shipments from Austria had a minimal presence in the oilfield segment, the largest and fastest growing segment of the U.S. market. During the POI, the volume of subject import shipments

¹⁵⁹ CR at VII-9 n. 10; PR at VII-3 n.10.

¹⁶⁰ Petitioner Prehearing Br. at 33 & Exh. 8.

¹⁶¹ CR/PR at Table VII-4.

¹⁶² CR/PR at Table VII-6a.

¹⁶³ There are no known import relief investigations concerning subject imports from China in third country markets. CR at VII-23; PR at VII-10.

¹⁶⁴ We do not find credible Halliburton's claim that the domestic industry was unwilling to become a large-volume supplier during the POI. See Halliburton Posthearing Br. at 4-6 & Exh. 1. To the contrary, the record indicates that *** CP Kelco *** expressed such willingness. See, e.g., Petitioner Posthearing Br., Exh. 1 at 22-24 & Exh. 1J; ADM Posthearing Br. at 6-7 & Exhs. 5-6. Moreover, the domestic industry had excess capacity throughout the POI, and domestic producers were able to significantly increase shipments to the oilfield segment in 2012, which demonstrate their ability to supply purchasers in this segment with large volumes. CR/PR at Tables C-1 & IV-3; CR at VII-23; PR at VII-10.

¹⁶⁵ CR/PR at Table C-1.

¹⁶⁶ CR/PR at Table C-1.

from Austria in the oilfield segment ranged from *** pounds to *** pounds, and their market share in that segment ranged from *** percent to *** percent.¹⁶⁷ Subject imports from Austria were *** in both the consumer and pharmaceutical segments.¹⁶⁸ In the industrial segment, their *** market share declined overall between 2010 and 2012.¹⁶⁹

As discussed earlier, during the POI, subject import shipments from Austria were overwhelmingly concentrated in the food and beverage segment of the market: *** percent of subject imports from Austria were directed to the food and beverage segment of the U.S. market in 2010 and 2011, and *** percent were shipped into that segment in 2012.¹⁷⁰ Subject import shipments from Austria increased their market share in the food and beverage sector by *** percentage points between 2010 and 2012,¹⁷¹ as the quantity of shipments increased from *** pounds in 2010 to *** pounds in 2012.¹⁷² As previously discussed, total shipments in the food and beverage sector declined slightly between 2010 and 2012.¹⁷³ Nonetheless, for the reasons discussed below, we do not find the ability of subject imports from Austria to increase slightly their share of shipments in the food and beverage market sector during the POI indicates a likelihood of rapid increases in volume or market penetration in the overall U.S. xanthan gum market.

JBL, the sole Austrian producer of xanthan gum, operated at a high capacity utilization rate during the POI, and its capacity utilization rate is projected to remain high in 2013 and 2014.¹⁷⁴ JBL's production and production capacity were both virtually flat in 2010 and 2011.¹⁷⁵ Although both increased in 2012, during that year subject imports from Austria lost market share in the United States.¹⁷⁶ JBL, moreover, is not expected to increase its production capacity for xanthan gum in the imminent future, and its production of xanthan gum is projected to increase only modestly.¹⁷⁷ JBL carried small inventories of xanthan gum throughout the POI, and its inventories are not projected to increase above end-of-period

¹⁶⁷ CR/PR at Table IV-4.

¹⁶⁸ CR/PR at Table IV-4. CP Kelco argues that the Austrian import shipments sold in the food and beverage segment were actually suitable for use in the pharmaceutical and consumer segments of the market, and that the Austrian xanthan gum is thus uniquely positioned to enter those additional portions of the market. Petitioner Posthearing Br. at 14-15. There is no evidence on the record, however, that JBL has targeted the pharmaceutical and consumer segments of the market, despite the fact that its product may be suitable for such use, nor is there evidence showing that it intends to do so in the imminent future.

¹⁶⁹ In the industrial segment of the U.S. market, the volume of subject import shipments from Austria was *** pounds in 2010, *** pounds in 2011, and *** pounds in 2012. The market share of subject imports from Austria in that segment was *** percent in 2010, *** percent in 2011, and *** percent in 2012. CR/PR at Table IV-4.

¹⁷⁰ CR/PR at Table IV-5.

¹⁷¹ In the food and beverage segment, the market share of subject import shipments from Austria increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012. CR/PR at Table IV-4.

¹⁷² CR/PR at Tables IV-3 and IV-5.

¹⁷³ CR/PR. Tables IV-3 and IV-5.

¹⁷⁴ JBL's capacity utilization was *** percent in 2010, *** percent in 2011, and *** percent in 2012. Its capacity utilization rate is projected to be *** percent in 2013 and *** percent in 2014. CR/PR at Table VII-1.

¹⁷⁵ CR/PR at Table VII-1.

¹⁷⁶ JBL's production of xanthan gum was *** pounds in 2010 and 2011, and was *** pounds in 2012. Its production capacity was *** pounds in 2010 and 2011, and was *** pounds in 2012. CR/PR at Table VII-1.

¹⁷⁷ JBL's production capacity was *** pounds in 2010 and 2011, and was *** pounds in 2012. Its production capacity is projected to be *** pounds in 2013 and 2014. Its production is projected to be *** pounds in 2013, and *** pounds in 2014. CR/PR at Table VII-1.

levels in 2013 and 2014.^{178 179} Because JBL has a dedicated production line for xanthan gum, product shifting is not an issue with respect to subject imports from Austria.¹⁸⁰ JBL's exports to the U.S. market as a share of its total shipments declined between 2010 and 2012, while the share of its exports to third-country markets increased.^{181 182}

As discussed above, notwithstanding the modest increase in absolute volume in the final year of the POI, the market share of subject imports from Austria declined steadily throughout the POI, and was negligible in the oilfield segment, the largest and fastest growing segment of the U.S. market. Moreover, JBL operated at a relatively high capacity utilization rate during the POI, and it is projected to continue to do so in the imminent future; its inventories are projected to remain relatively modest; its exports to the U.S. market are not expected to increase from end-of-period levels; and it has a dedicated production line for xanthan gum and therefore cannot product-shift. Accordingly, for the reasons discussed above, we find that there is not likely to be a significant rate of increase in the volume of subject imports from Austria in the imminent future.

B. Price Effects of the Subject Imports

1. Analysis of Material Injury by Reason of Cumulated Subject Imports

As noted above, xanthan gum from different sources are generally good substitutes for a particular application, and price will be of at least moderate importance in purchasing decisions.

In the final phase of these investigations, the Commission collected quarterly pricing data for seven products.¹⁸³ The pricing data accounted for 99.6 percent of U.S. producers' U.S. shipments of xanthan gum, 100 percent of the quantity of U.S. imports from Austria, and 96.9 percent of U.S. imports from China between 2010 and 2012.¹⁸⁴ The data show that prices of subject imports undersold the domestic like product in *** out of *** quarterly price comparisons, or *** percent of such comparisons, by margins ranging from *** percent to *** percent.¹⁸⁵

Despite significant underselling, the respective market shares of cumulated subject import shipments, the domestic like product, and nonsubject import shipments remained relatively constant

¹⁷⁸ JBL's end-of-period inventories were *** pounds in 2010, *** pounds in 2011, and *** pounds in 2012; they are projected to be *** pounds in 2013 and 2014. As a ratio to production, JBL's inventories were *** percent in 2010, *** percent in 2011, and *** percent in 2012; they are projected to be *** percent in 2013, and *** percent in 2014. As a ratio to total shipments, JBL's inventories were *** percent in 2010, *** percent in 2011, and *** percent in 2012; they are projected to be *** percent in 2013, and *** percent in 2014. CR/PR at Table VII-1.

¹⁷⁹ During the POI, U.S. importers' end-of-period inventories of subject merchandise from Austria were small ranging from *** pounds to *** pounds. CR/PR at Table C-1.

¹⁸⁰ JBL produces ***. CR at VII-3; PR at VII-2.

¹⁸¹ As a share of total shipments, JBL's exports to the United States were *** percent in 2010, *** percent in 2011, and *** percent in 2012; they are projected to be *** percent in 2013, and *** percent in 2014. As a share of total shipments, JBL's exports to all other markets were *** percent in 2010, *** percent in 2011, and *** percent in 2012; they were projected to be *** percent in 2013, and *** percent in 2014. CR/PR at Table VII-1.

¹⁸² There are no known import relief investigations concerning the subject product in third country markets that would tend to increase subject imports from Austria. CR at VII-23; PR at VII-10.

¹⁸³ CR/PR at Tables V-1 to V-14.

¹⁸⁴ CR at V-5; PR at V-3.

¹⁸⁵ CR at V-37; PR at V-8.

throughout the POI.¹⁸⁶ In other words, cumulated subject imports did not gain significant market share by virtue of their predominant underselling during the POI.

Subject imports also did not have significant price-depressing effects during the POI. Despite fluctuations, prices of domestically-produced xanthan gum and subject imports from both Austria and China generally increased during the POI.^{187 188}

We acknowledge that the domestic industry's COGS to net sales ratio increased during the POI, particularly between 2010 and 2011, indicating that the domestic industry was unable to realize price increases sufficient to cover its costs, including increased raw material costs.¹⁸⁹ We do not find, however, that cumulated subject imports had significant price-suppressing effects. As explained below in our impact discussion, based upon the record in the final phase of these investigations, we do not find a sufficient causal nexus during the POI between the domestic industry's inability to raise its prices to cover its rising costs and the cumulated subject imports on the record presented.

2. Analysis of Threat of Material Injury by Reason of Subject Imports from China

In assessing the likely price effects of the subject imports, we consider pricing developments during the POI and likely developments in the imminent future in light of key U.S. market conditions, including the nature of competition between subject imports and the domestic like product.

As discussed above, the Commission collected quarterly pricing data for seven products between 2010 and 2012.¹⁹⁰ Sales of subject imports from China were reported for all *** pricing products,¹⁹¹ with the highest volume of subject merchandise from China concentrated in Product 6 (oilfield).¹⁹²

There was a pattern of significant underselling by subject imports from China during the POI across all market segments where such imports were present. Subject imports from China undersold the domestic like product in 108 of 127 quarterly price comparisons, or in *** percent of such comparisons, by underselling margins ranging from *** percent to *** percent.¹⁹³ Regardless of the data set used, there was pervasive underselling by subject imports for the high-volume oilfield product (Product 6) where their sales in the U.S. market were most concentrated.¹⁹⁴ We see no basis to conclude that the significant underselling by subject imports from China will be reversed in the imminent future. Thus, we

¹⁸⁶ CR/PR at Table C-1. The domestic industry's market share was *** percent in 2010, *** percent in 2011, and *** percent in 2012. Cumulated subject import shipments' market share was *** percent in 2010, *** percent in 2011, and *** percent in 2012. Nonsubject imports' market share was *** percent in 2010, *** percent in 2011, and *** percent in 2012.

¹⁸⁷ CR at V-6, PR at V-4; CR/PR at Tables V-1 to V-16.

¹⁸⁸ In the final phase of these investigations, there were *** lost sales and lost revenues allegations by the domestic industry, totaling approximately ***. However, none of the lost revenues allegations were confirmed, and only *** of the lost sales allegations was confirmed, totaling ***. CR/PR at Tables V-18 and V-19.

¹⁸⁹ As a ratio to net sales, the domestic industry's COGS increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012. CR/PR at Table VI-1.

¹⁹⁰ CR at V-5; PR at V-3

¹⁹¹ CR at V-5; PR at V-3.

¹⁹² CR/PR at Tables V-11 & V-12.

¹⁹³ CR at V-37; PR at V-8.

¹⁹⁴ CR/PR at Tables V-11 & V-12; CR/PR at Supplemental Tables V-12a, & V-12b.

find that subject imports from China are likely to undersell domestic prices significantly in the imminent future.

Continued underselling will be particularly significant given that Chinese subject imports have already had some negative price effects on domestically-produced xanthan gum in this segment. *** supplies *** to the oilfield segment.¹⁹⁵ *** in order to remain competitive in this price-sensitive market,¹⁹⁶ and even undersold subject imports from China in the second half of 2012.¹⁹⁷ That *** was able to increase its sales of xanthan gum by underselling Chinese subject imports further demonstrates the importance of price in the oilfield segment of the market.¹⁹⁸ These increased sales through price cuts and underselling *** were not a reflection of changes in raw material costs, which increased throughout the POI.¹⁹⁹ As demand continues to increase in the oilfield segment, this pricing pressure would likely grow more acute. Continued or even intensified underselling by subject imports from China will likely put significant downward pressure on domestic prices in the imminent future. This, in turn, would have likely depressing or suppressing effects on domestic prices. Underselling by Chinese subject imports in all segments of the market is also likely to increase demand for further imports and put additional pressure on domestic producers to either lower prices or lose sales. Accordingly, we find that subject imports are likely to enter the U.S. market in the imminent future at prices that will have significant price-depressing or price-suppressing effects.

3. Analysis of Threat of Material Injury by Reason of Subject Imports from Austria

Pricing data collected by the Commission accounted for 100 percent of the quantity of U.S. imports from Austria between 2010 and 2012.²⁰⁰ Sales of subject imports from Austria were reported for *** of *** pricing products,²⁰¹ with the highest volume of subject merchandise from Austria concentrated by far most heavily in Product 3 (food and beverage).²⁰²

The record shows a mixed pattern of overselling and underselling by subject imports from Austria during the POI. Subject imports from Austria undersold the domestic like product in 75 of 85 quarterly price comparisons, with underselling margins ranging from *** percent to *** percent.²⁰³ However, when examined more closely, the record indicates that subject imports from Austria oversold the domestic like product in *** of *** percent of such comparisons, for their highest-volume product, product 3 sales to end users.²⁰⁴ Moreover, on a volume basis, the overselling by subject imports from

¹⁹⁵ CR at III-15; PR at III-3.

¹⁹⁶ CR/PR at Table III-4. We also note that U.S. suppliers lowered xanthan gum prices by *** percent between the beginning and end of the POI. CR/PR at Table V-11.

¹⁹⁷ See CR/PR at Tables V-11 and V-12; Hearing Tr. at 172 (Marzulli); *see also* Halliburton Purchasers' Questionnaire at II-2; Petitioner Posthearing Br. at Ex. 1A; ADM Posthearing Br. at 10-12. We reject as unsupported by the record Chinese Respondents' claim that ***.

¹⁹⁸ See, e.g., CR/PR at Tables IV-3, V-11, and V-12.

¹⁹⁹ CR/PR at Table VI-1.

²⁰⁰ CR at V-5; PR at V-3.

²⁰¹ Sales of subject imports from Austria were reported for Products ***. CR at V-5; PR at V-3.

²⁰² CR/PR at Tables V-5 & V-6.

²⁰³ CR at V-37; PR at V-8.

²⁰⁴ CR/PR at Tables V-6 & V-17. Product 3 is food and beverage product, the segment to which the overwhelming majority of subject imports from Austria were shipped. CR at V-4-V-5; PR at V-3; CR/PR at Table IV-3.

Austria accounted for approximately *** percent of their total sales volume during the POI.²⁰⁵ Since their underselling was concentrated in lower-volume products and overselling was concentrated in the highest-volume product, subject imports from Austria oversold the domestic like product with *** as they undersold it during the POI.

We find that subject imports from Austria are not likely to have significant price-depressing or price-suppressing effects in the imminent future. As discussed above, the volume of subject imports from Austria is unlikely to increase significantly in the imminent future, and these imports are likely to remain heavily concentrated in the food and beverage segment of the market, where there was a mixed pattern of overselling and underselling. Despite fluctuations, prices of domestically produced xanthan gum and subject imports from Austria both generally increased during the POI.^{206 207} Moreover, in the food and beverage segment of the market, the domestic industry was able to increase prices more than enough to cover its costs.²⁰⁸ Thus, subject imports from Austria did not depress or suppress U.S. producers' prices in the food and beverage sector.

Based on the foregoing, we find that subject imports from Austria did not have significant price effects on the domestic industry during the POI. Because neither the pricing patterns nor the volumes of these imports are likely to change significantly, they are also unlikely to have significant price effects in the imminent future. Accordingly, we find that imports of subject merchandise from Austria are not likely to enter the U.S. market at prices that are likely to have significant depressing or suppressing effects on domestic prices.

C. Impact of the Subject Imports²⁰⁹

1. Analysis of Material Injury by Reason of Cumulated Subject Imports

Most of the domestic industry's performance indicators improved or remained stable from 2010 to 2012, although some declined, as discussed below. The domestic industry's production capacity was constant throughout the POI, at *** pounds.²¹⁰ Its production increased from *** pounds in 2010 to *** pounds in 2011, and was *** pounds in 2012, for an overall increase of *** percent from 2010 to 2012.²¹¹

²⁰⁵ Derived from CR/PR at Tables V-3 to V-12.

²⁰⁶ CR at V-5; PR at V-3; CR/PR at Tables V-4 to V-10 & V-12.

²⁰⁷ In the final phase of these investigations, there were *** lost sales and lost revenues allegations by the domestic industry concerning subject imports from Austria. However, only *** of the lost sales allegations was confirmed, totaling ***. CR/PR at Tables V-18 & V-19.

²⁰⁸ On an average unit value ("AUV") basis, the domestic industry's raw material costs increased by *** per pound between 2010 and 2012, and its total COGS increased by *** per pound between 2010 and 2012. CR/PR at Table VI-1. In the food and beverage segment of the market alone, however, the domestic industry's AUVs for U.S. producers' U.S. shipments of xanthan gum increased by *** cents per pound from 2010 to 2012, thereby greatly exceeding any cost increases. CR/PR at Table III-4.

²⁰⁹ 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). In its final determination, Commerce found an antidumping duty margin of 29.98 percent for subject imports from Austria, and margins ranging from 15.09 percent to 154.07 percent for subject imports from China. 78 Fed. Reg. 33350, 33353 (June 4, 2013) (China); 78 Fed. Reg. 33354, 33355 (June 4, 2013) (Austria).

²¹⁰ CR/PR at Table C-1.

²¹¹ CR/PR at Table C-1.

Its capacity utilization increased from *** percent in 2010 to *** percent in 2011, and declined to *** percent in 2012, for an overall increase of *** percentage points.²¹²

By quantity, the domestic industry's U.S. shipments declined from *** pounds in 2010 to *** pounds in 2011, and increased to *** pounds in 2012, for an overall increase of *** percent.²¹³ By value, the domestic industry's U.S. shipments declined from *** in 2010 to *** in 2011, but increased to *** in 2012, for an overall increase of *** percent.²¹⁴ The industry's net sales revenues increased from *** in 2010 to *** in 2011, and then to *** in 2012, for an overall increase of *** percent.²¹⁵ The domestic industry's end-of-period inventories declined by *** percent from 2010 to 2012.²¹⁶

Employment-related indicators showed improvement during the POI. The number of production and related workers, hours worked, and wages paid each increased from 2010 to 2012, by *** percent, *** percent, and *** percent, respectively.²¹⁷

Notwithstanding these improvements, several of the domestic industry's performance indicators deteriorated during the POI. As previously discussed, the domestic industry's share of apparent U.S. consumption declined *** from *** percent in 2010 to *** percent 2012.²¹⁸ There were also some declines in financial performance. The domestic industry's operating income declined from *** in 2010 to *** in 2011, and then to *** in 2012, for an overall decline of *** percent from 2010 to 2012.²¹⁹ As a ratio to net sales, the domestic industry's operating income declined from *** percent in 2010 to *** percent in 2011, and then to *** percent in 2012, for an overall decline of *** percentage points.²²⁰

Research and development expenditures declined from *** in 2010 to *** in 2011, and increased to *** in 2012, for an overall decline of *** percent.²²¹ By contrast, capital expenditures declined from *** in 2010 to *** in 2011, and increased to *** in 2012, for an overall increase of *** percent.²²²

Accordingly, a number of indicators of the domestic industry's performance improved during the POI. Given the gains in production, shipments, sales, capacity utilization rates, the number of workers, total hours worked, wages paid, hourly wages, and capital expenditures, and declines in inventories, the overall performance data considered in light of conditions in the market does not indicate that the industry as a whole is presently materially injured by reason of subject imports. The fact that the domestic industry has been unable to increase share in a growing market does not suggest otherwise. There is

²¹² CR/PR at Table C-1.

²¹³ CR/PR at Table C-1.

²¹⁴ CR/PR at Table C-1.

²¹⁵ CR/PR at Table C-1.

²¹⁶ The domestic industry's end-of-period inventories increased from *** million pounds in 2010 to *** pounds in 2011, and declined to *** pounds in 2012. As a ratio to total shipments, the industry's inventories increased from *** percent in 2010 to *** percent in 2011, and declined to *** percent in 2012, for an overall decline of *** percentage points. CR/PR at Table C-1.

²¹⁷ The number of production workers was *** in both 2010 and 2011, and was *** in 2012. Hours worked were *** in 2010, *** in 2011, and *** in 2012. Wages paid were *** in 2010, *** in 2011, and *** in 2012. CR/PR at

Table C-1. Hourly wages also increased overall between 2010 and 2012. CR/PR at Table III-7.

²¹⁸ CR/PR at Table C-1.

²¹⁹ CR/PR at Table C-1.

²²⁰ CR/PR at Table C-1.

²²¹ CR/PR at Table VI-6.

²²² CR/PR at Table C-1.

nothing atypical about shares of total apparent U.S. consumption remaining, as here, relatively constant among the three sources of supply – domestic producers, subject imports, and nonsubject imports.²²³

Nor do we find that a sufficient causal nexus exists between any declines in the domestic industry's financial performance during the POI and cumulated subject imports to support a determination of material injury by reason of subject imports. The domestic industry's declining financial performance cannot be a result of losses of either U.S. shipments or market share to the subject imports because the industry's U.S. shipments rose and its market share was essentially stable from 2010 to 2012. Nor is there a clear relationship from 2010 to 2012 between the subject imports and the domestic industry's inability to recover increases in unit costs. While, pursuant to our practice,²²⁴ we have considered all sales of the domestic industry, to aid our analysis, we have also analyzed changes in the ratio of COGS to net sales separately for U.S. producers' domestic and export shipments. From 2010 to 2011, the domestic industry's ratio of COGS to net sales for all shipments increased sharply from *** percent to *** percent.²²⁵ There were unfavorable changes in the COGS/sales ratio that year for both the industry's U.S. shipments and its export shipments.²²⁶ Because the domestic industry was unable to pass along price increases to either its domestic or export customers that were sufficient to cover its increased costs, any cost-price squeeze from 2010 to 2011 could not have been causally related to competition with unfairly traded subject merchandise occurring solely in the U.S. market.

This scenario, however, changed considerably in 2012. In that year, the domestic industry experienced unfavorable changes in its COGS/sales ratio with respect to its U.S. shipments, but not its exports.²²⁷ These diverging trends in the COGS/sales ratio for the domestic industry's U.S. shipments and exports provide some indication that cumulated subject imports had an adverse impact on the domestic industry from 2011 to 2012. Nevertheless, this impact on the domestic industry's operations was neither sufficiently clear nor sufficiently large to be significant for present material injury purposes. We therefore do not find that cumulated subject imports had a significant negative impact on the domestic industry.

2. Analysis of Threat of Material Injury by Reason of Subject Imports from China

As discussed above, subject imports from China are likely to enter the United States in increased volumes and engage in significant underselling of the domestic like product in the imminent future,

²²³ In these final phase investigations, the parties presented arguments on post-petition effects. *See, e.g.*, Petitioner Prehearing Br. at 17-19; Chinese Respondents' Posthearing Br., Exh. 1 at 9-12; Austrian Respondents' Posthearing Br., Exh. 1 at 2-3. Specifically, Petitioner argued that domestic producers would not have increased shipments and the industry would have lost market share in 2012 if not for the filing of the petition. Although there is some evidence showing purchasers approached domestic producers with sales inquiries after the petition was filed, the record shows no apparent changes in the subject imports' volume and pricing behavior in the second half of 2012, *i.e.*, after the petition was filed. Accordingly, we decline to give less weight to the annual 2012 data based on a post-petition effect.

²²⁴ *See, e.g., Polyvinyl Alcohol from Germany and Japan*, Inv. Nos. 731-TA-1015-1016 (Final), USITC Pub. 3604 at 24 n.30 (June 2003).

²²⁵ CR/PR at Tables VI-2 & C-1.

²²⁶ CR/PR at Tables VI-4 & VI-4a. With respect to U.S. shipments only, the domestic industry's ratio of COGS to net sales increased from *** percent in 2010 to *** percent in 2011, and *** percent in 2012. CR/PR at Table VI-4a. With respect to export operations, the domestic industry's ratio of COGS to net sales increased from *** percent in 2010 to *** percent in 2011, but declined to *** percent in 2012. CR/PR at Table VI-4.

²²⁷ CR/PR at Tables VI-4 & VI-4a. For all shipments, the ratio of COGS to net sales increased by *** percentage point from 2011 to 2012. CR/PR at Table C-1.

particularly in the large and price-sensitive oilfield segment of the market. We conclude that the likely increase in low-priced subject imports from China in the oilfield sector – which increased by *** percent in that sector during the POI – will likely have an adverse impact on the domestic industry in the imminent future.²²⁸ Moreover, as discussed earlier, increasing volumes of aggressively priced Chinese subject imports in the food and beverage, consumer, and industrial segments of the market will likely have an adverse impact on the domestic industry in the imminent future as well.

Accordingly, in the imminent future, subject imports from China are likely to increase, take market share and sales from domestic producers, and depress or suppress domestic prices significantly. Lost sales will negatively affect the domestic industry’s production, shipments, employment, and inventories. Suppressed or depressed prices will negatively affect the domestic industry’s revenues, profits, and ability to make capital improvements.

We have also considered whether other factors, including demand changes and nonsubject imports, will likely have an imminent adverse impact on the domestic industry, but conclude that the impact of these other factors will be limited. As discussed above, demand for xanthan gum increased by *** percent from 2010 to 2012, and is projected to remain strong in the imminent future.²²⁹ Thus, likely changes in demand going forward will likely be to the benefit of the domestic industry, and they are not a credible alternative cause of future injury.

Moreover, the quantity of U.S. shipments of imports from all sources other than China was *** pounds in 2010, *** pounds in 2011, and *** pounds in 2012.²³⁰ The market share of imports from all sources other than China fell from *** percent in 2010 to *** percent in 2011, and *** percent in 2012.²³¹ Given their declining market share throughout the POI, we find that imports from all sources other than China are not likely to take significant market share or sales from the domestic industry, or depress or suppress domestic prices, in the imminent future. In addition, the vast majority of imports from sources other than China are subject imports from Austria,²³² which we determine do not threaten material injury to the domestic industry.

For all of these reasons, we conclude that, unless an antidumping duty order on subject imports from China is issued, significant volumes of dumped imports will gain additional U.S. market share in the imminent future and cause material injury to the U.S. industry. We therefore find that there is a likely causal relationship between subject imports from China and an imminent adverse impact on the domestic industry. Accordingly, we determine that the domestic industry is threatened with material injury by reason of subject imports from China.²³³

3. Analysis of Threat of Material Injury by Reason of Subject Imports from Austria

As discussed above, we have found that it is not likely that subject imports from Austria will increase significantly in the imminent future in light of their declining market share during the POI, their minimal presence in the growing oilfield segment, and the Austrian producer’s high capacity utilization.

²²⁸ See, e.g., CR/PR at Tables IV-3, Tables VI-1, and VI-3a.

²²⁹ CR/PR at Table C-1; Halliburton Posthearing Br. at 4-5; Hearing Tr. at 179-80.

²³⁰ CR/PR at Table C-1.

²³¹ CR/PR at Table C-1.

²³² CR/PR at Table IV-1.

²³³ We note further that we would not have found material injury by reason of subject imports but for the suspension of liquidation of entries on the subject imports. See 19 U.S.C. §§ 1671d(b)(4)(B), 1673d(b)(4)(B).

Furthermore, subject imports from Austria are not entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices.

There is also no evidence that subject imports from Austria will have significant negative effects on the performance of the domestic industry. There is no indication that the conditions of competition prevailing during the POI will change significantly in the imminent future. Given our conclusion that subject imports from Austria will not imminently increase substantially above the levels they held during the POI and will not likely have significant adverse price effects, we find that subject imports from Austria will not likely have a significant adverse impact on the performance of the domestic industry. Therefore, we find that material injury by reason of subject imports will not occur absent issuance of an antidumping duty order. Accordingly, we conclude that the domestic xanthan gum industry is not threatened with material injury by reason of subject imports of xanthan gum from Austria.

Conclusion

For the reasons discussed above, we find that an industry in the United States is threatened with material injury by reason of imports of xanthan gum from China that are sold at LTFV. We also find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of xanthan gum from Austria that are sold at LTFV.

SEPARATE AND CONCURRING VIEWS OF COMMISSISONER DEAN A. PINKERT AND COMMISSIONER MEREDITH M. BROADBENT

We consider imports of xanthan gum from China and imports of xanthan gum from Austria separately for purposes of our material injury analysis, as explained below. Our decumulated analysis leads us to differ from the majority's views regarding the imports from China, and we determine that an industry in the United States is materially injured by reason of subject imports from China that are sold in the United States at less than fair value. Like the majority, however, we determine that an industry in the United States is not materially injured by reason of subject imports from Austria that are sold in the United States at less than fair value. Finally, except as noted therein, we join the majority's views regarding threat of material injury by reason of subject imports from Austria, and we thus agree with our colleagues that an industry in the United States is not threatened by reason of imports of xanthan gum from Austria that are sold in the United States at less than fair value.¹

I. Cumulation

Section 771(7)(G)(i) of the Tariff Act of 1930, as amended, requires the Commission to cumulate imports from all countries as to which petitions were filed on the same day if the imports compete with each other and the domestic like product in the U.S. market.² The legislative history explains that the reference to competition in the statute requires cumulation only if the imports are marketed in a "reasonably coincident" manner, which we interpret to mean a reasonably similar manner. The Commission and the courts have thus interpreted the statute to require cumulation where the evidence indicates that there is a reasonable overlap of competition among the subject imports.³ The Commission generally considers in this regard, among other factors, (1) the degree of fungibility among the imports from different countries and among imports and the domestic like product, including whether there are specific customer requirements or other quality-related issues, (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product, (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product, and (4) whether the imports are simultaneously present in the market.⁴

We explain below our finding that there is not a reasonable overlap of competition in the U.S. market among the subject imports from China and Austria. In our view, the imports from China and the imports from Austria exhibit a very limited degree of fungibility with respect to each other. The imports from China are generally shipped to the United States for different end uses than the imports from Austria, as the imports from China are primarily shipped here for oilfield uses and the imports from Austria are overwhelmingly shipped here for food and beverage uses. In addition, within the food and beverage segment of the market, where both countries are present, their imports are neither fungible nor

¹ We also join the majority's views regarding the background to these investigations, domestic like product, domestic industry, legal standards, and conditions of competition, except as noted therein.

² 19 U.S.C. § 1677(7)(G)(i).

³ The Conference Report on the Trade and Tariff Act of 1984 states that the conferees intended that "the marketing of imports that are accumulated be reasonably coincident." Conf. Rep. No. 1156, 98th Cong. 2d Sess. 173. See also Fundicao Tupy, S.a. v. United States, 678 F.Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F. 2d 915 (Fed. Cir. 1988) ("reasonable overlap of competition").

⁴ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-80 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.a. v. United States, 678 F.Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F. 2d 915 (Fed. Cir. 1988).

marketed in a reasonably coincident manner – there are physical and qualitative differences that translate into different applications. Thus, Petitioner C.P. Kelco, importer JBL, Inc., importer Deosen USA’s consultant, and major purchasers within the food and beverage segment perceive Chinese xanthan gum to be a distinct product or as serving a distinct sub-market. Moreover, Chinese pricing differs substantially from Austrian pricing.

A. Differences in End Use Markets

Imports from China and Austria are generally shipped for different end uses. Only *** percent of U.S. shipments of subject imports from China went to the food and beverage segment and *** percent went to the oilfield segment. In contrast, *** percent of U.S. shipments of subject imports from Austria went to the food and beverage segment and *** percent went to the oilfield segment.⁵ The food and beverage segment is the focus of our analysis of overlap of competition because it is the only segment in which substantial sales of subject imports from each country are present in the U.S. market.

B. Two-Tiered Food and Beverage Market

(i) Differences in Physical and Qualitative Attributes as well as End Uses

Physical and qualitative differences between Chinese and Austrian xanthan gum translate into different end uses. Subject imports from China are thus used in less demanding food and beverage applications than are subject imports from Austria.

Xanthan gum from China has inconsistent or even suboptimal viscosity⁶ when compared to xanthan gum from Austria. Importer JBL, Inc. reports that ***.⁷ Purchaser ***.⁸ ***.⁹ Similarly, ***, a major purchaser, states that *** *** states further that “***”.¹⁰

Xanthan gum from China, unlike xanthan gum from Austria, sometimes exhibits undesirable coloration. ***¹¹ In discussing products requiring “a highly clarified xanthan,” Noel Marzulli, Consultant-Agent of Deosen USA, Inc. testified at the Commission hearing that “Chinese producers have had difficulty in producing” xanthan gum with a transparency “greater than 85 percent,” due to the limitations of their production process, which in turn limits the applications for the resulting xanthan gum.¹²

Further, Chinese xanthan gum has different granulation levels and textures than Austrian xanthan gum. *** states that ***.¹³ *** likewise states that ***.¹⁴ Similarly, *** states that ***.¹⁵

⁵ CR/PR at Table IV-3.

⁶ Viscosity describes a fluid’s resistance to flow. A fluid with high viscosity does not flow quickly. Xanthan gum has a high viscosity at low concentration levels, meaning that low concentrations of xanthan gum can be effective in thickening a liquid. CR at I-6; PR at I-5.

⁷ *** Importer Questionnaire at 34. JBL, Inc. further reports that *** *Id.*

⁸ *** Purchaser Questionnaire at 18.

⁹ *** Purchaser Questionnaire at 12.

¹⁰ *** Purchaser Questionnaire at 22, 23.

¹¹ *** Purchaser Questionnaire at 19.

¹² Hearing Transcript (Tr.) at 175.

¹³ *** Purchaser Questionnaire at 23.

¹⁴ *** Purchaser Questionnaire at 19.

¹⁵ *** Purchaser Questionnaire at 18.

These differences impact product use. Nine purchasers, for example, answer “yes” when asked if quality problems with imports from China limit use in certain applications.¹⁶ A majority of purchasers state that subject imports from Austria were superior to imports from China in terms of product consistency.¹⁷ *** states that ***.¹⁸ Importer JBL, Inc. reports that ***.¹⁹

Chinese xanthan gum cannot meet customer requirements. Consultant Marzulli testified at the Commission hearing that Chinese producers had difficulty passing customer qualifications for certain applications in the food and beverage segment.²⁰ For example, “if a customer insists on a product that meets the standards in 21 C.F.R. 172 {Food Additives}, ***.”²¹ Marzulli explained that “plants have to have an FDA approval process,” but that “Deosen is not an FDA-approved plant.”²² ***.²³

Some purchasers avoid Chinese xanthan gum altogether due to quality or safety concerns. ***.²⁴ ***.²⁵

(ii) Differences in Markets and Customer Perceptions

C.P. Kelco, major purchasers, smaller purchasers, and customers perceive a two-tier market in the food and beverage segment of the United States – a lower tier where Chinese product competes and a higher tier where it does not. C.P. Kelco states that subject imports from Austria entered the market ***.²⁶ Two C.P. Kelco Vice Presidents differentiate Chinese xanthan gum from Austrian/Western-made xanthan gum and refer to Austrian products as having a Western quality.²⁷

Major food purchasers²⁸ also view Chinese xanthan gum as supplying a separate segment of the U.S. food and beverage market than Austrian xanthan gum. ***.²⁹ *** states ***.³⁰ *** states that “***.”³¹ *** states further that “***.”³² As mentioned above, ***.³³

Some customers prefer non-Chinese product. *** states that “***.”³⁴ *** similarly states that “***.”³⁵ Likewise, *** reports that “***.”³⁶

Consultant Marzulli testified that certain xanthan gum customers sell to fast food industries that “do not want any Chinese manufactured material in their ingredients.”³⁷ He further stated that Deosen’s

¹⁶ CR at II-16; PR at II-13.

¹⁷ CR/PR at Table II-5. CR at II-13; PR at II-10.

¹⁸ *** Purchaser Questionnaire at 24.

¹⁹ *** Importer Questionnaire at 33.

²⁰ Tr. at 170-71 (Marzulli, Deosen, USA Inc.).

²¹ Tr. at 175.

²² Tr. at 246.

²³ *** Purchaser Questionnaire at 19.

²⁴ *** Purchaser Questionnaire at 10.

²⁵ *** Purchaser Questionnaire at 4, 5, 15, 18-19.

²⁶ CR at VI-12; PR at VI-3.

²⁷ Tr. at 38 (Viala) and 150 (Bowen).

²⁸ *** are major purchasers of Chinese xanthan gum, individually and in the aggregate. U.S. shipments in 2012 of subject imports from China in the food and beverage segment were ***. CR/PR at Table IV-3. *** purchased *** pounds of Chinese xanthan gum in 2012, ***, *** pounds and ***, *** pounds. Purchaser Questionnaires for ***.

²⁹ ***. U.S. shipments in 2012 of subject imports from Austria in the food and beverage segment were *** pounds. CR/PR at Table IV-3.

³⁰ *** Purchaser Questionnaire at 14.

³¹ *** Purchaser Questionnaire at 12.

³² *** Purchaser Questionnaire at 22.

³³ *** Purchaser Questionnaire at 18.

³⁴ *** Purchaser Questionnaire at 24, 25.

³⁵ *** Purchaser Questionnaire at 11.

³⁶ *** Purchaser Questionnaire at 11.

existing customers inform Deosen that “we cannot use your product in certain applications because our customers will not allow Chinese material to be here.”³⁸

There are significant differences in the prices and average unit values for subject imports from China and Austria in the food and beverage segment, which corroborate the differences in product characteristics and customer perception.³⁹ Even though most purchasers find the quality of Chinese and Austrian xanthan gum to be comparable in the food and beverage segment, several purchasers find subject imports from Austria to be superior in quality and, as previously stated, a majority find subject imports from Austria to be superior in product consistency, a vital characteristic for this product.⁴⁰ Although *** reports that ***, *** does not specify the application under discussion.⁴¹

Accordingly, we find that subject imports from China and Austria compete in largely different end use markets, and, to the extent that they both compete in the food and beverage segment, they compete in different tiers of the segment. For these reasons, we find that there is not a reasonable overlap of competition in the U.S. market among subject imports from China and Austria, and we do not cumulate them for purposes of our material injury determination.

II. Material Injury By Reason Of Subject Imports From China

A. Volume Effects of the Subject Imports from China

Subject imports from China maintained a growing and significant presence in the U.S. market throughout the POI. The volume of subject imports from China increased steadily from 28.2 million pounds in 2010 to 29.7 million pounds in 2011, and to 37.0 million pounds in 2012 – a gain of 31.0 percent.⁴² Shipments of subject imports from China in the U.S. market increased by 46.8 percent from 2010 to 2012, a rate faster than the increase in apparent U.S. consumption; their market share increased from 41.6 percent in 2010 to 43.8 percent in 2011 and further to 45.7 percent in 2012 – a gain of 4.1 percentage points.⁴³ In contrast, domestic market share remained relatively flat over the POI, as did the market share for nonsubject imports. The market share for subject imports from Austria decreased.⁴⁴

Demand in the oilfield segment fueled the increase in apparent U.S. consumption over the POI, with the quantity of U.S. shipments from all sources in the segment almost doubling from 2010 to 2012.⁴⁵ Subject import shipments from China accounted for more than *** percent of all U.S. shipments to the segment throughout the POI;⁴⁶ Chinese shipments to the oilfield segment increased from *** pounds in 2010 to *** pounds in 2011 and increased again to *** pounds in 2012.⁴⁷ Shipments of subject imports

³⁷ Tr. at 244–45.

³⁸ Tr. at 245.

³⁹ Compare CR/PR Table IV-5 (Austria) to Table IV-6 (China). CR/PR at Tables V-5, V-6, V-7, V-8.

⁴⁰ CR at Table II-5a.

⁴¹ *** at 29, 34.

⁴² CR/PR at Table IV-2.

⁴³ CR/PR at Table IV-11, Table C-1. Shipments of subject imports from China in the U.S. market increased from 23.0 million pounds in 2010 to 23.9 million pounds in 2011 and then to 33.8 million pounds in 2012. CR/PR at Table C-1. The ratio of subject imports from China to U.S. production rose irregularly from *** percent in 2010 to *** percent in 2011 and *** percent in 2012. CR/PR at Table IV-12.

⁴⁴ CR/PR at Table C-1.

⁴⁵ Total U.S. shipments in the oilfield segment increased from *** pounds in 2010 to *** pounds in 2011 and *** pounds in 2012. CR/PR at Table IV-3.

⁴⁶ CR/PR at Table IV-4.

⁴⁷ In the food and beverage segment, the market share of subject import shipments from China increased from *** percent in 2010 to *** percent in 2011 and *** percent in 2012; the market share of subject import shipments from Austria increased from *** percent in 2010 to *** percent in 2011 and *** percent in 2012; the market share of nonsubject import shipments increased from *** percent in 2010 and 2011 to *** percent in 2012; and the domestic industry’s market share declined from *** percent in 2010 to *** percent in 2011 and *** percent in 2012. CR/PR at Table IV-4.

from China also increased to the food and beverage segment, as well as to the consumer, industrial, and “other” segments, gaining market share in the food and beverage segment at the expense of the domestic industry.⁴⁸

Accordingly, we find subject import volume from China and the increase in that volume to be significant in absolute terms as well as relative to consumption and production in the United States.

B. Price Effects of the Subject Imports from China

Subject import shipments from China and the domestic like product are substitutable within the oilfield, industrial, and consumer market segments, as well as within the lower tier of the food and beverage segment.⁴⁹ Price is thus an important factor in purchasing decisions. In fact, a majority of responding U.S. purchasers reported that differences other than price were only “sometimes” or “never” important for comparisons between U.S.-produced xanthan gum and subject imports from China.⁵⁰

The Commission collected quarterly f.o.b. pricing data for seven products, with each product pertaining to a specific end use.⁵¹ In addition, producers and importers were asked to provide pricing data separately for sales to distributors and end users.⁵² The U.S. producers and twelve importers provided such data, which accounted for 99.6 percent of the quantity of domestic U.S. shipments during the POI and 96.9 percent of shipments from China.⁵³

Across all seven products and both channels of distribution, subject import shipments from China undersold the domestic like product in 108 of 127 quarterly price comparisons from January 2010 to December 2012.⁵⁴ Subject import shipments from China were sold into two major market segments: the oilfield segment (**% percent of U.S. shipments from China in 2012) and the food and beverage segment (**% percent in 2012).⁵⁵ Import shipments from China pervasively undersold the domestic like product with respect to the product accounting for most of the xanthan gum used in oilfield applications; they undersold the domestic like product in 17 out of the 24 quarterly price comparisons, including sales to both distributors and end users.⁵⁶ Across both channels of distribution, shipments of imports from China undersold the domestic like product in the non-agglomerated food and beverage market segment in all quarterly price comparisons.⁵⁷ In addition, the domestic like product and the subject imports from China are close substitutes in many market segments, and price is an important factor in purchasing decisions. Accordingly, we find the underselling by subject imports from China to be both pervasive and significant.⁵⁸

⁴⁸ CR/PR at Table IV-4.

⁴⁹ CR/PR at Table II-6; CR at I-7, PR at I-5-6. There are no domestic U.S. shipments in the all other segment, and no subject import shipments from China in the pharmaceutical segment. CR/PR at Table IV-4.

⁵⁰ CR/PR at Table II-7.

⁵¹ CR at V-4-5, PR at V-3. Specifically, the Commission collected data for one pharmaceutical product, one consumer product, two products related to the food and beverage segment, one industrial product, and two oilfield segment products. *Id.*

⁵² CR at V-4, PR at V-3.

⁵³ CR at V-5, PR at V-3.

⁵⁴ CR/PR at Table V-17.

⁵⁵ CR/PR at Table IV-3. The remaining subject import shipments from China were sold to the industrial applications market (**% percent of U.S. shipments from China in 2012), the consumer applications market (**% percent), and all other segments (**% percent). *Id.*

⁵⁶ CR/PR at Table V-11 and Table V-12.

⁵⁷ CR/PR at Table V-17.

⁵⁸ We note that the petitioner argues that the Commission should not rely on importer data provided by Baker Hughes and Halliburton, as these two importers are oilfield service providers that sell xanthan gum as part of a larger package of customized drilling fluid products and services, which is a different point of competition from discrete sales of xanthan gum to distributors and end-users. Petitioner’s Prehearing Brief at 23-25, Exhibit 5. Excluding these sales, subject import shipments from China undersold the domestic like product in **% of **% quarterly price comparisons, including **% out of **% quarterly price comparisons in Product 6. CR/PR at Table V-

We further find that subject imports from China depressed prices in the oilfield segment to a significant degree. The domestic industry *** dropped its prices for sales to distributors in that segment (which accounted for the majority of the volume of domestic sales) by *** percent in order to compete with the Chinese product.⁵⁹ The decrease in prices was not caused by lower raw material costs, as those costs in fact increased during the POI.⁶⁰

In the food and beverage segment, U.S. prices increased and unit values increased for both ADM and CP Kelco,⁶¹ in line with rising unit COGS.⁶² ADM, however, ***.⁶³

***.⁶⁴ As a result, ***.⁶⁵ Those data incorporate ***.⁶⁶ In the U.S. market only, where ***. Its COGS/net sales ratio increased from *** percent in 2010 to *** percent in 2012.⁶⁷ Although we find that the rising COGS/net sales ratio was partially a result of a shift in the U.S. industry's shipments to the lower-priced oilfield segment, we note that this also reflects significant downward price pressure caused by imports from China.

Based on the foregoing, we find significant and pervasive underselling by subject imports from China in both of the major market segments in which they competed. Chinese prices in the oilfield segment depressed prices to a significant degree, and the industry *** experienced a cost/price squeeze there. In addition, Chinese prices in the food and beverage segment caused the domestic industry *** to lose market share in that segment. We thus find that subject imports from China have caused significant adverse price effects.

C. Impact of the Subject Imports From China

We find that subject imports from China had a significant adverse impact on the domestic industry during the POI. Although the industry's capacity, production, capacity utilization, and market share were relatively flat over the POI, its financial performance was mixed as sales and shipments increased while profitability fell sharply (including operating income on a per pound basis). Moreover, as the industry's costs increased over the POI, its COGS/net sales ratio rose.⁶⁸

11 and Memorandum INV-LL-043 at Table V-12a. We therefore make the same findings with regard to underselling regardless of whether the data provided by Baker Hughes and Halliburton are included in our analysis.

⁵⁹ CR/PR at Table V-11. ADM accounted for approximately *** percent of U.S. shipments to the oilfield sector in 2012, and the volume of its U.S. shipments in that market segment far exceeded those of C.P. Kelco's throughout the POI. CR at III-15; PR at 3. CR/PR at Table III-4.

⁶⁰ CR/PR at V-1 and Figure V-1.

⁶¹ CR/PR at Table V-5 and Table V-6 (showing the U.S. price increasing irregularly in the food and beverage segment for sales to both distributors and end-users); CR/PR at Table III-4 (showing both firms' AUVs increasing overall in the food and beverage segment from 2010 to 2012).

⁶² CR/PR at Table VI-1.

⁶³ While *** shipments to the food and beverage segment *** percent, shipments by *** to this sector decreased by *** percent. CR/PR at Table III-4. ADM's AUVs in the food and beverage segment were *** than CP Kelco's. CR/PR at Table III-4. ***. ADM, Answers to Commission Questions, Exhibit 2 at 2. C.P. Kelco argues that there is very limited competition between ADM and it in the U.S. market, characterizing ADM as participating in or targeting the lower end segments of the U.S. market. C.P. Kelco Posthearing Brief, Responses to Commissioner Questions at 25-26; Tr. at 99-100 (Rubright, Viala). Thus, ADM ***.

⁶⁴ CR/PR at Table III-4 (*** percent higher than its AUV for shipments to the oilfield applications segment in that year).

⁶⁵ CR/PR at Table VI-2. The COGS/net sales ratio for the industry as a whole increased from *** percent in 2010 to *** percent in 2012. CR/PR at Table C-1.

⁶⁶ CR/PR at Table VI-4.

⁶⁷ CR/PR at Table VI-4a. ***. CR/PR at Table III-5.

⁶⁸ CR/PR at Table III-2, Table IV-10, Table IV-11, Table VI-1. The COGS/net sales ratio for the industry as a whole increased from *** percent in 2010 to *** percent in 2012. CR/PR at Table VI-1.

As previously discussed, over the POI, subject imports from China were primarily shipped to the oilfield segment of the U.S. market, with most of the remainder shipped to the lower tier of the food and beverage segment. Subject import shipments from China increased sharply over the POI, undercutting domestic prices in the oilfield segment and gaining market share in the food and beverage segment. Although the domestic industry was able to increase its sales and shipments as demand increased, its operating income on a per pound basis fell sharply as costs increased and subject imports from China caused its prices to fall in the oilfield segment as well as loss of market share in the more profitable food and beverage segment.

*** pinpoints the injury experienced by the domestic industry. By the end of the POI, ***.⁶⁹ Given its direct competition against subject imports from China in the *** segment and in the *** of the food and beverage segment of the U.S. market, it is not surprising that *** from the increasing volume of lower-priced subject imports from China. As subject imports from China streamed into the U.S. market in 2012, they depressed prices to a significant degree in the oilfield segment and gained market share in the food and beverage segment. Consequently, in 2012, *** operating margin in the U.S. market fell sharply to ***, its COGS/net sales ratio rose to *** percent, and its revenue per pound declined. Although *** sales increased in quantity from 2011 to 2012, its net sales value was essentially flat.⁷⁰

We have considered other factors that could have adversely impacted the domestic industry. Demand increased over the POI, and there were only minimal levels of subject imports from Austria, and no nonsubject imports, in the oilfield segment. In addition, we have found that there is not a reasonable overlap of competition between subject imports from Austria and China in the two-tiered food and beverage segment of the U.S. market and no injury there by reason of subject imports from Austria. Finally, nonsubject import market share was stable and decreasing over the POI, falling from *** percent to *** percent from 2010 to 2012.⁷¹ Thus, the adverse circumstances experienced by the domestic industry were by reason of the subject imports from China.^{72 73}

In sum, we find that the significant increases in the volume and market share of the subject imports from China during the POI – which significantly undersold the domestic like product – resulted in significant adverse price effects and materially injured the domestic industry.

III. No Material Injury By Reason Of Subject Imports From Austria

A. Volume Effects of The Subject Imports From Austria

Although subject imports from Austria increased, their market share decreased, which was in contrast to subject imports from China. The volume of subject imports from Austria increased irregularly from *** pounds in 2010 to *** pounds in 2011 and to *** pounds in 2012.⁷⁴ Shipments of subject imports from Austria increased irregularly from 2010 to 2012 by *** percent, well below the increase in apparent U.S. consumption of 33.7 percent.⁷⁵ Subject imports from Austria also increased their shipments in the food and beverage segment by *** percentage points from 2010 to 2012.⁷⁶ Notwithstanding the

⁶⁹ CR/PR at Table III-4. *** accounted for *** percent of U.S. production in 2012 and approximately *** percent of U.S. shipments to the oilfield segment in 2012. CR/PR at Table III-1, Table III-4. CR at III-15; PR at III-3.

⁷⁰ CR/PR at Table VI-4a. *** maintains that it also ***. CR at VI-12; PR at VI-3.

⁷¹ CR/PR at Table C-1.

⁷² Commissioner Pinkert does not apply the analysis set forth in *Bratsk and Mittal Steel* to these investigations, as xanthan gum is not a commodity product for purposes of that analysis.

⁷³ We have considered Commerce's final antidumping duty margins ranging from 15.09 percent to 154.07 percent for subject imports from China. CR/PR at Table I-1; 78 Fed. Reg. 33351-54 (June 4, 2013).

⁷⁴ CR/PR at Table IV-2.

⁷⁵ The volume of subject import shipments from Austria decreased from *** pounds in 2010 to *** pounds in 2011, and then increased to *** pounds in 2012. CR/PR at Table C-1.

⁷⁶ CR/PR at Table IV-4.

increase in the absolute volume of subject imports from Austria, their market share fell over the POI, from *** percent in 2010 to *** percent in 2011 and to *** percent in 2012.⁷⁷

We find the volume of subject imports from Austria to be significant in absolute terms and relative to consumption and production in the U.S. market. We do not find the increase in subject imports from Austria to be significant, however, because it was outpaced by growth in apparent U.S. consumption, domestic industry U.S. shipments, and subject imports from China. Moreover, there were minimal levels of shipments of subject imports from Austria in the large and expanding oilfield segment.

B. Price Effects of the Subject Imports from Austria

Subject imports from Austria and the domestic like product are substitutable within the industrial and oilfield segments (although there are *** shipments of subject imports from Austria to the oilfield segment)⁷⁸ as well as within the higher tier of the food and beverage segment. Price is thus an important factor in purchasing decisions. In fact, a majority of responding U.S. purchasers reported that differences other than price were only “sometimes” or “never” important for comparisons between U.S.-produced xanthan gum and subject imports from Austria.⁷⁹

The Commission collected quarterly f.o.b. pricing data for seven products, with each product pertaining to a specific end use.⁸⁰ In addition, producers and importers were asked to provide pricing data separately for sales to distributors and end users.⁸¹ The U.S. producers and twelve importers provided such data, which accounted for 99.6 percent of the quantity of domestic U.S. shipments during the POI and 100 percent of shipments from Austria.⁸² Importers reported U.S. shipments from Austria for *** pricing products.⁸³

Across all five products and both channels of distribution, subject import shipments from Austria undersold the domestic like product in 75 of the 85 quarterly price comparisons from January 2010 to December 2012.⁸⁴ As mentioned above, however, between *** percent of Austrian xanthan gum was sold to the food and beverage segment during the POI, and we therefore focus our pricing analysis on that segment of the market.⁸⁵

Most of the large quantities of shipments to the food and beverage segment in the pricing data were concentrated in Product 3, which is non-agglomerated food and beverage grade xanthan gum, and the majority of *** shipments of that product were sold to ***.⁸⁶ Subject imports of Product 3 from *** sold to *** undersold the domestic like product in *** out of *** quarterly price comparisons.⁸⁷ On a volume basis, the overselling by subject imports from Austria accounted for approximately *** percent of their total sales during the POI.⁸⁸ Since the underselling was concentrated in lower-volume products and

⁷⁷ CR/PR at Table C-1. The ratio of subject imports from Austria to U.S. production was *** percent in 2010, *** percent in 2011, and *** percent in 2012. CR/PR at Table IV-12.

⁷⁷ CR/PR at Table C-1.

⁷⁸ There are *** domestic U.S. shipments in the all other segment and *** subject import shipments from Austria in the pharmaceutical or consumer segments. CR/PR at Table IV-4.

⁷⁹ CR/PR at Table II-7.

⁸⁰ CR at V-4-5, PR at V-3. Specifically, the Commission collected data for one pharmaceutical product, one consumer product, two products related to the food and beverage segment, one industrial product, and two oilfield segment products. *Id.*

⁸¹ CR at V-4, PR at 3.

⁸² CR at V-5, PR at 3.

⁸³ CR/PR at Table V-17.

⁸⁴ *Id.*

⁸⁵ CR/PR at Table IV-3.

⁸⁶ CR/PR at Table V-5 and Table V-6.

⁸⁷ CR/PR at Table V-6.

⁸⁸ Derived from CR/PR at Tables V-1 to V-14.

the overselling was concentrated in the highest-volume product, subject imports from Austria oversold the domestic like product with *** as they undersold it during the POI.

Notwithstanding that this indicates some underselling by subject imports from Austria, we do not find that U.S. prices were depressed in any of the market segments in which such imports had a major presence. For sales to ***, U.S. prices increased for all seven products, with U.S. prices for the large-volume non-agglomerated food and beverage xanthan gum increasing by *** percent, more than for any other product.⁸⁹ For sales to ***, U.S. prices increased for five out of seven products, including Product 3 by *** percent.⁹⁰ The two products for which U.S. prices decreased were both in the oilfield segment, a segment that accounted for *** percent of subject imports from Austria throughout the POI.⁹¹ We therefore do not attribute any U.S. price declines to subject imports from Austria.

We also do not find evidence that subject imports from Austria suppressed domestic like product prices. In the food and beverage market segment, the average unit value (“AUV”) of domestic shipments increased by *** between 2010 and 2012, which more than offset an increase in unit cost of goods sold of ***.⁹² Therefore, while the cost of producing xanthan gum increased, the average price received by the domestic industry within the segment increased by a greater amount, indicating that there was no cost-price squeeze.

Based on the foregoing, we find mixed underselling by subject imports from Austria. To the extent that there was underselling, however, we do not find that it caused adverse price effects in the U.S. market.

C. Impact of Subject Imports From Austria.

We do not find that subject imports from Austria had a significant adverse impact on the domestic industry during the POI. Although the volume of subject imports from Austria increased in absolute terms, subject import shipments from Austria increased at a much slower rate than apparent U.S. consumption, and Austrian subject import market share therefore decreased. Almost all of the subject imports from Austria were shipped to the food and beverage segment of the market. Subject imports from Austria were in the higher tier of that segment, and they did not cause significant adverse price effects there.

As discussed above, although the industry’s capacity, production, capacity utilization, and market share were relatively flat over the POI, its financial performance was mixed as sales and shipments increased while profitability fell sharply (including operating income on a per pound basis). Moreover, as the industry’s costs increased over the POI, its COGS/net sales ratio rose.

We find that neither the cost-price squeeze nor the decline in profitability is attributable to subject imports from Austria. We have attributed those adverse circumstances to subject imports from China competing aggressively in the oilfield segment of the U.S. market and, to a lesser degree, in the lower tier of the food and beverage segment. *** competed directly against subject imports from Austria in the higher tier of the food and beverage segment of the U.S. market,⁹³ and its financial performance in the U.S. market was in sharp contrast to ***.

⁸⁹ CR/PR at Table V-16.

⁹⁰ CR/PR at Table V-15.

⁹¹ CR/PR at Table V-15 (showing a decreased U.S. price for Products 6 and 7 for sales to distributors) and Table IV-3 (showing that the oilfield segment accounted for *** percent of shipments of imports from Austria throughout the POI).

⁹² CR/PR at Table III-4 (showing the AUV of domestic U.S. shipments of xanthan gum within the food and beverage segment); Table VI-1 (showing the unit COGS of U.S.-produced xanthan gum). We note that the unit COGS for U.S. shipments increased by ***.

⁹³ CR at VI-12, PR at VI-3. C.P. Kelco states that it focuses on higher-end, differentiated xanthan gum products. C.P. Kelco Posthearing Brief, Responses to Commissioner Questions at 27.

***'s sales in the U.S. market increased over the POI, in terms of both quantity and value. *** decreased from 2010 to 2011, as subject import volume from Austria decreased, but increased from 2011 to 2012, as subject import volume from Austria increased. ***. Similarly, ***.⁹⁴ These data reflect a lack of correlation between subject imports from Austria and *** financial performance in the U.S. market.⁹⁵

In sum, subject imports from Austria lost market share over the POI, did not cause significant adverse price effects, and did not have an adverse impact on the domestic industry. We thus do not find a causal link between subject imports from Austria and the adverse circumstances experienced by the industry, and we do not find that the industry was materially injured by reason of such imports.

D. CONCLUSION

For the reasons discussed above, we determine that an industry in the United States is materially injured by reason of imports of xanthan gum from China that are sold at less than fair value and that an industry in the United States is not materially injured by reason of imports of xanthan gum from Austria that are sold at less than fair value.

⁹⁴ CR/PR at Table VI-4a, Table C-1.

⁹⁵ We have considered Commerce's final antidumping duty margin of 29.98 percent for subject imports from Austria. CR/PR at Table I-1; 78 Fed. Reg. 33354-56 (June 4, 2013).

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by CP Kelco U.S. (“CP Kelco US”), Atlanta, GA, on June 5, 2012, 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 from Austria and China of xanthan gum.¹ Information relating to the background of the investigations is provided below.^{2 3}

Effective date	Action
June 5, 2012	Petition filed with Commerce and the Commission; institution of Commission investigations (77 FR 34997, June 12, 2012)
July 2, 2012	Commerce’s notice of initiation (77 FR 39210, July 2, 2012)
July 20, 2012	Commission’s preliminary determination (77 FR 43857, July 26, 2012)
January 10, 2013	Commerce’s preliminary determinations and postponement of final determinations (78 FR 2251 (Austria) and 78 FR 2252 (China), January 10, 2013); Commission institution of final phase investigations (78 FR 13379, February 27, 2013)
May 23, 2013	Commission’s hearing
June 4, 2013	Commerce’s final determinations (78 FR 33351 (China) and 78 FR 33354 (Austria), June 4, 2013.
June 20, 2013	Commission’s vote
July 2, 2013	Commission’s determinations and views to Commerce

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, table C-1. U.S. industry data are based on questionnaire responses of two firms that accounted for 100 percent of U.S. production of xanthan gum during January 1, 2010-December 31, 2012. U.S. imports are based on questionnaire responses of 15 firms that accounted for the majority of reported subject imports of xanthan gum during the period examined. Foreign industry data are based on questionnaire responses of seven firms: one from Austria and six from China.

¹ Xanthan gum agents are organic products normally used in the production of food and beverages, consumer applications, and oilfield and industrial applications. Xanthan gum is provided for in subheading 3913.90.20 of the Harmonized Tariff Schedule of the United States (“HTSUS”), a residual or “basket” category covering polysaccharides and their derivatives. The subheading has a normal trade relations tariff rate of 5.8 percent *ad valorem* applicable to imports from Austria and China.

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

³ App. B is a list of witnesses that appeared at the hearing.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--
shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

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

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

. . .

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of 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.

. . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

. . .

(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Organization of the Report

Part I of this report presents information on the subject merchandise, dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume of subject imports and pricing of domestic and imported products, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

U.S. MARKET SUMMARY

Xanthan gum is a hydrocolloid primarily used for its thickening and stabilizing properties in five market sectors: food and beverage products, pharmaceutical products, consumer goods, industrial uses, and oilfield uses. The U.S. producers of xanthan gum during the period examined were CP Kelco U.S. ("CP Kelco US") and Archer Daniels Midland Co. ("ADM"). Leading subject producers of xanthan gum include Jungbunzlauer Austria AG ("JBL Austria"), ***. The U.S. importer of xanthan gum from Austria is Jungbunzlauer Inc. ("JBL US"). The leading importers of xanthan gum from China are ***. Leading importers of xanthan gum from nonsubject countries in 2012 (France) include ***.

Apparent U.S. consumption of xanthan gum totaled approximately *** in 2012. Currently, two firms are known to produce xanthan gum in the United States. U.S. producers' U.S. shipments of xanthan gum totaled *** in 2012, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from subject sources totaled *** in 2012, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. shipments of imports from nonsubject sources totaled *** in 2012 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

RELATED INVESTIGATIONS

Xanthan gum has not been the subject of any prior countervailing or antidumping duty investigations in the United States.

THE NATURE AND EXTENT OF SALES AT LTFV

Table I-1 presents Commerce's final determinations of the final phase dumping margins for the subject countries. The period of investigation for the Austria dumping investigation is April 1, 2011 through March 1, 2012, and for the China dumping investigation is October 1, 2011 through March 31, 2012.⁴

⁴ 78 FR 2251 and 78 FR 2252, January 10, 2013.

Table I-1
Xanthan gum: Commerce’s final dumping margins, by sources

Country	Exporter	Producer and weighted-average dumping margin (percent ad valorem)
Austria	Jungbunzlauer Austria AG.....	Jungbunzlauer Austria AG..... 29.98
	All others..... 29.98
China	Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd)/Shandong Fufeng Fermentation Co., Ltd.....	Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd)/Shandong Fufeng Fermentation Co., Ltd..... 15.09
	Deosen Biochemical Ltd.....	Deosen Biochemical Ltd/Deosen Biochemical (Ordos) Ltd..... 128.32
	A.H.A. International Co., Ltd.....	Shandong Fufeng Fermentation Co., Ltd.....71.71
	A.H.A. International Co., Ltd.....	Deosen Biochemical Ltd..... 71.71
	CP Kelco (Shandong) Biological Co., Ltd.....	CP Kelco (Shandong) Biological Co., Ltd.....71.71
	Hebei Xinhe Biochemical Co. Ltd.....	Hebei Xinhe Biochemical Co. Ltd..... 71.71
	Shanghai Smart Chemicals Co. Ltd.....	Deosen Biochemical Ltd..... 71.71
	PRC-Wide Entity ¹ 154.07
¹ The PRC-wide entity includes Shandong Yi Lian Cosmetics Co., Ltd.; Shanghai Echem Fine Chemicals Co., Ltd.; Sinotrans Xiamen Logistics Co., Ltd.; and Zibo Cargill HuangHelong Bioengineering Co., Ltd.		
Source: Commerce’s Final Determinations of Sales at Less than Fair Value (78 FR 33351 and 78 FR 33354, June 4, 2013).		

THE SUBJECT PRODUCT

Scope

The imported product subject to these investigations is defined by Commerce as:

dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in these investigations regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber.

Xanthan gum that has been blended with other product(s) is included in this scope when the resulting mix contains 15 percent or more of xanthan gum by dry weight. Other products with which xanthan gum may be blended include, but are not limited to, sugars, minerals, and salts.

Xanthan gum is a polysaccharide produced by aerobic fermentation of Xanthomonas campestris. The chemical structure of the repeating pentasaccharide monomer unit consists of a backbone of two P-1,4-D-Glucose-monosaccharide units, the second with a trisaccharide side chain consisting of P-D-Mannose-(1,4)-P-D-Giucuronic acid-(1,2)-a-D-Mannose monosaccharide units. The terminal mannose may be pyruvylated and the internal mannose unit may be acetylated.

Merchandise covered by the scope of these investigations is classified in the Harmonized Tariff Schedule of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.

Tariff Treatment

During the period of investigation, xanthan gum was provided for in Harmonized Tariff Schedule of the United States (“HTS”) subheading 3913.90.20, polysaccharides and their derivatives. This is a residual or “basket” category covering products in addition to the subject product. The subheading has a normal trade relations tariff rate of 5.8 percent *ad valorem* applicable to imports from Austria and China.

Physical Characteristics and Uses

Xanthan gum is a polysaccharide that is produced from the fermentation of the *Xanthomonas campestris* bacteria.⁵ It has desirable chemical properties for multiple product applications due to its unique molecular structure as a naturally derived stabilizer of water-based solutions.⁶ It is marketed in the form of a milled, granular powder that is extracted from the production process. It has a high viscosity⁷ at low concentration levels, meaning that small concentrations of xanthan gum can be very effective in thickening a liquid. Xanthan gum also has a high degree of shear-thinning⁸ at low shear rates. When a shear force⁹ is applied to the liquid, such as through stirring or shaking, the viscosity decreases, allowing for easier flow of the solution.¹⁰ Xanthan gum also has properties that allow solutions to continually reform to the initial viscosity level when shear force is removed.¹¹ Xanthan gum exhibits little sensitivity to a solution’s pH levels, temperatures, cold water solubility, or ionic strength.¹² These attributes combine to make xanthan gum unique when compared with other hydrocolloids, such as gelatin, agar gum, or pectin.¹³ However, there appears to be at least a limited degree of market substitution between xanthan gum and other hydrocolloids, particularly guar gum and carboxymethylcellulose (CMC).¹⁴

Xanthan gum is a hydrocolloid used for its thickening and stabilizing properties, used primarily in five sectors: food and beverage products, pharmaceutical products, consumer goods, industrial uses, and

⁵ Petition, Vol. I, p. 5.

⁶ F. Garcia-Ochoa, et al. “Xanthan gum: production, recovery, and properties.” *Biotechnology Advances*, Vol. 18. (2000): 551.

⁷ Viscosity describes a fluid’s resistance to flow. A fluid with high viscosity does not flow quickly.

⁸ Shear-thinning refers to the lowering of the viscosity when a shear force is applied to the fluid.

⁹ Shear force occurs when a force is applied parallel to the plane of contact.

¹⁰ Petition, Vol. I, p. 8.

¹¹ Xanthan gum is characterized as having a high elastic modulus and low degree of thixotropy. These are the technical measurements to describe the resilience and response to the addition or removal of shear force. Petition, Vol.1, p. 8-9; Conference transcript, p. 34 (Viala).

¹² Petition, Vol. I, p. 9.

¹³ Petition, Vol. 1, p. 10; Petition, Exhibit 18; Conference transcript, p. 31 (Viala).

¹⁴ Conference transcript, p. 98 (Viala); Respondent TIC Gum’s postconference brief, appendix, p. 8; Chinese Respondents’ postconference brief, pp. 38-39; Petitioner’s postconference brief, p. 21.

oilfield uses.¹⁵ For each grade, the product retains its functional chemical properties. However, there is differentiation since each use must follow certain regulatory standards. These grades primarily address how the xanthan gum is recovered from the manufacturing process, and the levels of impurities remaining in the product.¹⁶ As a result, xanthan gum produced for use in food and beverage or consumer goods and pharmaceuticals can often be marketed for industrial purposes, but not vice versa.¹⁷ Additionally, there are consumer demands for various other specifications such as additional coating of the product, granule size, the use of non-Genetically Modified Organisms (GMO) feedstocks, and packaging of the xanthan gum.¹⁸ These specifications affect the application's properties such as, how the xanthan gum dissolves in the solution, the clarity solution with the dissolved xanthan gum, viscosity of the solution in certain environments, and convenience for the end user's manufacturing process.

Xanthan gum is used for industrial purposes, such as fabric and home care products, and paint and coating products. The chemical's structural properties are also useful in oilfield drilling when a rheology agent or viscosifier is required under extreme conditions.¹⁹ Xanthan gum's ability to create suspension to water-based drilling fluid allows for the removal of rock and debris from the drilling area.²⁰ Additionally, xanthan gum is used in other household and industrial chemical products for its suspension properties.²¹ Xanthan gum, again, serves as a suspension agent, allowing for an equal distribution of components within a product that would otherwise separate due to different densities. Xanthan gum is particularly well suited for these products due to its insensitivity to alkaline conditions, which is an environment that other stabilizers cannot effectively perform.²²

Xanthan gum is a common component in food and beverage systems, particularly condiments, beverages, syrups, baked goods and bakery products, and prepared foods. It is also used as a stabilizer and thickener for foods without affecting flavor.²³ In condiments, its shear-thinning qualities allow for easy pouring characteristics, while its viscosity keeps ingredients from separating in the packaging.²⁴ Xanthan gum also provides elasticity to dough and baked products, allowing for the entrapment of air in the finished baked good. It is often used as a replacement to gluten to provide structure to the baked good.²⁵ It is also used as a stabilizer for beverages, such as fruit juices, dairy products, and low-sugar beverages.²⁶ It is used, particularly, in low-sugar or sugar-free beverages to provide the texture that an

¹⁵ Petition, Vol. I, p. 6. In the final phase of these investigations, the consumer goods and pharmaceutical products and industrial and oilfield sectors were broken out separately. With food and beverage, the final phase of these investigations gathered information on five named end-use sectors and an "all other" category.

¹⁶ Petitioner's postconference brief, p. 17.

¹⁷ Petition, Vol. 1, pp. 20-21

¹⁸ Conference transcript, p. 43 (Viala); Conference transcript, pp. 69-72 (Bowman and Viala); Respondent TIC Gum's postconference brief, appendix p. 4.

¹⁹ Petition, Vol. 1, p. 14.

²⁰ Petition, Vol. 1, p. 14.

²¹ Examples of such products include home care and fabric cleaners, paints and coatings, and agricultural chemicals; Petition, Vol. 1, p. 15.

²² Petition, Vol. 1, p. 15.

²³ Petition, Exhibit 18.

²⁴ Petition, Vol. 1, p. 13.

²⁵ Petition, Vol. 1, p. 13.

²⁶ Petition, Vol. 1, p. 13; F. Garcia-Ochoa, et al. "Xanthan gum: production, recovery, and properties." *Biotechnology Advances*, Vol. 18. (2000): 551.

artificial sweetener cannot mimic.²⁷ Xanthan gum's low inclusion rates for food and beverages (from about 0.05% to 0.2%) allows for it to be easily included into a recipe for its structural functionality.²⁸

Xanthan gum is used for a number of consumer good applications as well. These products include toothpaste, sun screen, and pharmaceuticals, such as amoxicillin.²⁹ The product provides thickening and stabilizing properties to these products. It keeps ingredients from separating while in the packaging, for instance. This is important, in that it keeps the ingredients of the products evenly distributed for all applications, instead of having certain ingredients settle based on relative density.³⁰

Manufacturing Process

Xanthan gum is produced from the fermentation of the bacteria strain *Xanthomonas campestris*. The production process requires maintaining the bacteria strain used for culture; providing carbohydrate, nitrogen, and micronutrient sources to initiate the fermentation process; extracting and refining the xanthan gum from the culture; milling the product into a powder; and finally packaging it for distribution.³¹

The production process begins with fermentation of the bacteria. First, selected strains of *Xanthomonas capestris* must be properly maintained and stored for continuous production. A small amount of the strain is expanded in a shake flask, and then further reproduced in a seed tank for scalable expansion, to create the inoculum for large bioreactors.³² Next it is placed in a bioreactor where it interacts with a carbohydrate source (typically a corn derivative, such as corn starch), a nitrogen source (such as casein hydrolysates, soybean meal, or distillers' solubles), micro-minerals, and water.³³ At the end of this step xanthan gum broth is produced, which contains xanthan, bacterial cells, and other chemicals.³⁴

Recovery of the xanthan gum begins by removing the cell debris using either filtration or centrifugation.³⁵ Next alcohol (such as isopropanol, ethanol, or acetone) is added to broth to separate the xanthan gum from water, creating a xanthan gum fiber. The resulting residual mixture of alcohol, water, cellular debris, and nutrients is distilled to recover the alcohol; while the other residual material is sent to a water waste treatment facility.

²⁷ Petition, Vol. 1, p. 13-14; Conference transcript, p. 113 (Marzulli).

²⁸ F. Garcia-Ochoa, et al. "Xanthan gum: production, recovery, and properties." *Biotechnology Advances*, Vol. 18. (2000): 551.

²⁹ Petition, Vol. 1, p. 12.

³⁰ Petition, Vol. 1, p. 12.

³¹ Petition, Vol. I, pp. 15-17; F. Garcia-Ochoa, et al. "Xanthan gum: production, recovery, and properties." *Biotechnology Advances*, Vol. 18. (2000): 551, 556.

³² Petition, Vol. I, p. 16.

³³ Petition, Vol. I, p. 16; Petition, Exhibit 16; F. Garcia-Ochoa, et al. "Xanthan gum: production, recovery, and properties." *Biotechnology Advances*, Vol. 18. (2000): 551.

³⁴ F. Garcia-Ochoa, et al. "Xanthan gum: production, recovery, and properties." *Biotechnology Advances*, Vol. 18. (2000): 551.

³⁵ F. Garcia-Ochoa, et al. "Xanthan gum: production, recovery, and properties." *Biotechnology Advances*, Vol. 18. (2000): 551.

The xanthan gum fiber is then dried, milled to a particular granule size, and packaged into specified quantities.³⁶ The product may also be coated with non-water soluble material, such as cottonseed oil or lecithin, to aid in the dispersal of the xanthan gum particles when placed in a solution.³⁷ At this point, the xanthan gum is marketable.

Xanthan gum production requires that facilities meet standards set by the Environmental Protection Agency for wastewater.³⁸ For industrial grade xanthan gum, this is the main regulatory concern with the production process. In order for xanthan gum to qualify as “food grade,” the FDA requires certain processes and tests be done, as does the USDA for certain meat and dairy products.³⁹ First, the FDA requires that the strain of *Xanthomonas campestris* be nonpathogenic and nontoxic to humans and animals. Second, it requires that the recovery process renders no viable cells of the strain. There are also specifications that the residual isopropyl used in the recovery process must not exceed 750 parts per million; the final product must meet certain viscosity properties; the product must also pass two specified laboratory tests; and finally, the product must have proper labeling and use information.⁴⁰

CP Kelco reported that xanthan gum produced in China and Austria is identical to US product, with price being the only differential. However, CP Kelco also characterizes market pricing as based on a combination of a baseline price combined with a premium depending on purchaser’s technical requirements⁴¹ and ***.⁴²

Other market participants assert that xanthan gum is not a commodity good. Multiple purchasers and producers cite the importance of product quality as a factor in purchasing decisions.⁴³ Jungbunzlauer and Deosen characterize the technical requirements of purchasers as highly specific to their production processes, leading to reluctance to change suppliers⁴⁴ and little overlap of customers between producers.⁴⁵ Jungbunzlauer and Deosen state that these factors result in a fragmented, not commodity, market with differences in pricing between and within market segments and attenuated competition.⁴⁶

DOMESTIC LIKE PRODUCT

The Commission’s determination regarding the appropriate domestic products that are “like” the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

In the preliminary phase, petitioner argued that the Commission should find a single domestic like product that is coterminous with the scope. Petitioner concluded that there is a continuum of domestically produced products corresponding to the scope of the investigations, with no clear dividing lines based on chemical or physical form, grade, or product type. Petitioner cited xanthan gum’s unique structure which enables the molecule to provide its functional benefits across a vast array of end use applications; significant interchangeability among different grades of xanthan gum across end use

³⁶ Petition, Vol. 1, p. 17; F. Garcia-Ochoa, et al. “Xanthan gum: production, recovery, and properties.” *Biotechnology Advances*, Vol. 18. (2000): 551.

³⁷ Petitioner’s Response to Supplemental Questions Concerning Volume II and III of the Petition, p. 12.

³⁸ Conference transcript, p. 40 (Viala).

³⁹ 21 C.F.R 172.695 (2011); Conference transcript, p. 40 (Viala).

⁴⁰ 21 C.F.R 172.695 (2011).

⁴¹ Hearing transcript, pp.38 & 62 (Viala).

⁴² ***’s U.S. producer questionnaire revisions, May 17, 2013 (section IV-8).

⁴³ Halliburton Post-hearing brief, p. 2; Hearing transcript, p. 161 (Rainville); p. 169 (Marzulli); p. 181 (Bolen); p. 197 (Magrath).

⁴⁴ Jungbunzlauer Post-hearing brief, p. 4; Hearing transcript, p. 175 (Marzulli).

⁴⁵ Deosen Post-hearing brief, p. 4; Jungbunzlauer Post-hearing brief, pp. 24.

⁴⁶ Deosen Post-hearing brief, pp. 2-3; Jungbunzlauer Post-hearing brief, p. 24.

applications; similar channels of distribution for xanthan gum to all end use applications; perception of xanthan gum as part of a continuum due to its interchangeability across applications and because the xanthan gum structure-function remains the same regardless of the end-use market segment; common manufacturing facilities, the same general production process, and the same employees; and price overlap among markets with variation in average unit values depending on regulatory restriction, packaging, and end use application.⁴⁷ Respondents raised no objection to Petitioner’s proposed definition of domestic like product.

In the preliminary phase, the Commission defined the domestic like product as certain xanthan gum consistent with the scope of these investigations. The Commission’s basis for its definition cited all grades of xanthan gum are derived from fermentation of the bacteria *Xanthomonas campestris* and, as such, each grade shares the same basic physical characteristics, chemical composition, and are used in three major end-use applications (food and beverage, oil and industrial applications, and consumer applications)⁴⁸ generally as a thickening or stabilizing agent; somewhat limited interchangeability among the various grades of xanthan gum because lower-level purity grades (e.g. those used in the oil segment) cannot be used in products that require higher purity levels due to government regulations (e.g. food products); different grades are generally sold in the same channels of distribution with most xanthan gum being sold directly to end-users and the remainder to distributors; all xanthan gum is made in similar manufacturing facilities, using similar production processes and employees; all grades of xanthan gum are perceived by both producers and customers to be the same product, although certain food and consumer product grades must meet the necessary regulatory requirements; and that while prices vary among the end-use industries, food grades and consumer grades are required to be free from microbacterial contamination, and as such, these grades are generally higher priced than oil grades.⁴⁹

⁴⁷ Petition, Vol. 1, pp. 19-23.

⁴⁸ As stated previously, the five named end-use sectors for the final phase of these investigations are: food and beverage, pharmaceutical, consumer, industrial, and oilfield, with an “all other” category to capture material not classifiable under these specific end-use sectors.

⁴⁹ USITC Publication 4342, “*Xanthan Gum from Austria and China, Investigation Nos. 731-TA-1202-03 (Preliminary)*”, July 2012, pp. 5-6.

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

INTRODUCTION

Xanthan gum is a natural, biodegradable hydrocolloid with unique thickening and stabilizing properties which allow it to be used in a variety of end-use applications. These include food and beverage, pharmaceuticals, consumer products, industrial products, and oilfield applications.¹

CHANNELS OF DISTRIBUTION

U.S. producers and importers of product from Austria and China and all other import sources reported that the majority of shipments of xanthan gum went to end users rather than distributors during 2010-12 (table II-1).

GEOGRAPHIC DISTRIBUTION

U.S. producers and importers of xanthan gum from China sell throughout the continental United States and in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.² The importer from Austria sells throughout the continental United States. Among 14 responding importers, 10 sell throughout the continental United States and four only sell in one or more specific areas of the United States.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, the U.S. industry has the ability to respond to changes in demand with large changes in the quantity of shipments of xanthan gum to the U.S. market. The main contributing factors to this degree of responsiveness of supply are ***.

Industry capacity

The U.S. industry's annual capacity remained stable at *** million pounds annually during 2010-12. During this period, the capacity utilization rate increased from *** percent in 2010 to *** percent in 2011 as production increased, and then declined to *** percent in 2012 as production decreased.

Industry capacity

The U.S. industry's annual capacity remained stable at *** million pounds annually during 2010-12. During this period, the capacity utilization rate increased from *** percent in 2010 to *** percent in 2011 as production increased, and then declined to *** percent in 2012 as production decreased.

¹ See Petition, p. 6.

² Producer and importer questionnaire responses.

Table II-1

Xanthan gum: U.S. producers' and importers' shares of reported U.S. shipments, by source and channel of distribution, 2010–12

Item	Year		
	2010	2011	2012
Share of reported shipments (<i>percent</i>)			
Domestic producers' U.S. shipments of xanthan gum:			
Distributors	***	***	***
End users	***	***	***
U.S. importers' U.S. shipments of xanthan gum from Austria to:			
Distributors	***	***	***
End users	***	***	***
U.S. importers' U.S. shipments of xanthan gum from China to:			
Distributors	32.0	30.5	34.5
End users	68.0	69.5	65.5
U.S. importers' U.S. shipments of xanthan gum from all other sources:			
Distributors	***	***	***
End users	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

Alternative markets

During 2010-12, U.S. producers' exports ranged from a *** percent of total shipments in 2012 to *** in 2011.

Inventory levels

The ratio of end-of-period inventories to total shipments increased from *** percent in 2010 to *** percent in 2011 and then decreased to *** percent in 2012.

Production alternatives

CP Kelco produces ***. The other U.S. producer, ADM, ***.

Foreign Supply

Subject Imports From Austria ³⁴

Based on available information, the only Austrian producer, Jungbunzlauer, has the ability to respond to changes in demand with *** changes in the quantity of shipments of xanthan gum to the U.S. market. The main contributing factors to this degree of responsiveness of supply are ***.

Industry capacity

Jungbunzlauer's capacity increased from *** million pounds annually during 2010-11 to *** million pounds in 2012. It is projected to remain at that level during 2013 and 2014. During 2010-12, Jungbunzlauer's capacity utilization ranged from a low of *** to a high of ***. It is projected to be *** percent in 2013 and *** percent in 2014.

Alternative markets

The majority of Jungbunzlauer's shipments are ***.⁵ Jungbunzlauer ***. Exports to markets other than the United States ranged from a low of *** percent of total shipments in 2010 to a high of *** percent in 2011. They are projected to account for *** percent of total shipments in 2013 and *** percent in 2014.

Inventory levels

Jungbunzlauer's ratio of end-of-period inventories to total shipments was *** percent in 2010, *** percent in 2011, and *** percent in 2012. The ratio is projected to be *** percent and *** percent for 2013 and 2014, respectively.

Production alternatives

Jungbunzlauer ***.

Subject Imports From China ⁶⁷

Available information indicates that the Chinese industry has the ability to respond to changes in demand with moderate changes in the quantity of shipments of xanthan gum to the U.S. market. The main contributing factors to this degree of responsiveness of supply are moderately high capacity utilization rates, the existence of large alternative markets, and moderate inventory levels.

³ During 2010-12, Jungbunzlauer accounted for ***.

⁴ Data presented below concerning industry capacity, alternative markets and inventory levels for Jungbunzlauer is from table VII-1.

⁵ In addition to the United States, Jungbunzlauer ***.

⁶ During 2010-12, reported U.S. imports from China were equal to approximately *** percent of reported Chinese export shipments to the United States.

⁷ Data presented below concerning industry capacity, alternative markets, and inventory levels for China is from table VII-4.

Industry capacity

Chinese capacity increased from *** million pound in 2010 to *** million pounds in 2011 and to *** million pounds in 2012. It is projected to be *** million pounds in both 2013 and 2014. During 2010-12 capacity utilization rates ranged from a low of *** percent in 2011 to a high of *** percent in 2012. It is projected to be *** percent in 2013 and 2014.

Alternative markets

The majority of shipments of Chinese product is to non-U.S. export markets.⁸ Exports to markets other than the United States ranged from a low of *** percent of total shipments in 2012 to a high of *** percent in 2010. They are projected to account for *** percent of total shipments in 2013 and *** percent in 2014.

Inventory levels

The ratio of end-of-period inventories to total shipments for Chinese producers declined from *** percent in 2010 to *** percent in 2011 and to *** percent in 2012. The ratio is projected to be *** percent in 2013 and *** percent in 2014.

Production alternatives

***.

Supply constraints

When producers and importers were asked whether they had refused, declined, or been unable to supply xanthan gum at any time since January 1, 2010, both producers answered “no.” Among importers, 7 answered “yes” and 7 answered “no.” Among the 7 answering yes, one reported that imports from China declined due to the application of antidumping duties. Others reported that xanthan gum was consistently in short supply during this period. One importer reported that its customers for imports from China were on allocation between November 2011 and October 2012. Another importer reported that it placed imports from China on allocation to selected customers beginning in October 2012.

In a related question, purchasers were asked whether any of their suppliers had refused, declined, or been unable to supply xanthan gum since January 1, 2010. Of the 34 responding purchasers, 13 answered “yes” and 21 answered “no.” Responses by purchasers that answered “yes” were widely varied with U.S.-produced and imported xanthan gum from Austria and China all reportedly under allocation during this period.

U.S. Demand

The demand for xanthan gum is driven by demand in major end-use markets including food and beverage, pharmaceutical, consumer, industrial, and oilfield applications.⁹ Detailed breakouts of U.S.

⁸ In addition to the United States, China’s export markets include Canada, the European Union, Latin America, the Middle East, Russia, South Africa, and Southeast Asia.

⁹ Although xanthan gum accounts for a relatively small share of the cost of end-use products in which it is used, evidence of the availability of substitute products, as discussed later in this section, suggests that demand is moderately sensitive to changes in price.

shipments by category for U.S. producers, the Austrian importer, Jungbunzlauer, and importers of Chinese product are presented in tables IV-3 and IV-4 for 2010-12. During 2012, the largest shares of U.S. shipments went to ***. For Austria, the largest end-use applications were ***. For China, the largest share of U.S. shipments went to ***.

Overall consumer demand, as measured by quarterly changes in personal consumption expenditures during January 2010- March 2013,¹⁰ was at its highest levels during the fourth quarter of 2010 (figure II-1).

Apparent Consumption

Apparent consumption of xanthan gum decreased from 55.3 million pounds in 2010 to 54.5 million in 2011 and then increased to 74.0 million pounds in 2012.

Demand Perceptions

The majority of questionnaire respondents reported that demand for xanthan gum has increased since January 1, 2010. Both U.S. producers reported an increase in demand. Among importers, 12 reported that demand had increased, 1 reported no change in demand, and 2 reported that demand has fluctuated. Among responding purchasers, 17 reported that demand has increased, 5 reported no change, and 4 reported that demand has fluctuated. Firms reporting an increase in demand often cited increasing demand for use in oil drilling and in food and consumer products as contributing factors. Some respondents that consider guar gum to be a substitute for xanthan gum cited tight supplies of guar gum as a factor contributing to increased demand for xanthan gum.

End-use purchasers of xanthan gum were asked whether the demand for their end-use products incorporating xanthan gum had increased, remained unchanged, decreased, or fluctuated since 2010. Of 26 responding purchasers, 13 reported that demand had increased, 6 reported no change, 1 reported that demand had decreased, and 6 reported that demand had fluctuated. When asked whether the xanthan gum market is subject to business cycles or conditions of competition (including seasonal business) distinctive to xanthan gum, both U. S. producers answered “yes.” Among 14 responding importers 7 answered “yes” and 7 answered “no.” Among 30 responding purchasers, 7 answered “yes” and 23 answered “no.” Some firms answering “yes” reported that the oil and gas industries tend to be cyclical and subject to international forces. One importer reported that there is a slight seasonal increase in demand in spring and early summer to meet demand for salad dressings, sauces, and beverages.

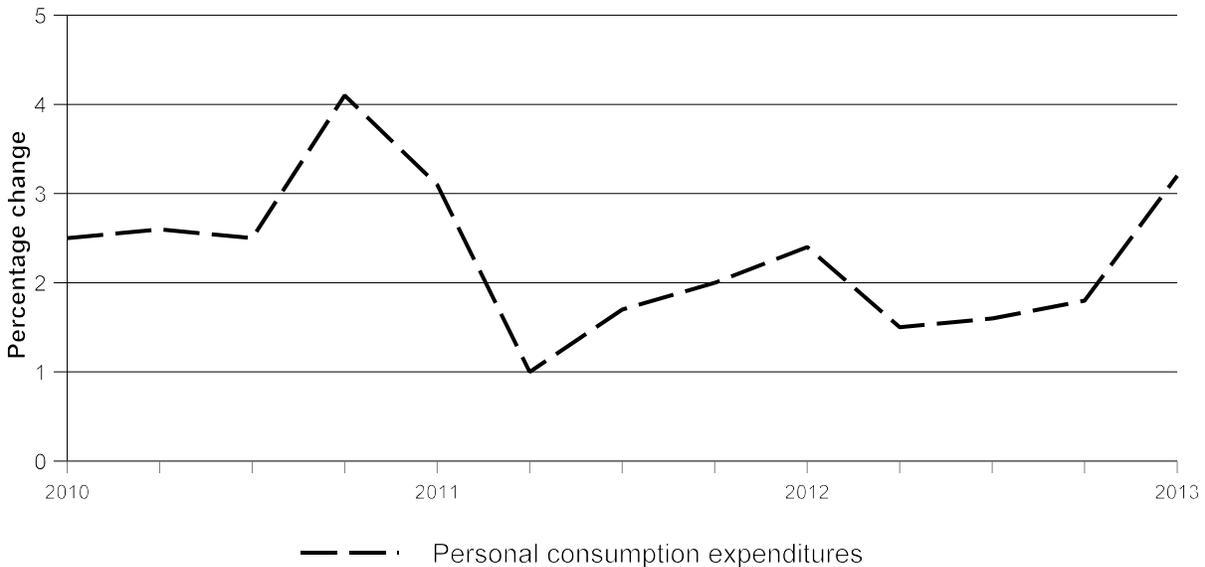
Substitute Products

When asked if guar gum is a substitute for xanthan gum, responses were mixed. Both U.S. producers reported that it is not a substitute.¹¹ Among 15 responding importers, 9 answered “yes” and 6 answered “no.” Among 34 responding purchasers, 11 answered “yes” and 23 answered “no.”

¹⁰ At the conference, the Vice President of marketing for CP Kelco stated that demand for xanthan gum tends to follow consumer spending trends. Conference transcript p. 78 (Bowman).

¹¹ In their prehearing brief, the petitioner stated that substitutability between guar gum and xanthan gum is limited due to the different structure of the two hydrocolloids. It stated that with the exception of certain baked goods, there are limited overlaps in the use of guar and xanthan gum. Petitioner’s prehearing brief, p. 5. However, the respondent Doesen stated in their prehearing brief that guar gum is an important substitute for xanthan gum, most commonly in food applications. Curtis-Mallet prehearing brief, pp. 75-76.

Figure II-1
Percent changes in real personal consumption expenditures, by quarters, January 2010-March 2013



Source: Bureau of Economic Analysis, U.S. Department of Commerce.

Substitution was most frequently cited for food applications. Of the 9 importers that consider guar gum a substitute, 8 reported that changes in guar gum prices have affected the price or demand for xanthan gum since January 1, 2010, and one reported that they have not. Among the 11 purchasers that consider guar gum a substitute for xanthan gum, 6 reported that changes in the price of guar gum have affected the price or demand for xanthan gum since January 1, 2010, while the others reported that they have not or reported that they didn't know. In addition to guar gum, questionnaire respondents were asked if other products could be substituted for xanthan gum. While many of the respondents reported that substitutes do not exist, some did list substitutes, though in most cases they reported that changes in the prices of these substitutes do not affect the price or demand for xanthan gum. Substitutes cited included acacia gum, carboxymethylcellulose (CMC), polyanionic cellulose (PAC), starches, and welan gum.

Cost Share

Questionnaire responses indicate that xanthan gum accounts for a small share of the cost of end-use products where it is used. For dressings and sauces, estimates ranged from much less than 1.0 percent to 5.0 percent, for dairy products, 2.0 percent or less, for pet shampoo, 7.0 percent, for dish detergent, 6.3 percent, for toothpaste, 4.0 percent, for drilling muds, 0.7 percent to 11.7 percent, and for cakes mixes, frosting mixes, and muffin mixes, as little as 0.1 percent.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported xanthan gum depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is fairly close substitutability between U.S.-produced xanthan gum and imports from Austria and China.¹²

Lead Times

For CP Kelco, ***.¹³ For ADM, ***. The average producer lead times for CP Kelco is ***.¹⁴ For ADM, lead times ***. Among 11 responding importers, 10 reported that 70 percent or more of their sales were from inventory with 4 reporting that all of their sales are from inventories. For items sold from importer inventories, lead times range from 1 to 14 days, and for items produced to order lead times range from 14 to as much as 90 days. One importer reported that sales from its foreign manufacturer's inventory is 39 days.

Purchasers

Thirty-three¹⁵ xanthan gum purchasers submitted questionnaires including 23 that purchased U.S.-produced xanthan gum during the 2010-12 period, 18 that purchased Austrian imports, 22 that purchased Chinese imports, and 5 that reported purchases of imports from France. The majority of the purchasers functioned as end users or manufacturers that use xanthan gum in many food products such as salad dressings, sauces, spreads, ice cream and consumer products, and oilfield products.¹⁶ Purchasers also included distributors, resellers, and blenders. The combined purchases by these firms in 2012 involved 34.9 million pounds valued at \$104.0 million, an amount equal to 46.5 percent of the total value of consumption in that year.

Factors Affecting Purchasing Decisions

Table II-2 summarizes the questionnaire responses by purchasers concerning the top three factors that they consider when purchasing xanthan gum. As indicated in the table, quality, price or cost, and availability tend to be the most important considerations.

Purchasers were also asked how often their firm purchases xanthan gum at the lowest possible price. Of the 34 responding purchasers, 1 answered "always," 7 answered "usually," 14 answered "sometimes," and 12 answered "never."

¹² See tables II-5 and II-6.

¹³ CP Kelco did report xanthan gum inventories. ***.

¹⁴ ***.

¹⁵ One purchaser, ***, which uses xanthan gum separately for ***, answered some questions separately for the two products on certain questions. As a result, there were 34 responses for some purchaser questions.

¹⁶ Purchaser questionnaires were submitted by four of CP Kelco's ten largest purchasers in 2012 including ***.

Table II-2

Xanthan gum: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	3	5	4
Price	2	8	13
Quality	17	7	3
Other ¹	12	13	11

¹ Other factors include consistency, delivery time, food safety, lead time, long term supplier, meeting specifications, reliability, and service.

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

Purchasers were asked to indicate whether the 15 factors listed in table II-3 were “very important,” “somewhat important,” or “not important” in their purchasing decisions. The factors most frequently ranked “very important” were product consistency (34 purchasers), and availability, quality meets industry standards, and reliability of supply (32 purchasers each). Other important factors are delivery time (27 purchasers) and price (24 purchasers).

Table II-3
Xanthan gum: Importance of purchasing factors, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	32	1	1
Delivery terms	17	14	3
Delivery time	27	7	0
Discounts offered	4	20	10
Extension of credit	8	13	13
Price	24	9	1
Minimum quantity requirements	10	14	10
Packaging	12	17	5
Product consistency	34	0	0
Quality meets industry standards	32	2	0
Quality exceeds industry standards	14	14	5
Product range	11	16	7
Reliability of supply	32	2	0
Technical support/service	15	16	3
U.S. transportation costs	7	18	9

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

Purchasers were also asked to compare U.S.-produced xanthan gum with imports from Austria and China with respect to the 15 characteristics listed in table II-4, noting whether the domestic product was superior, comparable, or inferior to the imported product. In the case of Austria, a majority of purchasers ranked the products as comparable in all categories. For China, a majority or plurality of purchasers ranked the products comparable in all respects except price where a majority ranked the United States inferior to China.

Table II-4**Xanthan gum: Purchasers comparisons of domestic and subject imported products**

Factor	Number of firms reporting					
	U.S. vs. Austria			U.S. vs. China		
	S	C	I	S	C	I
Availability	3	11	4	7	15	6
Delivery terms	3	15	0	7	20	1
Delivery time	3	11	4	10	16	2
Discounts offered	0	16	0	0	22	5
Extension of credit	0	15	1	4	21	2
Price	1	10	6	1	8	19
Minimum quantity requirements	1	16	0	4	22	2
Packaging	0	18	0	3	23	2
Product consistency	0	18	0	11	16	1
Quality meets industry standards	0	17	1	3	23	2
Quality exceeds industry standards	0	16	1	10	16	2
Product range	4	11	1	10	15	2
Reliability of supply	3	13	2	8	15	5
Technical support/service	2	14	2	11	14	3
U.S. transportation costs	2	14	1	7	18	2
Note.—S = domestic product superior, C = domestic product comparable, I = domestic product inferior.						
Source: Compiled from data submitted in response to Commission questionnaires.						

Purchasers were also asked to compare imports from Austria with imports from China in the 15 characteristics (table II-5). A majority of purchasers ranked Austria superior to China in product consistency and technical support, while China was ranked superior in price. In all other characteristics the products from the two countries were ranked comparable by a majority of purchasers except reliability of supply where eight of 17 purchasers ranked the Austrian product superior to China, and eight ranked Austria and China comparable.

Table II-5
Xanthan gum: Purchasers comparisons of Austrian and Chinese products

Factor	Number of firms reporting		
	Austria vs. China		
	S	C	I
Availability	6	10	1
Delivery terms	3	14	0
Delivery time	7	10	0
Discounts offered	0	15	1
Extension of credit	1	14	1
Price	0	6	10
Minimum quantity requirements	2	15	0
Packaging	2	14	1
Product consistency	9	8	0
Quality meets industry standards	3	14	0
Quality exceeds industry standards	6	11	0
Product range	7	8	1
Reliability of supply	8	8	1
Technical support/service	9	8	0
U.S. transportation costs	4	12	0
Note.-S = domestic product superior, C = domestic product comparable, I = domestic product inferior. Note.- Some firms did not rank all of the characteristics. Source: Compiled from data submitted in response to Commission questionnaires.			

Comparisons of Domestic Products and Subject and Nonsubject Imports

To determine whether U.S.-produced xanthan gum can generally be used in the same applications as imports from Austria and China, U.S. producers and importers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably. U.S. producers and a majority of importers and purchasers reported that they are “always” or “frequently” interchangeable (table II-6).

Table II-6
Xanthan gum: Perceived degree of interchangeability of product produced in the United States and in other countries, by country pairs

Country pair	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. Austria	***	***	***	***	3	6	2	0	11	8	3	1
U.S. vs. China	***	***	***	***	3	5	6	0	6	13	6	2
U.S. vs. nonsubject	***	***	***	***	1	2	1	0	4	3	0	0
Austria vs. China	***	***	***	***	3	3	4	0	5	9	5	0
Austria vs nonsubject	***	***	***	***	1	1	1	0	4	3	0	0
China vs. nonsubject	***	***	***	***	1	2	1	0	4	4	0	0

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.
Source: Compiled from data submitted in response to Commission questionnaires.

Firms were also asked how often differences in factors other than price between the U.S.-produced products and imports from Austria and China were a significant factor in their sales of xanthan gum (table II-7). Both U.S. producers reported that such factors are "never" important. Among importers and purchasers responses were widely varied as shown in the table.

Table II-7
Xanthan gum: Perceived importance of factors other than price between product produced in the United States and in other countries, by country pairs

Country pair	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. Austria	***	***	***	***	0	6	2	2	4	4	6	8
U.S. vs. China	***	***	***	***	4	6	2	2	5	8	8	7
U.S. vs. nonsubject	***	***	***	***	0	3	1	1	2	0	2	3
Austria vs. China	***	***	***	***	2	4	1	2	4	5	4	5
Austria vs nonsubject	***	***	***	***	0	1	1	1	2	0	1	3
China vs. nonsubject	***	***	***	***	0	3	1	1	2	0	2	4

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.
Source: Compiled from data submitted in response to Commission questionnaires.

When purchasers were asked whether there are certain applications where only U.S.-produced xanthan gum rather than imports from Austria or China can be used, eight of 30 responding purchasers answered "yes" and 22 answered "no." One purchaser reported that some of its customers have a "no

Chinese” policy.¹⁷ Some purchasers insist on U.S.-produced xanthan gum because of quality considerations, or because foreign producers have not been qualified by their company.

Purchasers were also asked specifically whether there are quality problems with imports from China that limit their use in certain applications. Nine of 27 purchasers answered “yes” and 18 answered “no.” One problem cited by two of the eight purchasers was inconsistent quality. One purchaser reported that Chinese products have been recalled. Another reported that the Chinese product has a variable particle size and a yellow tint.

ELASTICITY ESTIMATES

This section discusses elasticity estimates; parties were encouraged to comment on these estimates in their prehearing or posthearing briefs but none commented.

U.S. Supply Elasticity

The domestic supply elasticity for xanthan gum measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of xanthan gum. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the ease with which producers can alter capacity, producers’ ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced xanthan gum. Analysis of these factors, the availability of alternate markets, significant inventories, and excess capacity indicates that the elasticity is likely to be in a range of 6 to 10.

U.S. Demand Elasticity

The U.S. demand elasticity for xanthan gum measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of xanthan gum. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the xanthan gum in the production of any downstream products. Due to the existence of potential substitutes, the aggregate demand for xanthan gum is probably moderately elastic; a range of -1.0 to -1.5 is likely.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.¹⁸ Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms, discounts, promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced and imported xanthan gum from Austria and from China is likely to be in the moderate to high range of 3 to 5 with the elasticity for Austria somewhat higher than for China.

¹⁷ At the hearing, an a consultant-agent for Deosen stated that imports from China are not accepted by some cereal manufacturers and by some companies that supply the fast food industry. Hearing transcript. pp. 244-45 (Marzulli).

¹⁸ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

PART III: U.S. PRODUCERS' 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 alleged margin 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 two firms that accounted for 100 percent of U.S. production of xanthan gum during 2012.

U.S. PRODUCERS

U.S. producers of xanthan gum, their production locations, corporate affiliation, position with respect to the petition, and share of 2012 U.S. production are shown in table III-1.

Table III-1

Xanthan gum: U.S. producers, position with respect to the petition, production locations, share of 2012 U.S. production, and corporate affiliation

Firm	Position on petition	Production location(s)	Share of 2012 production (percent)	Corporate affiliation
ADM	***	Decatur, IL	***	None
CP Kelco	Support	San Diego, CA Okmulgee, OK	***	J.M. Huber Corp., ¹ Edison, NJ
Total			100.0	

¹ CP Kelco's wholly-owned subsidiary, CP Kelco (Shandong) Biological Co., Ltd., produces xanthan gum in China and exports xanthan gum from China to the United States.

Source: Responses to the Commission questionnaires, public conference, and petition.

U. S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Table III-2 presents U.S. producers' production capacity, production, and capacity utilization for xanthan gum. Capacity utilization increased overall during 2010-12, from approximately *** percent in 2010 to about *** percent in 2011, before declining to above *** percent in 2012.

***.¹

In July 2010, CP Kelco's press releases began to announce global price increases across all product lines, effective August 2010, or as contracts allow, citing increases in global demand which had affected the supply of critical raw materials while other raw materials experienced steep cost increases throughout the first half of 2010.² CP Kelco announced additional price increases December 2010; July 2011; and November 2011 citing adverse impact on critical raw materials by global weather conditions; a global shortage of supply; and raw material fluctuations. Concurrent with the price increases, CP Kelco announced investment in additional capacity to meet global increases in demand; investment in

¹ ***'s U.S. Producer Questionnaire Response, section II-2.

² "CP Kelco Announces Global Price Increase Across All Product Lines," July 9, 2010 and November 18, 2010.

debottlenecking projects; and quality and safety standard improvements.³ On February 28, 2013, CP Kelco announced an expansion of its San Diego facility which will boost capacity by roughly 40 percent, citing investments are in the final stages of implementation and are aimed at increasing availability of domestically produced xanthan gum.⁴

Table III-2
Xanthan gum: U.S. capacity, production, and capacity utilization, 2010-12

	*	*	*	*	*	*	*
*** ⁵							
*** ⁶							
*** ⁷							
*** reported that it produces *** on the same equipment and machinery used in the production of xanthan gum and/or using the same production and related workers employed to produce xanthan gum. ⁸							
*** reported that *** other products on the same equipment and machinery used in the production of xanthan gum. ⁹							
*** reported that its overall capacity is ***. ¹⁰ *** reported that its capacity constraint was ***. ¹¹							
*** ¹²							

U.S. PRODUCERS' SHIPMENTS

Table III-3 presents U.S. producers' xanthan gum shipments during 2010-12. *** had the largest share of total U.S. shipments during the period of investigation (*** percent in 2010; *** percent in 2011; and *** percent in 2012). ***'s shares of total U.S. shipments were *** percent in 2010; *** percent in 2011; and *** percent in 2012.¹³

³ Ibid.; "CP Kelco Announces Global Price Increase to Several Strategic Product Lines," July 1, 2011; and "CP Kelco Announces Global Price Increase to Ensure Sustainable Supply," November 23, 2011.

⁴ "CP Kelco Expanding San Diego Facility," February 28, 2013.

⁵ ***'s U.S. Producer Questionnaire Response, section II-2.

⁶ ***'s U.S. Producer Questionnaire Response, attachment, p. 1.

⁷ ***'s U.S. Producer Questionnaire Response, sections I-5 and I-6.

⁸ ***'s U.S. Producer Questionnaire Response, section II-3.

⁹ ***'s U.S. Producer Questionnaire Response, section II-3.

¹⁰ Ibid.

¹¹ ***'s U.S. Producer Questionnaire Response, section II-4.

¹² U.S. Producer Questionnaire Responses, section II-5 and section II-6.

¹³ U.S. Producer Questionnaire Responses, section II-8a. ***.

Table III-3
Xanthan gum: U.S. producer's shipments, by type, 2010-12

* * * * *

*** accounted for *** of export shipment volume during 2010-12 as follows: *** percent in 2010; *** percent in 2011; *** percent in 2012. *** reported its export markets as follows: ***, *** reported export markets in ***.¹⁴

Table III-4 presents U.S. producers' U.S. shipments by end use application.

Table III-4
Xanthan gum: U.S. producers' U.S. shipments, by end use, 2010-12

* * * * *

Table III-5 presents U.S. producers' export shipments by end use application.

Table III-5
Xanthan gum: U.S. producers' export shipments, by end use, 2010-12

* * * * *

With respect to U.S. producers' U.S. shipments, ***, whereas ***,
 *** the U.S. producers' export shipment by end use with ***.

Changes in demand for the major end-use applications for xanthan gum, which are food and beverage, pharmaceutical applications, consumer applications, industrial applications, and oilfield applications, may affect a U.S. producer's U.S. shipments, export shipments, and shipment unit values. Food demand may be affected by dieting fads, such as the Atkins diet; pharmaceutical demand by pharmaceutical dispensations; consumer applications by personal care preferences; and oil drilling demand varies with changes in U.S. rig count.

U.S. PRODUCERS' INVENTORIES

***¹⁵ ***.¹⁶

Table III-6 presents data on U.S. producers' inventories during the 2010-12 period of investigation. In the aggregate, U.S. producers' inventory levels decreased by *** percent, during 2010-12.

Table III-6
Xanthan gum: U.S. producer's end-of-period inventories, 2010-12

* * * * *

¹⁴ Ibid.

¹⁵ ***'s U.S. producer questionnaire revisions, May 15, 2013 (section IV-8)

¹⁶ CP Kelco's U.S. producer questionnaire revisions, May 15, 2013 (section IV-8); USITC staff telephone interview with ***, May 31, 2013.

U.S. EMPLOYMENT, COMPENSATION, AND PRODUCTIVITY

CP Kelco testified that in the summer of 2011, when it negotiated its new Union contract, it shifted to hiring more less expensive temporary employees; however, in late third quarter and early fourth quarter 2012, with an increase in demand, CP Kelco shifted to hiring full-time employees to process incoming orders; moved temporary and part-time employees to full-time employees, and hired additional full time employee staff.¹⁷ Table III-7 presents U.S. producers' employment-related data during the period of investigation.

Table III-7

Xanthan gum: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2010-12

* * * * *

*** reported that it ***.¹⁸ ***'s average number of PRWs increased by *** PRWs, or by *** percent, during 2010-12; however, ***'s average number of PRWs increased by *** PRWs, or by *** percent, from 2011 to 2012. ***'s average number of PRWs increased by *** PRWs, or by *** percent, from *** PRWs to *** PRWs, during 2010-12.¹⁹

PRODUCERS' IMPORTS AND NON-IMPORT PURCHASES

***.²⁰ Table III-8 presents ***.

Table III-8

Xanthan gum: Producers' production of xanthan gum and direct subject imports of xanthan gum, by firm, 2010-12

* * * * *

¹⁷ Hearing transcript, p. 45 (Casey); p. 27 (Rubright); and p. 42 (Bowman).

¹⁸ U.S. Producer Questionnaire Responses, section II-2.

¹⁹ U.S. Producer Questionnaire Responses, section II-8a.

²⁰ ***'s importer questionnaire response, section II-4.

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

U.S. IMPORTERS

The Commission sent questionnaires to 15 firms believed to be importers from Austria, China, and nonsubject sources of xanthan gum, based on proprietary information provided by Customs. Questionnaire responses were received from 15 companies, including the only importer from Austria and from the vast majority of importers from China. Thirteen firms imported the subject merchandise during January 2010-December 31, 2012, and four imported from other sources.

U.S. importers responding to the questionnaires were located in Delaware, Georgia, Illinois, Massachusetts, Maryland, Minnesota, New Jersey (2), New York, Ohio, Pennsylvania, and Texas (4). No U.S. importers entered the subject product into or withdrew it from bonded warehouses, entered the subject product into or withdrew it from foreign trade zones, or imported the subject product under the temporary importation under bond (TIB) program.¹

Table IV-1 lists all responding U.S. importers and their quantity of imports, by source, in 2012. *** importers accounted for *** percent of total reported imports in 2012; ***. ***.

Table IV-1
Xanthan gum: Reported U.S. imports, by importer and by source of imports, 2012

* * * * *

U.S. IMPORTS

Xanthan gum is provided for in a basket subheading for polysaccharides and their derivatives in official U.S. import statistics (HTS subheading 3913.90.20), and thus the subheading is overly broad. Data on U.S. imports of xanthan gum presented in this report are from responses to Commission questionnaires. Table IV-2 presents data on U.S. imports of xanthan gum.

¹ Importer questionnaire responses, sections I-8; I-9; and I-10.

Table IV-2
Xanthan gum: U.S. imports, by sources, 2010-12

Source	Calendar year		
	2010	2011	2012
Quantity (1,000 pounds)			
Austria	***	***	***
China	28,245	29,705	37,015
Subtotal	***	***	***
All other sources	***	***	***
Total	***	***	***
Value (1,000 dollars)¹			
Austria	***	***	***
China	48,367	46,740	71,966
Subtotal	***	***	***
All other sources	***	***	***
Total	***	***	***
Unit value (per pound)¹			
Austria	\$***	\$***	\$***
China	1.71	1.57	1.94
Average	***	***	***
All other sources	***	***	***
Average	***	***	***
Share of quantity (percent)			
Austria	***	***	***
China	68.6	70.0	70.9
Subtotal	***	***	***
All other sources	***	***	***
Total	***	***	***
Share of value (percent)¹			
Austria	***	***	***
China	56.1	54.4	60.2
Subtotal	***	***	***
All other sources	***	***	***
Total	***	***	***

¹ Landed, duty-paid.

Note.—Because of rounding, figures may not add to the totals shown.

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

During 2010-12, responding firms' U.S. imports of xanthan gum from Austria accounted for *** percent of the quantity of reported xanthan gum exports to the United States from Austria and *** percent of U.S. imports from Austria under HTS subheading 3913.90.20, and responding firms U.S. imports of xanthan gum from China accounted for approximately *** percent of reported exports to the United States from China and *** percent of U.S. imports from China under HTS subheading 3913.90.20.

NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.² Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.³ Imports from Austria accounted for 16.3 percent of total imports of xanthan gum by quantity during June 2011-May 2012.⁴ During the same period, imports from China accounted for 68.2 percent, by quantity, of total U.S. imports of xanthan gum compiled from official Commerce statistics.⁵

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) the degree of fungibility, including specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Channels of distribution are discussed in *Part I* of this report; fungibility, geographical markets and presence in the market are discussed below.

Fungibility and Presence in the Market

Tables IV-3 through IV-8 presents U.S. importers' U.S. shipments of xanthan gum by end use applications.⁶ The data indicate that during the period of investigation, U.S.-produced xanthan gum, as well as imports from Austria and China were present, to varying degrees, in three end-use segments of the xanthan gum market (food and beverage, industrial and oilfield). However, U. S. producers' U.S. shipments were mainly to *** end uses, U.S. shipments of imports from Austria were predominantly

² Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

³ Section 771(24) of the Act (19 U.S.C. § 1677(24)).

⁴ Based on basket HTS subheading 3913.90.20 during June 2011-May 2012.

⁵ Based on questionnaire data for the period January 2011-March 2012, imports from Austria accounted for *** percent of total imports of xanthan gum, by quantity, and imports from China accounted for *** percent.

⁶ U.S. producers' U.S. commercial shipments by end use application are presented in *Part III* of the report.

shipped to *** end uses, and U.S. shipments of imports from China were predominantly shipped to *** end uses. ***. Additional discussion of fungibility is presented in *Part II*.

Table IV-3
Xanthan gum: U.S. shipments of domestically produced and imported products, by end use, 2010-12

* * * * *

Table IV-4 presents the market share totals accounted for by U.S.-produced product, Austrian imports, Chinese imports, and nonsubject imports by country within each end use.

Table IV-4
Xanthan gum: U.S. shipments of domestically produced and imported products, by end use, 2010-12

* * * * *

Table IV-5
Xanthan gum: U.S. shipments of imports from Austria, by end use, 2010-12

* * * * *

Table IV-6
Xanthan gum: U.S. shipments of imports from China, by end use, 2010-12

Item	Calendar year		
	2010	2011	2012
Quantity (1,000 pounds)			
Food and beverage	6,767	6,705	7,605
Pharmaceutical applications	0	0	0
Consumer applications	***	***	***
Industrial applications	***	***	***
Oilfield applications	14,015	14,742	22,798
All other	1,752	1,723	2,222
Total	23,026	23,875	33,797
Value (1,000 dollars)			
Food and beverage	14,245	13,912	17,480
Pharmaceutical applications	0	0	0
Consumer applications	***	***	***
Industrial applications	***	***	***
Oilfield applications	34,856	41,504	61,995
All other	3,730	3,533	4,932
Total	53,911	60,588	87,471
Unit value (dollars per pound)			
Food and beverage	\$2.11	\$2.07	\$2.30
Pharmaceutical applications	(¹)	(¹)	(¹)
Consumer applications	***	***	***
Industrial applications	***	***	***
Oilfield applications	2.49	2.82	2.72
All other	2.13	2.05	2.22
Total	2.34	2.54	2.59
Share of quantity (percent)			
Food and beverage	29.4	28.1	22.5
Pharmaceutical applications	(¹)	(¹)	(¹)
Consumer applications	***	***	***
Industrial applications	***	***	***
Oilfield applications	60.9	61.7	67.5
All other	7.6	7.2	6.6
Total	100.0	100.0	100.0
¹ Not applicable.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Table IV-7

Xanthan gum: U.S. shipments of imports from all other sources, by end use, 2010-12

* * * * *

Table IV-8

Xanthan gum: U.S. shipments of imports from all sources, by end use, 2010-12

* * * * *

Geographical Markets

Xanthan gum products produced in the United States are reportedly shipped nationwide. While imports of xanthan gum from the subject countries may enter select Customs districts, such products are then generally sold nationwide.⁷ Table IV-9 presents information on shares of U.S. imports of xanthan gum entered by regions during 2010-12. Imports of xanthan gum from Austria principally enter through Customs districts in the East and MidWest while imports of the subject product from China principally enter through Customs districts in the South.

Table IV-9

Xanthan gum: U.S. imports by sources and Customs districts, 2010-12

Region	Austria			China		
	2010	2011	2012	2010	2011	2012
	Shares of total quantity (percent)					
East ¹	42.8	44.8	44.1	27.0	13.5	12.0
South ²	5.1	3.9	7.6	37.6	51.5	50.6
Mid West ³	39.3	36.6	34.0	16.0	19.7	13.1
West ⁴	12.9	14.7	14.3	19.7	15.3	24.4
Total	100.0	100.0	100.0	100.0	100.0	100.0

¹ Includes Baltimore, MD; Boston, MA; Buffalo, NY; Charleston, NC; Charlotte, NC; New York, NY; Norfolk, VA; Philadelphia, PA; Ogdensburg, NY; and Savannah, GA.
² Includes Dallas/Fort Worth, TX; El Paso, TX; Houston/Galveston, TX; Laredo, TX; Miami, FL; Mobile, AL; New Orleans, LA; and San Juan, PR.
³ Includes Chicago, IL; Cleveland, OH; Detroit, MI; and St. Louis, MO.
⁴ Includes Anchorage, AK; Great Falls, MT; Los Angeles, CA; San Diego, CA; San Francisco, CA; and Seattle, WA.

Source: Compiled from official Commerce statistics (HTS 3913.90.20).

⁷ Respondents indicated that “(n)o party disputes that subject imports from the subject countries compete in the same geographic market and are simultaneously present in the market.” Joint respondents’ postconference brief, p.46, fn 65.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of xanthan gum are based on U.S. producers' and importers' shipments as reported in the Commission's questionnaires. Data on apparent U.S. consumption of xanthan gum are presented in table IV-10.

The quantity of U.S. producer's U.S. shipments increased irregularly from 2010-12. Aggregate quantities of U.S. shipments of subject imports increased from 2010 to 2012. The quantity of U.S. shipments of imports from Austria fluctuated upward, *** percent, from *** pounds in 2010 to *** pounds in 2012. The quantity of U.S. shipments of imports from China increased, by *** percent, from *** pounds in 2010 to *** pounds in 2012.

Table IV-10

Xanthan gum: U.S. producers' U.S. shipments, U.S. shipments of imports, by sources, and apparent U.S. consumption, 2010-12

Item	Calendar year		
	2010	2011	2012
Quantity (1,000 pounds)			
U.S. producers' U.S. shipments	***	***	***
U.S. shipments of imports from-- Austria	***	***	***
China	23,026	23,875	33,799
All subject countries	***	***	***
Nonsubject countries	***	***	***
All countries	***	***	***
Apparent consumption	55,339	54,537	73,963
Value (1,000 dollars)			
U.S. producers' U.S. shipments	***	***	***
U.S. shipments of imports from-- Austria	***	***	***
China	53,911	60,587	87,473
All subject countries	***	***	***
Nonsubject countries	***	***	***
All countries	***	***	***
Apparent consumption	168,562	174,517	223,657
Note.—Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. MARKET SHARES

Data on market shares in the U.S. market for xanthan gum are presented in table IV-11. The market share of the quantity of U.S. producers' U.S. shipments decreased *** percentage points, from *** percent during 2010 to *** percent during 2012. The corresponding market share value of U.S. producers' U.S. shipments decreased by *** percentage points from 2010 to 2012, from *** percent in 2010 to *** percent in 2012.

The market share of the quantity of U.S. shipments of imports from Austria decreased, by *** percentage points, from *** percent of apparent consumption quantity in 2010 to *** percent of apparent consumption in 2012. The market share of the value of U.S. shipments of imports from Austria decreased, by *** percentage points, from *** percent of apparent consumption value in 2010 to *** percent of apparent consumption value in 2012.

The market share of the quantity of U.S. shipments of imports from China rose, by 4.1 percentage points, from 41.6 percent in 2010 to 45.7 percent of apparent consumption quantity in 2012. The market share of the value of U.S. shipments of imports from China increased, by 7.1 percentage points, from 32.0 percent of apparent consumption value in 2010 to 39.1 percent of apparent consumption value in 2012.

Table IV-11
Xanthan gum: Apparent U.S. consumption and market shares, 2010-12

Item	Calendar year		
	2010	2011	2012
Apparent U.S. consumption	55,339	54,537	73,963
Value (1,000 dollars)			
Apparent U.S. consumption	168,562	174,517	223,657
Share of quantity (percent)			
U.S. producers' U.S. shipments	***	***	***
U.S. shipments of imports from-- Austria	***	***	***
China	41.6	43.8	45.7
Subtotal subject countries	***	***	***
Nonsubject countries	***	***	***
Total import shipments	***	***	***
Share of value (percent)			
U.S. producers' U.S. shipments	***	***	***
U.S. shipments of imports from-- Austria	***	***	***
China	32.0	34.7	39.1
Subtotal subject countries	***	***	***
Nonsubject countries	***	***	***
Total import shipments	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of subject imports to U.S. production of xanthan gum is presented in table IV-12. Aggregate subject imports were equivalent to *** percent of U.S. production during 2010. This level decreased to *** percent during 2011 and then rose to *** percent during 2012. U.S. imports from China accounted for the bulk of the increase in the aggregate ratios during the period examined.

Table IV-12

Xanthan gum: U.S. production and ratio of U.S. imports to U.S. production, by sources, 2010-12

* * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw material costs account *** of the cost of xanthan gum. These costs ***.

A major raw material used in xanthan gum is corn. The price of corn increased irregularly during market years 2009/10 through 2012/13 (figure V-1).¹

Figure V-1

Corn: Weighted-average farm price by market year, monthly, 2009/10-2010/11 and September-February 2012/13



Source: Department of Agriculture Economic Research, <http://www.ers.usda.gov/data>.

U.S. Inland Transportation Costs

U.S. producers reported that U.S. inland shipping costs account for *** or less of the total delivered price of xanthan gum. Among importers of product from the subject countries, the majority of estimates ranged from 1 percent to 3 percent. Both U.S. producers reported that ***. Among 13 responding importers, 10 reported that they arrange transportation, and 3 reported that their customers arrange transportation.

¹ Market years are from September of a given year through August of the following year.

U.S. producers and importers were asked to report percentages of quantities shipped for distances of 0 to 100 miles, 101 to 1,000 miles, and distances over 1,000 miles. For U.S. producers, a weighted average of ***. For importers from Austria, ***. For importers from China, a weighted average of 41.1 percent of shipments occur within 100 miles of importers' storage facilities, 51.7 percent were within 101 to 1,000 miles, and 7.2 percent involved distances of more than 1,000 miles.

Global Prices

When questionnaire respondents were asked whether prices of xanthan gum are determined on a global basis with purchasers typically buying xanthan gum for delivery to their facilities throughout the world in the same transaction, responses were varied. ***." Among nine responding importers, three answered "yes" and six answered "no." Of 34 purchasers, 14 answered "yes" and 10 answered "no" with 10 firms indicating that they didn't know or were unable to answer conclusively. One purchaser ***.

PRICING PRACTICES

Pricing Methods

U.S. producers and importers reported that prices of xanthan gum are commonly determined by transaction-by-transaction negotiations, contracts and set price lists.² One importer reported that price lists fluctuated based on consumer demand, and another importer reported that it provides price supports for some distributor customers.

The majority of sales of xanthan gum by both U. S. producers and importers are made under short-term contracts.³ For the two U. S. producers, ***. For imports from Austria, ***. For imports from China, 10.4 percent are on a long-term contract basis, 85.3 percent are on a short-term contract basis and 4.3 percent are on a spot basis.

One U. S. producer reported that ***. Among 11 importers of xanthan gum from the subject countries selling under short-term contracts, six reported that both prices and quantities are fixed during the contract period. Just one reported that meet-or-release provisions apply. Among three importers of product from China that use long-term contracts, ***. None reported the use of meet-or-release provisions.

Sales Terms and Discounts

Prices of xanthan gum are more commonly quoted on a delivered basis than on an f.o.b basis. ***. The importer of product from Austria quotes prices ***. Among importers from China, 10 quote on an f.o.b. basis, and 2 quote on a delivered basis.

Kelco offers ***. Among 15 responding importers, 9 reported that they do not have a discount policy. Among importers offering discounts, three offer annual total volume discounts, three offer quantity discounts, one reported that it offers off list pricing to large volume customers, and one reported that it bases its discounts on customer relations.

² Both U.S. producers ***. Among 14 responding importers, 11 reported the use of transaction-by-transaction negotiations, 13 reported the use of contracts, and 10 reported the use of set price lists.

³ One U.S. producer ***. Among importers, reported short-term contract periods ranged from 120 days to one year, while long-term contracts are typically for periods of three years.

PRICE DATA

The Commission asked U.S. producers and importers of xanthan gum to provide quarterly data for the total quantity and value of selected products that were shipped to unrelated customers in the U.S. market during 2010-12. For each of the products, pricing data were requested separately for sales to distributors and sales to end users. Pricing data were requested for the following products:

Product 1.–Pharmaceutical: Xanthan gum that meets the requirements contained in 21 C. F. R § 172.695, Food Chemicals Codex (“FCC”), Joint FAO/WHO Expert Committee on Food Additives (“JECFA”), and European Pharmacopeia (“Ph Eur”); and has a total plate count of (“TPC”) of not more than cfu/g.

Product 2.–Consumer: Xanthan gum that meets the requirements contained in 21 C. F. R § 172.695, FCC and JECFA; and has a TPC of not more than 1,000 cfu/g.

Product 3.–Food and Beverage (but not agglomerated): Xanthan gum that meets food grade that meets food grade requirements as dictated by the FCC, 21 C. F. § 172.695, or JECFA. Food and beverage xanthan gum can be produced with either isopropyl alcohol (IPA) or ethyl alcohol (ethanol). Applications include, but are not limited to, baking products, condiments, instant beverages, and reduced calorie beverages. Microbiological counts are typically not more than 2000 CFU/g for TPC and not more than 100 CFU/g for yeast and mold. The 1% KCI viscosity profiles are basic and may range from 1200-1600 cP or from 1300-17– cp (test is 1% gum in 1% KCI solution, 60 rpm reading). Alcohol levels are not more than 750 ppm for countries complying with 21 C. F. R. § 172.695.

Product 4.–Agglomerated Food and Beverage: The product meets the definition of food and beverage xanthan gum described above for (product 3) but which also has undergone the additional production step of agglomeration.

Product 5.–Industrial: Industrial xanthan gum meets the requirements of the Toxic Substances Control ACT (TSCA). General industrial applications include fire fighting foams, agricultural chemicals, industrial and institutional cleaners, and architectural paints and coating. These industries are heavily regulated due to waste water and sewer regulations.

Product 6.–Oilfield but not clarified: “Oilfield” xanthan gum consists of all other xanthan gum that meets the physical characteristics of the subject merchandise but which does not meet the requirements for products 1, 2, 3, 4 or 5.

Product 7.–Clarified Oilfield: Xanthan gum that meets the definition of product 6, but which is also “clarified” according to the following definition: 1% xanthan gum in DI water, but not less than 55% transmittance.

Both U.S. producers and 12 importers provided usable pricing data for sales of the requested products, although none reported pricing for all products for all quarters. U.S. producers reported sales of all seven products to both end users and distributors during the requested period, although very little price data was reported on sales of product 7 to distributors. Importers of Chinese product reported sales in all product categories except for product 1 to distributors, although very little price data was reported for sales of product 1 to end users and product 7 to distributors. Sales of imports from Austria were only reported for products *** to distributors and *** to end users, with very little price data reported for product 2. Pricing data reported by these firms accounted for 99.6 percent of U.S. producers’ shipments of xanthan gum,⁴ 100 percent of U. S. shipments from Austria, and 96.9 percent of U.S. shipments of subject imports from China during 2010-12.

⁴ Of the two U.S. producers, ***.

Price Trends

Quarterly weighted average producer and importer prices and shipment quantities for 2010-12 for the seven pricing products on sales to distributors and end users are shown in tables V-1 through V-14 and in figure V-2. Despite fluctuations, prices of most U.S.-produced products and imports from Austria and China increased from the beginning to the end of the 12 quarter period. A summary of price ranges and percentage changes in prices is shown in tables V-15 and V-16. U.S. producer prices increased for five of seven products on sales to distributors and on all seven products on sales to end users. For imports from Austria, prices decreased for two of three products sold to distributors, but increased for four of five products sold to end users.⁵ For China, prices increased for five of six products sold to distributors and for four of seven products sold to end users. Shipment quantities for U.S. producers and importers often fluctuated widely from quarter to quarter for some product categories.

Price trends prior to filing of antidumping petition

During the period from the first quarter of 2010 to the second quarter of 2012, U.S. producer prices on sales to distributors of products 1, 2, 3, 4, and 5 increased, while prices of product 6 decreased. The U.S. producer price of product 7 to distributors was only reported in the third quarter of 2011. From the first quarter of 2010 to the second quarter of 2012, U.S. producer prices on sales to end users of products 2, 3, 4, 5, 6, and 7 increased, while prices of product 1 decreased. There were no import sales of product 1 during this period.

Table V-1

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 1 sold to distributors and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-2

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 1 sold to end users and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-3

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 2 sold to distributors and margins of underselling/(overselling), by quarters, 2010-12

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Table V-4

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 2 sold to end users and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

⁵ ***.

Table V-5

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 3¹ sold to distributors and margins of underselling/(overselling), by quarters, 2010-12

	United States		Austria			China		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2010:								
Jan.-Mar.	***	***	***	***	***	\$2.04	907,971	***
Apr.-June	***	***	***	***	***	2.04	893,632	***
July-Sept.	***	***	***	***	***	2.08	601,249	***
Oct.-Dec.	***	***	***	***	***	2.04	686,675	***
2011:								
Jan.-Mar.	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	2.11	582,525	
July-Sept.	***	***	***	***	***	2.10	635,128	***
Oct.-Dec.	***	***	***	***	***	2.16	575,816	***
2012:								
Jan.-Mar.	***	***	***	***	***	2.10	771,660	***
Apr.-June	***	***	***	***	***	2.32	822,223	***
July-Sept.	***	***	***	***	***	2.44	741,081	***
Oct.-Dec.	***	***	***	***	***	2.71	992,716	***

¹ Product 3: Food and beverage (but not agglomerated)

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

Table V-6

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 3¹ sold to end users and margins of underselling/(overselling), by quarters, 2010-12

	United States		Austria			China		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound)	Quantity (pounds)	Margin (percent)
2010:								
Jan.-Mar.	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***
2011:								
Jan.-Mar.	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	2.08	1,221,750	***
July-Sept.	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	2.14	1,217,834	***
2012:								
Jan.-Mar.	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	2.17	1,271,832	***
Oct.-Dec.	***	***	***	***	***	2.31	1,026,535	***

¹ Product 3: Food and beverage (but not agglomerated)

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

Table V-7

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 4 sold to distributors and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-8

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 4 sold to end users and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-9

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 5 sold to distributors and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-10

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 5 sold to end users and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-11

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 6 sold to distributors and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-12

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 6¹ sold to end users and margins of underselling/(overselling), by quarters, 2010-12

	United States		Austria			China		
	Price (per pound)	Quantity (pounds)	Price (per pound)	Quantity (pounds)	Margin (percent)	Price (per pound) ²	Quantity (pounds)	Margin (percent)
2010:								
Jan.-Mar.	***	***	***	***	***	\$2.89	2,218,611	***
Apr.-June	***	***	***	***	***	2.78	2,417,190	***
July-Sept.	***	***	***	***	***	2.80	2,530,265	***
Oct.-Dec.	***	***	***	***	***	2.78	2,672,176	***
2011:								
Jan.-Mar.	***	***	***	***	***	2.96	2,056,689	***
Apr.-June	***	***	***	***	***	3.51	1,553,794	***
July-Sept.	***	***	***	***	***	3.50	1,410,608	***
Oct.-Dec.	***	***	***	***	***	3.91	992,519	***
2012:								
Jan.-Mar.	***	***	***	***	***	4.25	1,074,290	***
Apr.-June	***	***	***	***	***	4.50	1,317,287	***
July-Sept.	***	***	***	***	***	3.93	1,415,149	***
Oct.-Dec.	***	***	***	***	***	3.60	1,898,930	***

¹ Product 6: Oilfield, but not clarified

² ***.

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

Table V-13

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 7 sold to distributors and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Table V-14

Xanthan gum: Weighted-average f.o.b. prices and quantities of product 7 sold to end users and margins of underselling/(overselling), by quarters, 2010-12

* * * * *

Figure V-2
Xanthan gum: Weighted-average prices and quantities of domestic and imported product, by quarters, 2010-12

* * * * *

Table-V-15
Xanthan Gum: Summary of weighted-average f.o.b. prices for products 1-7 sales to distributors from the United States, Austria, and China, 2010-12

* * * * *

Table-V-16
Xanthan Gum: Summary of weighted-average f.o.b. prices for products 1-7 sales to end users from the United States, Austria, and China, 2010-12

* * * * *

Price Comparisons

Margins of underselling and overselling by product are presented in table V-17. Overall, prices for xanthan gum imported from Austria were below those for the U.S.-produced product in 75 of 85 quarterly comparisons, by margins ranging from *** percent to *** percent with underselling more concentrated in sales to distributors. Prices of imports from China were lower in 108 of 127 comparisons by margins ranging from *** percent to *** percent.

Table-V-17
Xanthan gum : Instances of underselling and overselling of imports from Austria and China and the range of margins, by products, 2010-12

* * * * *

LOST SALES AND LOST REVENUES

In its petition, Kelco reported 6 instances of lost sales due to competition from Austrian imports and 21 instances of lost sales due to competition from imports from China, and 1 instance of lost revenues involving Austria and 3 involving China where it had to reduce or roll back prices of xanthan gum.⁶ The 27 lost sales allegations were valued by Kelco at \$*** million and involved about *** pounds⁷ and the 4 lost revenues allegations were valued by Kelco at over \$*** and involved over *** pounds of xanthan gum. The staff attempted to contact all purchasers named in the allegations, and 11 purchasers provided responses to the allegations on 12 lost sales allegations and one lost revenue allegation. A summary of the allegations and responses is presented in tables V-18 and V-19. No additional lost sales or lost revenue allegations were submitted in the final phase of these investigations.⁸

⁶ The petitioner also provided additional lost sales and lost revenue allegations, where contact information was not accurate.

⁷ Quantities are most commonly reported in kilograms in this industry.

⁸ In their posthearing brief, the petitioner's stated that ***.

Table V-18
Xanthan gum: U.S. producers' lost sales allegations

* * * * *

Table V-19
Xanthan gum: U.S. producers' lost revenue allegations

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PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCERS

INTRODUCTION

Two U.S. firms provided usable financial data on their xanthan gum operations.¹ These data are believed to account for all U.S. xanthan gum operations. One firm, ***, reported *** accounting for *** percent of total net sales value during the period for which data were requested. These data are not shown separately in this section of the report. ADM reported a fiscal year end of June 30, and CP Kelco reported a fiscal year end of December 31.

OPERATIONS ON XANTHAN GUM

Income-and-loss data for U.S. firms on their U.S. manufacturing operations on xanthan gum are presented in table VI-1, while selected financial data, by firm, are presented in table VI-2. The responding U.S. producers experienced *** in both net sales quantity and value from 2010 to 2012; however, operating income *** during this time. The per-unit net sales value *** from 2010 to 2012, while per-unit operating costs and expenses (cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses, combined) ***, which led to a *** in per-unit operating income during the period for which data were requested.

From 2010 to 2012, per-unit raw material, direct labor, and other factory costs *** by \$*** and \$***, and \$***, respectively, while the per-unit net sales value increased by \$***. Other factory costs represented *** percent of total COGS and *** percent of overall operating costs and expenses during the period examined. In addition, SG&A expenses represented *** percent of overall operating costs and expenses during the period examined.²

Table VI-1

Xanthan gum: Results of operations of U.S. producers, 2010-12

* * * * *

Table VI-2

Xanthan gum: Results of operations of U.S. producers, by firm, 2010-12

* * * * *

¹ The data in this section of the report reflect only sales (whether domestic or export) and costs related to the reporting firms' U.S. manufacturing operations.

² ***.

Tables VI-3 and VI-4 present requested data on the U.S. firms' U.S. manufacturing operations on xanthan gum exports, and are subsets of tables VI-1 and VI-2, respectively.^{3 4} The responding U.S. producers experienced *** in both export net sales quantity and value from 2010 to 2012. Operating income on exports of xanthan gum *** in 2012 as compared to 2010, but *** from 2011 to 2012. Operating income margins were *** for exports of xanthan gum as compared to the overall financial data in table VI-1. In general, the export data reflect ***.⁵ This general difference in product mix resulted in *** per-unit net sales values for exports. Per-unit net sales values for exports *** from 2010 to 2012, while per-unit operating costs and expenses (cost of goods sold ("COGS") and selling, general, and administrative ("SG&A") expenses, combined) *** from 2010 to 2011, then *** in 2012. These changes in per-unit revenue and expenses resulted in an overall decline in operating income during the period for which data were requested; however, as previously stated, operating income improved in 2012 as compared to 2011.

Table VI-3

Xanthan gum: Results of export operations of U.S. producers, 2010-12

* * * * *

Table VI-4

Xanthan gum: Results of export operations of U.S. producers, by firm, 2010-12

* * * * *

VARIANCE ANALYSIS

The variance analysis presented in table VI-5 is based on the data in table VI-1. The analysis shows that the *** in operating income from 2010 to 2012 is primarily attributable to ***.⁶

Table VI-5

Xanthan gum: Variance analysis on operations of U.S. producers, 2010-12

* * * * *

³ ***.

⁴ At the hearing, company officials from CP Kelco described the different approaches to the xanthan gum market and general differences in business models and customer mix for ADM and CP Kelco. ADM was described as the "supermarket of the world" that endeavors to supply large multinational firms with a basket of products that include products other than hydrocolloids. CP Kelco endeavors to solve individual firms' stabilization challenges, and only sells hydrocolloids. Hearing transcript (Viala), p. 100. CP Kelco officials described their company as a key innovator in the xanthan gum market, which allows them to command higher prices and margins as the "first mover" into new market segments. Hearing transcript (Viala, Rubright), pp. 127-129.

⁵ ***.

⁶ A variance analysis is calculated in three parts; sales variance, cost of sales variance, and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost variance (in the case of the cost of sales and SG&A expense variance) and a volume variance. The sales or cost variance is calculated as the change in unit price times the new volume, while the volume variance is calculated as the change in volume times the old unit price. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively; and the volume variance is the sum of the lines under price and cost/expense variance.

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms’ aggregate data on capital expenditures and research and development (“R&D”) expenses are shown in table VI-6. *** provided data on both capital expenditures and R&D expenses. Capital expenditures increased irregularly from 2010 to 2012. *** reported the majority of capital expenditures and R&D expenses during the period for which data were requested. ***’s capital expenditures primarily reflect ***. Further, ***’s R&D expenses primarily reflect ***.^{7 8}

Table VI-6
Xanthan gum: Capital expenditures and research and development expenses of U.S. producers, 2010-12

* * * * *

ASSETS AND RETURN ON INVESTMENT

The Commission’s questionnaire requested data on assets used in the production, warehousing, and sale of xanthan gum to compute return on investment (“ROI”). Data on the U.S. producers’ total assets and their ROI are presented in table VI-7. From 2010 to 2012, the total assets for xanthan gum irregularly increased from \$*** million in 2010 to \$*** million in 2012, and the ROI *** from *** percent in 2010 to *** percent in 2012.

Table VI-7
Xanthan gum: Asset values and return on investment of U.S. producers, 2010-12

* * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of xanthan gum to describe any actual or potential negative effects of imports of xanthan gum from Austria or China on their firms’ growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Responses provided by U.S. producers follow.

Actual Negative Effects

* * * * *

Anticipated Negative Effects

* * * * *

⁷ E-mail correspondence from ***, July 2, 2012, and April 15, 2013.

⁸ In its US producers’ questionnaire response, ***. See p. VI-10 of this report.

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that—

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider *** . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).²

Subsidies are not relevant to these investigations; 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 AUSTRIA

The Commission received a questionnaire response from the only known manufacturer/exporter of xanthan gum in Austria: Jungbunzlauer Austria AG ("JBL Austria"). The firm reported ***.³ The firm also reported ***.⁴ JBL Austria reported that *** percent of the firm's total sales in its most recent fiscal year was represented by sales of xanthan gum.⁵ JBL Austria produces ***.⁶ The firm reported xanthan gum exports to third country markets ***.⁷ JBL Austria exports xanthan gum to *** and *** inventories of xanthan gum in the United States, since 2009.⁸

Table VII-1 presents data for reported Austrian production and shipments of xanthan gum. Austrian production capacity ***, as production and end-of period inventories increased irregularly during 2010-12. Exports to the United States increased irregularly from 2010-12, and are projected to decrease during 2013 and 2014. Austrian exports to all other export markets increased steadily during 2010-12, and are projected to rise in 2013 and 2014. JBL accounted for *** percent of total production

² Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

³ JBL Austria's foreign producer questionnaire response, section II-2. JBL Austria has ***. JBL Austria's foreign producer questionnaire response, section I-4.

⁴ JBL Austria's foreign producer questionnaire response, section II-3.

⁵ JBL Austria's foreign producer questionnaire response, section II-7.

⁶ JBL Austria's foreign producer questionnaire response, section II-6.

⁷ JBL Austria's foreign producer questionnaire response, section II-10a.

⁸ JBL Austria's foreign producer questionnaire response, section I-3 and section II-7.

of xanthan gum in Austria in 2012 and JBL accounted for *** percent of the exports of xanthan gum to the United States from Austria in 2012.⁹

Table VII-1

Xanthan gum: Austrian production capacity, production, shipments, and inventories, 2010-12 and projected 2013-14

* * * * *

Tables VII-2 and VII-2a present home market (Austria and EU) shipments of xanthan gum by end uses and table VII-3 presents export shipments of Austrian-produced xanthan gum by end uses.

Table VII-2

Xanthan gum: Austrian producers' Austrian home market shipments, by end use, 2010-12

* * * * *

Table VII-2a

Xanthan gum: Austrian producers' European Union market shipments, by end use, 2010-12

* * * * *

Table VII-3

Xanthan gum: Austrian producers' export shipments to the United States, by end use, 2010-12

* * * * *

No Global Trade Atlas export data were found for exports of xanthan gum from Austria under HS 3913.90; however, ***. Table VII-3a presents JBL's total export shipments by destination markets.

Table VII-3a

Xanthan gum: JBL's export shipments, by market, 2010-13

* * * * *

THE INDUSTRY IN CHINA

The Commission received questionnaire responses from *** known manufacturer/exporters of xanthan gum in China: ***¹⁰ ***.¹¹ Based on company and staff estimates, the five reporting producers of xanthan gum¹² in China accounted for an estimated *** percent of total production of xanthan gum in China in 2012, and *** accounted for *** percent of this production.¹³ Similarly, the five reporting

⁹ JBL Austria's foreign producer questionnaire response, section II-10a.

¹⁰ ***.

¹¹ ***.

¹² ***.

¹³ ***.

producers of xanthan gum in China accounted for an estimated *** percent of exports of xanthan gum to the United States in 2012, and *** accounted for an estimated *** percent of these exports.¹⁴

Three firms, *** together accounted for *** percent of reported xanthan gum production capacity in China in 2012. Of these, *** percent of reported capacity. *** does not produce xanthan gum; however it exports xanthan gum produced by ***.

Table VII-4 presents data for reported Chinese production and shipments of xanthan gum.

Table VII-4

Xanthan gum: Chinese production capacity, production, shipments, and inventories, 2010-12 and projected 2013-14

* * * * *

Tables VII-5 and VII-6 present Chinese producers' home market shipments and export shipments to the United States of Chinese xanthan gum by end uses.

Table VII-5

Xanthan gum: Chinese producers' home market shipments, by end use, 2010-12

* * * * *

Table VII-6

Xanthan gum: Chinese producers' export shipments to the United States, by end use, 2010-12

* * * * *

Global Trade Atlas ("GTA") statistics for exports of xanthan gum from China are presented in table VII-6a. The six-digit HS 3913.90 GTA statistics are overstated as they represent a basket category for natural polymers and modified natural polymers nesoi, in primary forms (which includes xanthan gum).¹⁵ A comparison of GTA exports under six-digit HS 3913.90 from China to the United States to Commerce official import statistics from China for overstated basket eight-digit HTS subheading 3913.90.20, polysaccharides and their derivatives (which includes xanthan gum), shows that the GTA export statistics account for 113.0 percent of the official Commerce import statistics for 2012.¹⁶ The GTA exports to the United States account for *** percent of reported exports to the United States.

¹⁴ ***.

¹⁵ GTA Statistics for exports of HS 3913.90, natural polymers and modified natural polymers nesoi, in primary forms (which includes xanthan gum) from China represented the following percentages of official Department of Commerce import statistics under HTS subheading 3913.90.20 (polysaccharides and their derivatives (a basket category which includes xanthan gum) as follows: 85.9 percent (2010); 112.5 percent (2011); and 113.0 percent (2012).

¹⁶ Ibid.

Table VII-6a
Xanthan gum: Exports from China, by market, 2010-12

Market	2010	2011	2012
Quantity (1,000 pounds)			
United States	27,820	38,223	46,352
Saudi Arabia	13,150	12,735	18,487
Russia	9,967	12,365	14,012
United Arab Emirates	5,969	8,393	10,966
Germany	5,613	7,398	9,252
India	5,284	4,755	9,239
Brazil	6,896	7,353	9,156
Netherlands	5,024	6,547	8,278
Mexico	3,049	4,981	6,034
All other markets	65,607	85,779	86,802
Total	148,380	188,529	218,580
Source: The Global Trade Atlas, HS 3913.90			

In its 2012 Annual Report, the Fufeng Group reported that at the end of 2012, phase one of the production base of xanthan gum in Xinjiang commenced production and phase two production lines were in the process of being installed. The Fufeng Group further reported that by leveraging on the advantages of resources in Xinjiang, its xanthan gum products would become more competitive and possess cost advantages over other competitors which would better position the Fufeng Group to further grow the PRC and global markets.¹⁷ ***.¹⁸

In its 2012 Annual Report, the Fufeng Group reported that its annual production capacity of xanthan gum reached approximately 59,000 metric tons (130.1 million pounds), with sales volume exceeding 52,000 metric tons (114.6 million pounds), representing an increase of approximately 14 percent from 2011.¹⁹

*** reported that *** percent of the firm's total sales in its most recent fiscal year was represented by sales of xanthan gum.²⁰ *** produce products other than xanthan gum on the same equipment and machinery used in the production of xanthan gum and reported exports of xanthan gum to

¹⁷ CP Kelco's prehearing brief, exh. 8, p. 3.

¹⁸ ***'s foreign producer questionnaire response, section II-3.

¹⁹ CP Kelco's prehearing brief, exh. 8, p. 3.

²⁰ ***'s foreign producer questionnaire response, section II-7.

third-country markets including ***.²¹ *** exports xanthan gum to *** in the United States.²² *** inventories of xanthan gum in the United States, *** since 2009.²³

*** reported that its production lines in ***.²⁴ *** reported constraints on its production capacity as ***.²⁵

*** reported that ***.²⁶ *** reported that *** percent of the firm's total sales in its most recent fiscal year was represented by sales of xanthan gum.²⁷ *** produce products other than xanthan gum on the same equipment and machinery used in the production of xanthan gum and reported exports of xanthan gum to third-country markets including ***.²⁸ *** exports xanthan gum to *** in the United States.²⁹ *** inventories of xanthan gum in the United States, *** since 2010.³⁰

*** reported that constraints to its production capacity were ***.³¹

*** reported that it ***.³² *** reported that *** percent of the firm's total sales volume and *** percent of its total sales revenue in its most recent fiscal year was represented by sales of xanthan gum.³³ ***.³⁴ *** reported exports of xanthan gum to third-country markets including ***.³⁵ *** exports xanthan gum to *** in the United States.³⁶ *** inventories of xanthan gum in the United States, *** since 2010.³⁷

*** reported that constraints to its production capacity were ***.³⁸

*** reported that ***.³⁹ *** reported that *** percent of the firm's total sales in its most recent fiscal year was represented by sales of xanthan gum.⁴⁰ *** produce products other than xanthan gum on the same equipment and machinery used in the production of xanthan gum.⁴¹ *** reported exports of xanthan gum

²¹ ***'s foreign producer questionnaire response, section II-6 and section II-11a.

²² ***'s foreign producer questionnaire response, section I-3.

²³ ***'s foreign producer questionnaire response, section II-8.

²⁴ ***'s foreign producer questionnaire response, section II-2.

²⁵ ***'s foreign producer questionnaire response, section II-5.

²⁶ ***'s foreign producer questionnaire response, section II-3.

²⁷ ***'s foreign producer questionnaire response, section II-7.

²⁸ ***'s foreign producer questionnaire response, section II-6 and section II-11a.

²⁹ ***'s foreign producer questionnaire response, section I-3.

³⁰ ***'s foreign producer questionnaire response, section II-8.

³¹ ***'s foreign producer questionnaire response, section II-5.

³² ***'s foreign producer questionnaire response, section II-2.

³³ ***'s foreign producer questionnaire response, section II-7.

³⁴ ***'s foreign producer questionnaire response, section II-4 and section II-5.

³⁵ ***'s foreign producer questionnaire response, section II-11a.

³⁶ ***'s foreign producer questionnaire response, section I-3.

³⁷ ***'s foreign producer questionnaire response, section II-8.

³⁸ ***'s foreign producer questionnaire response, section II-5.

³⁹ ***'s foreign producer questionnaire response, section II-2.

⁴⁰ ***'s foreign producer questionnaire response, section II-7.

⁴¹ ***'s foreign producer questionnaire response, section II-6.

to third-country markets of ***.⁴² *** exports xanthan gum to *** in the United States.⁴³ ***.⁴⁴ *** inventories of xanthan gum in the United States, *** since 2010.⁴⁵ *** reported that constraints to its production capacity were ***.⁴⁶

*** reported that ***.⁴⁷ *** reported that *** percent of the firm's total sales in its most recent fiscal year was represented by sales of xanthan gum.⁴⁸ *** products other than xanthan gum on the same equipment and machinery used in the production of xanthan gum.⁴⁹ *** reported exports of xanthan gum to third-country markets including ***.⁵⁰ *** exports xanthan gum to *** in the United States.⁵¹ *** inventories of xanthan gum in the United States, *** since 2010.⁵²

*** reported that constraints to its production capacity were ***.⁵³

According to ***.⁵⁴

According to ***, a significant ***.⁵⁵ ***.⁵⁶

***.⁵⁷ ***.⁵⁸

***.⁵⁹ ***.⁶⁰

***.⁶¹ ***.⁶²

According to ***.⁶³

⁴² ***'s foreign producer questionnaire response, section II-11a.

⁴³ ***'s foreign producer questionnaire response, section I-3.

⁴⁴ ***'s foreign producer questionnaire response, sections II-3 and II-6.

⁴⁵ ***'s foreign producer questionnaire response, section II-8.

⁴⁶ ***'s foreign producer questionnaire response, section II-5.

⁴⁷ ***'s foreign producer questionnaire response, section II-2.

⁴⁸ ***'s foreign producer questionnaire response, section II-7.

⁴⁹ ***'s foreign producer questionnaire response, section II-6.

⁵⁰ ***'s foreign producer questionnaire response, section II-11a.

⁵¹ ***'s foreign producer questionnaire response, section I-3.

⁵² ***'s foreign producer questionnaire response, section II-8.

⁵³ ***'s foreign producer questionnaire response, section II-5.

⁵⁴ ***.

⁵⁵ ***.

⁵⁶ ***.

⁵⁷ ***.

⁵⁸ ***.

⁵⁹ ***.

⁶⁰ ***.

⁶¹ ***.

⁶² Ibid.

⁶³ Ibid.

SUBJECT COUNTRIES COMBINED

Data for the combined xanthan gum operations in the two subject countries are presented in table VII-7.

Table VII-7
Xanthan gum: Subject countries' production capacity, production, shipments, and inventories, 2010-12 and projected 2013-14

Item	Actual experience			Projections	
	2010	2011	2012	2013	2014
Quantity (1,000 pounds)					
Capacity	200,643	224,643	255,494	252,266	252,266
Production	187,698	202,929	240,440	234,308	234,830
End of period inventories	31,402	23,650	23,320	27,253	27,013
Shipments:					
Internal consumption	***	***	***	***	***
Home market	32,134	35,628	42,611	46,882	46,894
Exports to--					
The United States	***	***	***	***	***
All other markets	***	***	***	***	***
Total exports	***	***	***	***	***
Total shipments	195,178	211,034	241,091	229,991	230,391
Ratios and shares (percent)					
Capacity utilization	93.5	90.3	94.1	92.9	93.1
Inventories to production	16.7	11.7	9.7	11.6	11.5
Inventories to total shipments	16.1	11.2	9.7	11.8	11.7
Share of total shipments:					
Internal consumption	***	***	***	***	***
Home market	16.5	16.9	17.7	20.4	20.4
Exports to--					
The United States	***	***	***	***	***
All other markets	***	***	***	***	***
All export markets	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.					

**U.S. INVENTORIES OF XANTHAN GUM
FROM AUSTRIA AND CHINA**

Reported inventories held by U.S. importers of xanthan gum from Austria and China are shown in table VII-8.

**Table VII-8
Xanthan gum: U.S. importers' end-of-period inventories of imports, by source, 2010-12**

Item	2010	2011	2012
Imports from Austria:			
Inventories (1,000 pounds)	***	***	***
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Imports from China:			
Inventories (1,000 pounds)	5,708	8,029	7,785
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Imports from subject sources:			
Inventories (1,000 pounds)	***	***	***
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Imports from all other sources:			
Inventories (1,000 pounds)	***	***	***
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Imports from all sources:			
Inventories (1,000 pounds)	***	***	***
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Note.—Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO DECEMBER 31, 2012

The Commission requested importers to indicate whether they imported or arranged for the importation of xanthan gum from Austria or China after December 31, 2012. Of the *** responding importers, *** reported imports of xanthan gum from the subject countries during that period. Importers and the quantity of xanthan gum scheduled to be imported subsequent to December 31, 2012, are shown in the tabulation below.

* * * * *

DUMPING IN THIRD-COUNTRY MARKETS

There are no known xanthan gum third-country import relief investigations or extant antidumping duty orders on the subject product from Austria or China.⁶⁴

NONSUBJECT COUNTRIES AND THE GLOBAL MARKET

Beyond the domestic industry and the subject countries' industries, France is the only other major commercial producing country of xanthan gum, with two commercial factories operated by Cargill and Danisco (now DuPont).⁶⁵ In 2012, based on official Commerce statistics, the United States imported 4.8 million pounds (8.0 percent of total imports) from France under HTS eight-digit basket subheading 3913.90.20, polysaccharides and their derivatives (which includes xanthan gum).⁶⁶ As such France was the third largest foreign supplier, behind China and Austria of xanthan gum to the United States in 2012.

GTA exports of six-digit basket HS 3913.90, natural polymers and modified natural polymers nesoi, in primary forms (which includes xanthan gum), from France, by market, are presented in table VII-9.

Table VII-9
Xanthan gum: Exports from France, by market, 2010-12

Market	2010	2011	2012
Quantity (1,000 pounds)			
United States	3,875	4,370	4,507
United Kingdom	1,706	2,263	2,429
Japan	1,449	2,028	2,245
Germany	2,109	2,008	2,077
Brazil	1,246	1,712	1,496
Israel	155	1,771	1,007
China	1,102	1,171	959
Turkey	56	634	915
Italy	722	953	901
All other markets	8,772	8,367	8,214
Total	21,194	25,277	24,752
Source: The Global Trade Atlas, HS 3913.90			

⁶⁴ Respondents' foreign producer questionnaire responses (section II-6).

⁶⁵ Food Navigator-USA.com. "Cargill Launches xanthan gum made in China." June 24, 2008; Food Navigator-USA.com "Competition in xanthan gum market sees jobs go." November 15, 2004; Conference Transcript, p. 75 (Viala).

⁶⁶ Official Statistics of the U.S. Department of Commerce, accessed May 31, 2013.

Global Prices

When questionnaire respondents were asked whether prices of xanthan gum are determined on a global basis with purchasers typically buying xanthan gum for delivery to their facilities throughout the world in the same transaction, responses were varied. Both U.S. producers answered “no.” Among nine responding importers, three answered “yes” and six answered “no.” Of 34 purchasers, 14 answered “yes” and 10 answered “no” with 10 firms indicating that they didn’t know or were unable to answer conclusively. One purchaser ***.

Demand Outside of the United States

When asked how demand outside of the United States has changed since January 1, 2010, a majority of questionnaire respondents reported that demand has increased. None reported that demand had decreased. Both U.S. producers reported that demand had increased. Among 9 responding importers, 7 reported that demand had increased, and 2 reported that demand had fluctuated. Among 21 responding purchasers, 9 reported that demand has increased, 8 reported no change, and 4 reported that demand has fluctuated. Firms reporting increases in demand outside of the United States often cited such factors as increasing demand in food, consumer, and oilfield applications.

Global Demand

Table VII-10 presents global demand for xanthan gum by country market derived from Commission questionnaire response export data (United States and Austria) and from Global Trade Atlas export data (China and France). The United States, Europe, and Saudi Arabia were the three largest markets for xanthan gum during 2010-12. Total demand for xanthan gum, and demand for xanthan gum in all discreet markets shown, rose overall during 2010-12. However, demand for xanthan gum rose irregularly in Saudi Arabia, India, and *** as each of these countries experienced a decline in demand for xanthan gum in 2011.

Table VII-10
Xanthan gum: Global demand, by market, 2010-12

Market	2010	2011	2012
Quantity (1,000 pounds)			
United States	***	***	***
European Union	***	***	***
Saudi Arabia	13,150	12,735	18,487
Russia	9,967	12,365	14,012
***	***	***	***
United Arab Emirates	5,969	8,393	10,966
India	5,284	4,755	9,239
***	***	***	***
***	***	***	***
***	***	***	***
All other sources	86,655	110,641	111,969
Total	211,176	255,670	290,097
Source: Compiled from data submitted in response to Commission questionnaires (United States and Austria) and from the Global Trade Atlas, 3913.90 (China and France).			

APPENDIX A
***FEDERAL REGISTER* NOTICES**

The Commission makes available notices relevant to its proceedings on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current investigations.

Citation	Title	Link
77 FR 34997, June 12, 2012	<i>Xanthan Gum from Austria and China; Institution of Antidumping duty Investigations and Scheduling of Preliminary Phase Investigations</i>	http://www.gpo.gov/fdsys/pkg/FR-2012-06-12/pdf/2012-14158.pdf
77 FR 39210, July 2, 2012	<i>Xanthan Gum from Austria and the People's Republic of China: Initiation of Antidumping Duty Investigations</i>	http://www.gpo.gov/fdsys/pkg/FR-2012-07-02/pdf/2012-16183.pdf
77 FR 43857, July 26, 2012	<i>Xanthan Gum from Austria and China: Determinations</i>	http://www.gpo.gov/fdsys/pkg/FR-2012-07-26/pdf/2012-18271.pdf
78 FR 2251, January 10, 2013	<i>Xanthan Gum from Austria: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination</i>	http://www.gpo.gov/fdsys/pkg/FR-2013-01-10/pdf/2013-00350.pdf
78 FR 2252, January 10, 2013	<i>Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination</i>	http://www.gpo.gov/fdsys/pkg/FR-2013-01-10/pdf/2013-00349.pdf
78 FR 13379, February 27, 2013	<i>Xanthan Gum from Austria and China; Scheduling of the Final Phase of Antidumping Investigations</i>	http://www.gpo.gov/fdsys/pkg/FR-2013-02-27/pdf/2013-04505.pdf
78 FR 33351, June 4, 2011	<i>Xanthan Gum from the People's Republic of China: Final Determination of Sales a Less than Fair Value</i>	http://www.gpo.gov/fdsys/pkg/FR-2013-06-04/pdf/2013-33351.pdf
78 FR 33354, June 4, 2011	<i>Xanthan Gum from Austria: Final Determination of Sales a Less than Fair Value</i>	http://www.gpo.gov/fdsys/pkg/FR-2013-06-04/pdf/2013-33354.pdf

APPENDIX B
CALENDAR OF THE PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

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

Subject: Xanthan Gum from Austria and China
Inv. Nos.: 731-TA-1202 and 1203 (Final)
Date and Time: May 23, 2013 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioner (**Matthew L. Kanna**, Arent Fox LLP)
Respondents (**Daniel L. Porter**, Curtis, Mallet-Prevost, Colt & Mosle LLP)

In Support of the Imposition of Antidumping Duty Orders:

Arent Fox LLP
Washington, D.C.
on behalf of

CP Kelco U.S. ("CP Kelco")

Don Rubright, President, CP Kelco

E. Charles Bowman, Vice President of Marketing,
CP Kelco

Didier Viala, Vice President of Innovation & Capabilities,
CP Kelco

Russell Casey, Maintenance E&I Technician, CP Kelco

Terri McConnell, Operator, CP Kelco

James Schkade, Director, Americas Sales, CP Kelco

**In Support of the Imposition of
Antidumping Duty Orders (continued):**

Jim Dougan, Senior Economist, Economic Consulting
Services, LLC

Matthew J. Clark)
Matthew L. Kanna) – OF COUNSEL
Nancy A. Noonan)

**In Opposition to the Imposition of
Antidumping Duty Orders:**

Vorys, Sater, Seymour and Pease LLP
Washington, D.C.
on behalf of

Jungbunzlauer Austria AG and
Jungbunzlauer Inc. (collectively “JBL”)

Daniel J. Rainville, President, JBL

Dr. Patrick Magrath, Economic Consultant,
Magrath & Otis LLC

Frederick P. Waite)
) – OF COUNSEL
Kimberly R. Young)

Baker & McKenzie LLP
Washington, D.C.
on behalf of

Halliburton Energy Services, Inc. (“Halliburton”)

Keith Terry, Director, Baroid Supply Chain, Halliburton

Kevin M. O’Brien)
) – OF COUNSEL
Christine M. Streatfeild)

**In Opposition to the Imposition of
Antidumping Duty Orders (continued):**

Curtis, Mallet-Prevost, Colt & Mosle LLP
Washington, D.C.
on behalf of

Deosen Biochemical
Deosen USA, Inc.

Ron Bolen, Vice President, Marketing, Grinding &
Sizing Company

Noel Marzulli, Consultant-Agent, Deosen USA, Inc.

Daniel L. Porter)
James P. Durling) – OF COUNSEL
Matthew P. McCullough)

REBUTTAL/CLOSING REMARKS:

Petitioner (**Matthew J. Clark**, Arent Fox LLP)
Respondents (**Matthew P. McCullough**, Curtis, Mallet-Prevost,
Colt & Mosle LLP; *and* **Frederick P. Waite**, Vorys, Sater,
Seymour and Pease LLP)

APPENDIX C
SUMMARY DATA FOR XANTHAN GUM

Xanthan gum: Summary tables		
Table No.	Imports	Countries cumulated
C-1	Market shares for subject country imports are based on shipments of U.S. imports.	Austria and China

Table C-1

Xanthan gum: Summary data concerning the U.S. market, 2010-12

(Quantity=1,000 pounds; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound)
(Period changes=percent--exceptions noted)

	Report data			Period changes		
	2010	2011	2012	2010-12	2010-11	2011-12
U.S. consumption quantity:						
Amount.....	55,339	54,537	73,963	33.7	(1.4)	35.6
Producers' share (1).....	***	***	***	***	***	***
Importers' share (1):						
Austria.....	***	***	***	***	***	***
China.....	41.6	43.8	45.7	4.1	2.2	1.9
Subtotal, subject.....	***	***	***	***	***	***
Nonsubject countries.....	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***
U.S. consumption value:						
Amount.....	***	***	***	***	***	***
Producers' share (1).....	***	***	***	***	***	***
Importers' share (1):						
Austria.....	***	***	***	***	***	***
China.....	32.0	34.7	39.1	7.1	2.7	4.4
Subtotal, subject.....	***	***	***	***	***	***
Nonsubject countries.....	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***
U.S. importers' U.S. shipments:						
Austria						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***
China:						
Quantity.....	23,026	23,875	33,799	46.8	3.7	41.6
Value.....	53,911	60,587	87,473	62.3	12.4	44.4
Unit value.....	\$2.34	\$2.54	\$2.59	10.5	8.4	2.0
Ending inventory quantity.....	5,708	8,029	7,785	36.4	40.7	(3.0)
Subject sources:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***
Nonsubject sources:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***
All sources:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***

Table continued next page

Table C-1--Continued
Xanthan gum: Summary data concerning the U.S. market, 2010-12

* * * * *

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

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

