

SACCHARIN FROM JAPAN AND THE REPUBLIC OF KOREA

**Determinations of No Injury or Likelihood
Thereof in Investigations
Nos. AA1921-174 and 175 Under
the Antidumping Act, 1921,
as Amended, Together with
the Information Obtained
in the Investigations**

**USITC Publication 846
December 1977**

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Daniel Minchew, Chairman

Joseph O. Parker, Vice Chairman

George M. Moore

Catherine Bedell

Italo H. Ablondi

Bill Alberger

Kenneth R. Mason, Secretary to the Commission

This report was prepared principally by

William I. Schechter, Investigator

assisted by

Dan Leahy, Investigator

N. Tim Yaworski, Office of the General Counsel

E. William Fry, Supervisory Investigator

Address all communications to
Office of the Secretary
United States International Trade Commission
Washington, D. C. 20436

C O N T E N T S

| | <u>Page</u> |
|--|-------------|
| Determination of no injury or likelihood thereof----- | 1 |
| Statement of reasons for the negative determinations of Vice Chairman Joseph O. Parker and Commissioners Catherine Bedell, George M. Moore and Italo H. Ablondi----- | 3 |
| Statement of reasons for negative determinations of Commissioners Bill Alberger and Daniel Minchew----- | 7 |
| Information obtained in the investigations: | |
| Summary----- | A-1 |
| Introduction----- | A-3 |
| Description and uses----- | A-4 |
| Tariff treatment----- | A-6 |
| Domestic producer----- | A-7 |
| Japanese and Korean producers----- | A-7 |
| Importers----- | A-8 |
| Nature and extent of sales at less than fair value: | |
| LTFV sales from Korea----- | A-8 |
| LTFV sales from Japan----- | A-9 |
| Consideration of injury or likelihood thereof: | |
| U.S. consumption, producer's shipments and U.S. exports----- | A-10 |
| U.S. imports----- | A-11 |
| Capacity utilization----- | A-15 |
| Production----- | A-16 |
| Inventories----- | A-16 |
| Employment and person-hours----- | A-17 |
| Financial experience of Sherwin-Williams----- | A-18 |
| Research and development----- | A-20 |
| Consideration of the causal relationship between LTFV imports and the alleged injury: | |
| Market penetration of LTFV imports----- | A-20 |
| Japan----- | A-20 |
| Republic of Korea----- | A-21 |
| Loss of sales----- | A-22 |
| Prices: | |
| Granular saccharin from Japan----- | A-22 |
| Granular saccharin from the Republic of Korea----- | A-23 |
| Powder saccharin from Japan----- | A-24 |
| Powder saccharin from the Republic of Korea----- | A-24 |
| The Proposed saccharin ban----- | A-26 |
| Appendix A. Treasury memoranda relating to the determination of sales at LTFV----- | A-28 |
| Appendix B. Commission's notice of investigations and hearings----- | A-30 |
| Appendix C. Treasury's <u>Federal Register</u> notices----- | A-32 |
| Appendix D. Headnote 3(c)(ii)(A) of the General Headnotes of the Tariff Schedules of the United States----- | A-40 |
| Appendix E. Saccharin Study and Labeling Act----- | A-42 |
| Appendix F. Treasury letter relating to exclusion of Taiyo Chemical Industries from the determination of sales at less than fair value----- | A-47 |

Tables

| | <u>Page</u> |
|--|-------------|
| 1. Sherwin-Williams' production of selected chemicals, 1976----- | A-5 |
| 2. Saccharin: U.S. producer's domestic shipments, exports, imports for consumption, and apparent consumption, 1973-76, January-September 1976 and January-September 1977----- | A-10 |
| 3. U.S. exports of saccharin by Sherwin-Williams, by principal markets, 1976 and January-October 1977----- | A-11 |
| 4. Saccharin: U.S. imports for consumption, by sources, 1973-76, January-September 1976 and January-September 1977----- | A-12 |
| 5. Saccharin: U.S. imports for consumption, by types and sources, 1976 and January-September 1977----- | A-13 |
| 6. Saccharin: U.S. imports for consumption, by sources and by months, 1974-76, January-September 1977----- | A-14 |
| 7. Saccharin: Sherwin-Williams' theoretical capacity and actual production, 1974-76 and January-September 1977----- | A-15 |
| 8. Saccharin: Sherwin-Williams' production, by types, 1973-76, January-September 1976, and January-September 1977----- | A-16 |
| 9. Saccharin: Sherwin-Williams' inventories, by types, 1973-76, January-September 1976, and January-September 1977----- | A-17 |
| 10. Average number of persons employed in Sherwin-Williams' Maumee Chemical plant, total and production and related workers, 1973-76, January-September 1976 and January-September 1977----- | A-17 |
| 11. Person-hours worked by production and related workers in Sherwin- Williams' Maumee Chemical plant, 1973-76, January-September 1976, and January-September 1977----- | A-18 |
| 12. Selected financial data on all operations of Sherwin-Williams' Maumee Chemical plant, 1973-76, January-September 1976, and January-September 1977----- | A-18 |
| 13. Selected financial data on Sherwin-Williams' operations on saccharin, 1973-76, January-September 1976, and January-September 1977----- | A-19 |
| 14. Saccharin: U.S. imports from Aisan Chemical Co., from other Japanese producers, and total imports from Japan, 1973-76 and January-September 1977----- | A-20 |
| 15. Saccharin: Apparent U.S. consumption, imports from Japan, other than those produced by Aisan, and imports from the Republic of Korea, 1973-76, January-September 1976, and January-September 1977----- | A-21 |
| 16. Granular saccharin: Imports from the Republic of Korea and Japan, other than those produced by Aisan, their weighted average net selling prices and Sherwin-Williams' actual price, by quarter, 1974-76 and January-September 1977----- | A-23 |
| 17. Powder saccharin: Imports from the Republic of Korea and Japan, other than those produced by Aisan, their weighted average net selling prices and Sherwin-Williams' actual price, by quarters, 1974-76 and January-September 1977----- | A-24 |
| 18. Saccharin: Sherwin-Williams' cost of producing soluble sodium saccharin in the granular and powder forms, by specified months, 1974-77----- | A-26 |

Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[AA1921-174 and 175]

SACCHARIN FROM JAPAN AND THE REPUBLIC OF KOREA

Determinations of No Injury or Likelihood Thereof

On September 9, 1977, the United States International Trade Commission received advice from the Department of the Treasury that saccharin from Japan and the Republic of Korea (except that produced by Aisan Chemical Co., Ltd. of Japan) is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on September 23, 1977, the Commission instituted investigations Nos. AA1921-174 and 175 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations and of the public hearing held in connection therewith was published in the Federal Register on September 28, 1977 (42 F.R. 49849). On October 26, 1977, a hearing was held in Washington, D.C., at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information

adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of information developed during the course of its investigations, the Commission has unanimously determined that an industry in the United States is not being injured and is not likely to be injured, and is not prevented from being established, by reason of the importation of saccharin from Japan or from the Republic of Korea 1/ that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

1/ Commissioners Moore and Bedell determine in the negative with respect to both Japan and the Republic of Korea whether less-than-fair-value imports from those countries are considered separately or collectively.

Statement of Reasons for the Negative Determinations of
Vice Chairman Joseph O. Parker and Commissioners
George M. Moore, Catherine Bedell, and
Italo H. Ablondi

On September 9, 1977, the United States International Trade Commission received advice from the Department of the Treasury that saccharin from Japan, with the exception of saccharin produced by Aisan Chemical Co., Ltd., and saccharin from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on September 23, 1977, the Commission instituted investigations Nos. AA1921-174 and 175 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In order to find in the affirmative in these investigations, the Commission must find that two conditions are satisfied. First, it must find that an industry in the United States is being or is likely to be injured or is prevented from being established. Second, any injury or likelihood of injury must be by reason of the importation into the United States of the class or kind of foreign merchandise which Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Determination

On the basis of the information obtained in the investigations we determined that an industry in the United States is not being and is not likely to be injured and is not prevented from being established 1/ by reason of the importation of

1/ Prevention of establishment of an industry is not an issue in these investigations and will not be discussed further.

saccharin from Japan or the Republic of Korea which is being, or is likely to be, sold at LTFV. 1/

The imported article and the domestic industry

Soluble sodium saccharin in granular and powder forms, the imported article which Treasury found to be sold at LTFV, is an artificial, noncaloric, nonnutritive sweetener, which is manufactured from petroleum based organic chemicals.

In making these determinations we have considered the U.S. industry to consist of the facilities in the United States devoted to the production of saccharin. Sherwin-Williams Co. is the only manufacturer of saccharin in the United States. All of Sherwin-Williams' saccharin is produced at its Cincinnati chemical plant.

LTFV sales from Japan and Korea

Treasury examined sales of saccharin from Japan and the Republic of Korea during the June 1, 1976-December 31, 1976 period. 2/ Treasury's investigations revealed that 100 percent of the sales it examined, except for those made by the Japanese firm Aisan Chemical Co., were made at LTFV. Treasury found a weighted margin of approximately 9.4 percent on the LTFV imports from Japan, and 25 percent on the LTFV imports from the Republic of Korea.

No injury or likelihood thereof

In these cases we have found in the negative because we do not find injury or likelihood of injury to an industry in the United States. To the contrary, an examination of such indices of injury as trends in production, shipments, inven-

1/ Commissioner Moore's and Commissioner Bedell's determinations are based on LTFV imports from Japan or from the Republic of Korea whether considered separately or collectively.

2/ Treasury's investigation of U.S. imports of saccharin from the Republic of Korea covered the 6-month period from July 1, 1976, through December 31, 1976. The investigation of saccharin from Japan covered two separate time periods. Imports manufactured by Aisan were examined for 7 months, from June 1, 1976, to December 31, 1976, while imports manufactured by Daito were examined for 6 months, from June 1, 1976, to November 30, 1976.

tories, market share, employment, and profits, all clearly show that the domestic industry prospered during 1974-76 which included the period in which Treasury found sales at LTFV. Sherwin-Williams' saccharin operations continued to prosper during January-September 1977.

Domestic shipments of saccharin by Sherwin-Williams increased annually during 1973-76. In January-September 1977 such shipments were at a record high level exceeding those in the comparable period in 1976 by 14 percent.

Sherwin-Williams' share of the U.S. market for saccharin increased by approximately 20 percent from 1974 to January-September 1977. In addition, Sherwin-Williams' exports of saccharin which were negligible in 1973-75 increased sharply in 1976 and again during January-September 1977.

The U.S. producer's inventories of saccharin declined sharply in 1976 and again during January-September 1977. Inventories on September 30, 1977, were 55 percent below those reported on December 31, 1975.

The average number of production and related workers and the number of man-hours worked in the production of saccharin in the United States increased annually during 1973-76. Although there was a decline in both of these categories during January-September 1977 as compared with the like period in 1976, this decline was not attributable to a decline in U.S. production of saccharin because Sherwin-Williams increased its saccharin production by 18 percent in the latter period.

Sherwin-Williams' ratio of net operating profit to net sales of saccharin was significantly higher than the similar ratio for the U.S. industry producing industrial chemicals and synthetics in each year of the 1973-76 period and in January-September 1977. Furthermore, Sherwin-Williams' ratio of net operating profits to sales on saccharin was considerably higher than the ratio of net operating profits to sales on all products produced in the Cincinnati chemical plant in which saccharin

was produced. Net operating profits on saccharin in January-September 1977 were higher than in any full year during 1973-76.

After substantial price increases in 1974 Sherwin-Williams maintained its prices at 1974 levels until the third quarter of 1977 when prices were increased again by about 15 percent. During this period Sherwin-Williams increased its share of the U.S. market for saccharin and at the same time maintained a high level of profitability on its saccharin operations. Thus, it is clear that Sherwin-Williams has not suffered any injury within the meaning of the Antidumping Act.

There is also no likelihood of injury to the domestic producer. Sherwin-Williams has completed a major expansion of its capacity to produce saccharin and is now in a position to capitalize on any increase in demand for this product. Domestic production and shipments are increasing and inventories are declining. Substantial price increases were made in April 1977 and operating profits are climbing to record levels.

Conclusion

On the basis of the factors set forth above, we have determined that an industry in the United States is not being and is not likely to be injured by reason of the importation of saccharin from Japan or the Republic of Korea which the Department of the Treasury has determined is being, or is likely to be, sold at LTFV.

Statement of Reasons for the Negative Determinations
of Commissioners Bill Alberger and Daniel Minchew

On September 9, 1977, the United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) that saccharin from Japan, with the exception of saccharin produced by Aisan Chemical Company, Ltd., and saccharin from the Republic of Korea (Korea) is being, or is likely to be sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Pursuant to this advice, on September 23, 1977, the Commission instituted investigations Nos. AA1921-174 and 175 under section 201(a) of said Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,^{1/} by reason of the importation of such merchandise into the United States.

Before the Commission may find in the affirmative in these investigations, it is necessary to find that an industry in the United States is being or is likely to be injured, and the injury or likelihood thereof must be by reason of LTFV imports.

Determination

On the basis of the information obtained in these investigations, we determine that an industry in the United States is not being and is not

^{1/} Prevention of establishment of an industry is not an issue in these investigations and will not be discussed further.

likely to be injured by reason of the importation of saccharin from Japan or Korea which is being, or is likely to be, sold at LTFV.

The saccharin industry in the United States is not being injured by reason of LTFV sales of imported saccharin. Specifically, any injury being experienced by the domestic industry is not "by reason of" the LTFV imports under consideration. This is true whether the imports from the two countries are considered separately or cumulatively.

The Imported Article and the Domestic Industry

For the purposes of Treasury's determinations and consideration by this Commission, "saccharin" means sodium saccharin in soluble granular or soluble powder form.

The domestic industry consists of only one producer, the Sherwin-Williams Company of Cleveland, Ohio. Production occurs at the firm's plant in Cincinnati, Ohio.

The Question of Injury or Likelihood Thereof by Reason of LTFV Sales

Capacity utilization.--While Sherwin-Williams is clearly operating well below capacity, this is the result of a major expansion decision made by that company in 1974 during the saccharin shortage after Monsanto had ceased production. Prior to 1972, Monsanto had supplied over 50 percent of the U.S. market for saccharin. The expansion decision was based on

assumptions of a significantly expanding market, which has not materialized. Current capacity is in excess of annual domestic consumption. One company spokesman even indicated in the hearings that planned excess capacity existed. Production continues to increase, as does market share for Sherwin-Williams, and they are using an increasing percentage of their capacity.

Production and shipments.--Over the past 5 years, Sherwin-Williams has experienced a general increase in both production and domestic shipments. Apparently, new export markets are opening, and export shipments jumped sharply in 1976 and again this year. This would indicate a healthy operation.

Inventories.---Sherwin-Williams inventories went up sharply in 1975 when demand decreased following the shortage and panic buying of 1974. Inventories have steadily declined since 1975, while production continues on a generally upward trend.

Employment.---Production and related workers in saccharin operations increased from 1973 to 1976. There has been a decline this year, but since production increased sharply in the first nine months of 1977 compared with production in the comparable period in 1976, the employment cutbacks are attributable to increased efficiency in production and not to import competition.

Profit-and-loss experience.--While some decline occurred in profits from 1974 to 1976, the ratio of Sherwin-Williams' net operating profit to net sales on its saccharin operations has been substantially higher than the return reported by the U.S. industry producing industrial chemicals and synthetics, and higher than that reported by Sherwin-Williams on the overall operations of its Cincinnati chemical plant. Furthermore, Sherwin-Williams' profits in January-September of 1977 were greater than those reported in any full year in the 1973-76 period. That's a good profit picture. The company's filings with the Securities and Exchange Commission and the annual reports reflect a positive outlook for saccharin, and the data available to the Commission corroborates that assessment.

Market penetration.--From 1974 through the present, Sherwin-Williams' share of the U.S. saccharin market has increased significantly and steadily. This is a critical factor in our decision, as we find it very difficult to justify a finding of injury under these circumstances, when the domestic producer is gaining a significantly greater share of the market. This was occurring even during the LTFV sales period.

Imports from Japan other than those produced by Aisan Chemical Co. declined by 44 percent from 1974 to 1976. The ratio of such imports to apparent U.S. consumption dropped steadily from 1974 through the first nine months of 1977.

Imports from Korea increased as a share of the U.S. market from 1974 to 1976 and again in the first nine months of 1977. These were not large increases -- in fact, Sherwin-Williams gained a larger new share of the market than Korea during the same period. These increases were in large part attributable to Korean eligibility for duty-free entry under the Generalized System of Preferences, effective January 1, 1976.

Combined, the ratio of imports from Japan other than those produced by Aisan Chemical Co. and Korea declined by approximately 26 percent between 1974 and January-September of 1977.

Price suppression.--An argument has been made by Sherwin-Williams that a company ought not be forced into plant closings or actual losses before being found injured in an action under the Antidumping Act of 1921. It ought not to have to go to the brink of disaster before receiving consideration for relief. We agree. This Commission should not require that degree of calamity. The lone domestic producer has contended that prices were suppressed from December of 1974 to April of 1977 due to price competition from LTFV imports. Meanwhile, costs of production did increase significantly near the end of 1974, and again in 1975, but were rather constant in 1976 and in the first nine months of 1977. It might be argued that a decision by Sherwin-Williams to raise prices when the cost of production kept going up in 1975 would have led to substantial lost sales and declining market share and some more tangible

evidence of injury. It is our judgment, however, that a company experiencing growth in net operating profits from 1974 to 1975 really didn't need any new price increases. The price increases that have occurred since 1973, covering 1974 to present, have been significant ones. In fact, prices of granular saccharin have increased at a faster rate than costs of production over that same period. The judgment not to raise prices during 1975 and 1976 was probably a sound one, particularly while market share continued to increase.

Lost sales.--The Commission staff was able to document only four lost sales out of 15 which it attempted to verify and which had been reported to the Commission as lost sales by the petitioner. In several cases, purchasers indicated they shifted some purchases from Sherwin-Williams to foreign sources for a second source of supply but still increased their purchases from Sherwin-Williams, even to the extent of increasing the percentage of saccharin they bought from Sherwin-Williams. At the hearing, in response to questions, representatives of Sherwin-Williams indicated they had taken sales away from suppliers of Korean and Japanese saccharin as well. In fact, that must have occurred, based on the market share data showing Sherwin-Williams improving their relative position.

Conclusion

It is clear from the above considerations that the U.S. industry producing saccharin has not suffered any injury by reason of LTFV sales

within the meaning of the Act. It is also clear that there is no likelihood of injury to the industry within the meaning of the Act. The domestic industry is prospering, and likely will continue to do so. We, therefore, have found in the negative.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Summary

Investigations Nos. AA1921-174 and 175 were instituted on September 23, 1977, by the U.S. International Trade Commission following the receipt of advice from the Department of the Treasury that saccharin from Japan and the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

The complaint which led to Treasury's determinations of sales at LTFV was filed by counsel representing the sole U.S. producer of saccharin, Sherwin-Williams Co. Treasury's investigation of U.S. imports from the Republic of Korea covered the 6-month period from July 1, 1976, through December 31, 1976. The investigation concerning saccharin from Japan covered two separate time periods. Imports manufactured by Aisan Chemical Co., Ltd., were examined for 7 months, from June 1, 1976, to December 31, 1976; imports manufactured by Daito Chemical Industrial Co. were examined for 6 months, from June 1, 1976, to November 30, 1976.

In the Korean case, Treasury made price comparisons on saccharin manufactured by three companies which supplied over 90 percent of saccharin imports from Korea. Treasury made comparisons on approximately 71 percent of the saccharin sold to the United States by these three manufacturers during the period of its investigation. All of these sales were made at LTFV prices. The margins ranged from 24 percent to 26 percent, with a weighted average margin of 25 percent.

In the Japanese case, the Treasury investigation was limited to saccharin manufactured by Aisan Chemical Co., Ltd., and Daito Chemical Industry Co. These two companies accounted for over 60 percent of U.S. imports of saccharin from Japan. Comparisons showed that 100 percent of Aisan's sales were at fair value. An examination of Daito's sales found margins ranging from 9 to 11 percent. The weighted average margin was 9.4 percent.

Soluble saccharin in granular, and powder forms accounts for approximately 85 percent of U.S. saccharin consumption. Saccharin is primarily used in the soft drink and food industries as a noncaloric sweetener. It is also used in oral hygiene products, pharmaceutical products, and in the nickel electroplating industry.

Sherwin-Williams Co. of Cleveland, Ohio, has been the sole U.S. producer of saccharin since 1972. Sherwin-Williams expanded its capacity to produce saccharin from * * * in 1974 to * * * in 1977. The decision to expand was influenced by a domestic shortage of saccharin in 1974. Apparent U.S. consumption of saccharin declined from * * * in 1974 to * * * in 1976; amounting to a drop of approximately * * * percent. Domestic shipments of saccharin by Sherwin-Williams have increased * * * percent during the period 1974-76.

U.S. imports of saccharin rose significantly from 2.1 million pounds in 1973 to 3.4 million pounds in 1974. In 1976, however, imports declined to 2.7 million pounds. During the first 9 months of 1977, imports were 11 percent

above those entered in the corresponding period of 1976. Imported saccharin's share of the U.S. market dropped from * * * percent in 1974 to * * * percent in 1976. During the first three quarters of both 1976 and 1977 it amounted to * * * percent.

The net operating profit for Sherwin-Williams' saccharin operations--* * * in 1974 was * * * times its level of the previous year. Thereafter, net operating profits * * * in 1975 and then * * * in 1976. Data for January-September 1977 indicate that Sherwin-Williams * * * .

Imports from Japan, other than those produced by Aisan, increased from * * * in 1973 to about * * * in 1974 (the saccharin shortage period)--amounting to an increase of 40 percent. Thereafter they decreased to * * * in 1976--a decline of 47 percent. The ratio of LTFV imports from Japan to apparent consumption dropped from * * * percent in 1974 to * * * percent in 1976 and * * * percent in the first three quarters of 1977. Imports from the Republic of Korea increased rapidly from 91,000 pounds in 1973 to about 423,000 pounds in 1974 and 1975 and then increased again to 465,000 pounds in 1976. Imports in the first three quarters of 1977 already have surpassed total imports for the full year 1976. The ratio of imports from the Republic of Korea to apparent consumption increased from * * * percent in 1973 to * * * percent in 1976 and to * * * percent in the first three quarters of 1977.

During the period of Treasury's examination of LTFV sales, June-November 1976, granular saccharin from Japan sold at from \$0.44 to \$0.65 less than the \$2.40 per pound charged by Sherwin-Williams. In this same period powder saccharin from Japan sold at from \$0.06 to \$0.21 less than the \$2.75 per pound charged by Sherwin-Williams.

Throughout the period of Treasury's examination of Korean LTFV sales, July-December 1976, Korean granular saccharin was sold for \$0.50 to \$0.58 less than domestic saccharin. Korean powder saccharin sold for \$0.31 less per pound than the domestic product.

Four U.S. firms acknowledged to the Commission that during the period in which Treasury found sales at LTFV they shifted a significant share of their saccharin purchases from Sherwin-Williams to goods imported from Japan and Korea.

Introduction

On September 9, 1977, the United States International Trade Commission received advice from the Department of the Treasury that saccharin from Japan, with the exception of saccharin produced by Aisan Chemical Co., Ltd., and saccharin from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Anti-dumping Act, 1921, as amended (19 U.S.C. 160(a)). 1/ 2/ Accordingly, on September 23, 1977, the Commission instituted investigations Nos. AA1921-174 and 175 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. By statute, the Commission must render its determination within 3 months of its receipt of advice from Treasury or, in this case, by December 9, 1977.

Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York office, and by publishing the notice in the Federal Register of September 28, 1977 (42 F.R. 49849). 3/ In accordance with the notice, a public hearing was held on October 26, 1977.

The complaint which led to Treasury's determination of sales at LTFV was filed by counsel representing the sole U.S. producer of saccharin, Sherwin-Williams Co. Treasury's investigation of U.S. imports from the Republic of Korea covered the 6-month period from July 1, 1976, through December 31, 1976. The investigation concerning saccharin from Japan covered two separate time periods. Imports manufactured by Aisan Chemical Co., Ltd., were examined for 7 months, from June 1, 1976, to December 31, 1976; imports manufactured by Daito Chemical Industrial Co. were examined for 6 months, from June 1, 1976, to November 30, 1976. Treasury's notice of investigation was published in the Federal Register of November 29, 1976 (41 F.R. 52352). A notice of tentative negative determination for saccharin imported from Japan and a withholding of appraisement notice for saccharin imports from the Republic of Korea were published in the Federal Register of June 8, 1977 (42 F.R. 29355). Treasury's final determination of sales at LTFV from the Republic of Korea and Japan and its notice of withholding of appraisement for saccharin imports from Japan were published in the Federal Register of September 14, 1977 (42 F.R. 46091).

4/

1/ A copy of Treasury's letter to the Commission concerning LTFV sales of saccharin from the Republic of Korea and Japan is presented in app. A.

2/ On December 7, 1977, the Commission received advice from the Department of the Treasury that saccharin produced in Japan by Taiyo Chemical Industries, Ltd., is not being, nor is likely to be sold at LTFV. A copy of this letter is presented in app. F. This advice was received subsequent to the date, December 6, 1977, on which the Commission made its determinations in investigations Nos. AA1921-174 and 175.

3/ A copy of the Commission's Federal Register notice of investigation and hearing is presented in app. B.

4/ Copies of Treasury's Federal Register notices concerning saccharin from Japan and the Republic of Korea are presented in app. C.

Description and Uses

Saccharin is an artificial, noncaloric, nonnutritive sweetener which is manufactured from petroleum-based organic chemicals. Saccharin, by weight, is approximately 350 times sweeter than sugar. It is available commercially in four basic forms as follows:

Soluble sodium granular-granular crystals of sodium salt having the formulation $(C_6H_4SO_2NCO) Na \cdot 2H_2O$.

Soluble sodium powder-crystalline powder of sodium salt having the formulation $(C_6H_4SO_2NCO) Na$.

Calcium saccharin-a calcium salt having the formulation $2(C_6H_4SO_2NCO) Ca \cdot 3.5 H_2O$.

Insoluble powder-an acid form of saccharin having the formulation $C_6H_4SO_2NHCO$.

Soluble sodium saccharin in granular and powder forms accounts for approximately 85 percent of U.S. saccharin consumption.

Saccharin is produced by either the Remsen-Fahlberg process or the Maumee process. Counsel for foreign manufacturers stated at the public hearing that it is more expensive to produce saccharin by the Maumee process than by the Remsen-Fahlberg process. 1/ All of the producers in Japan and the Republic of Korea use the Remsen-Fahlberg process. Sherwin-Williams uses the Maumee process. The differences in the saccharin produced by these two processes are primarily in the amount and types of impurities in the finished product. The major impurities in sodium saccharin have chemical structures similar to known carcinogens. Higher levels of these impurities are found in saccharin produced by the Remsen-Fahlberg process than in saccharin produced by the Maumee process.

In the Maumee process, phthalic anhydride is reacted with other chemicals including chlorine, methanol, sulfur, sodium hydroxide, and hydrochloric acid. The process results in the production of chemicals which can be either sold as end products or used as intermediates in the production of other chemicals, including saccharin. As shown in figure 1, * * *. * * *. The use of the Maumee process allows flexibility in the product mix of the chemical plant.

Figure 1.--Maumee process flow chart.

* * * * *

1/ See the transcript of the public hearing, p. 160.

The relative value and quantity of each of the aforementioned chemicals produced in Sherwin-Williams' chemical plant in 1976 are shown in table 1 below.

Table 1.--Sherwin-Williams' production of selected chemicals, 1976

| Chemical | Quantity | Unit value |
|------------|-----------------------|------------------|
| | <u>Million pounds</u> | <u>Per pound</u> |
| * * *----- | * * * | * * * |
| * * *----- | * * * | * * * |
| * * *----- | * * * | * * * |
| * * *----- | * * * | * * * |
| * * *----- | * * * | * * * |

Source: The Sherwin-Williams Co.

The Remsen-Fahlberg process starts with toluene and chlorosulfonic acid from which o-toluenesulfonyl chloride and p-toluenesulfonyl chloride are produced. The p-toluenesulfonyl chloride is removed and the remaining compound is treated with ammonia to produce o-toluensulfonamide. This is oxidized to o-sulfamoylbenzoic acid which, when heated, becomes free insoluble saccharin. The saccharin is then reacted with sodium hydroxide and sodium carbonate to form sodium saccharin.

Saccharin was introduced to the United States at the beginning of the 20th century. Numerous uses were developed in subsequent years but it was not until the introduction of saccharin in diet soft drinks in the 1950's that U.S. consumption increased at a rapid rate. The Calorie Control Council, Inc., a trade association, estimates that diet soft drinks account for 45 percent of the saccharin consumed in the United States. Table-top sweeteners such as "Sweet 'N Low" and "Sugar Twin" account for approximately 18 percent; dietetic foods such as canned fruits, gelatin desserts, and ice cream account for approximately 14 percent; and cosmetics account for about 10 percent of consumption. The remainder is used in toothpaste, mouthwash, tobacco, medical preparations, nickel electroplating and miscellaneous applications. Data submitted by the Sherwin-Williams Co. concerning its shipments by end use in 1976 were as follows:

| End uses | Shipments 1,000 pounds | Percent of total Percent |
|----------|------------------------------|------------------------------------|
| * * * | * * * | * * * |
| * * * | * * * | * * * |
| * * * | * * * | * * * |
| * * * | * * * | * * * |
| * * * | * * * | * * * |
| * * * | * * * | * * * |
| Total | * * * | 100.0 |

U.S. Tariff Treatment

Saccharin is "eo nomine" provided for in item 408.45 of the Tariff Schedules of the United States (TSUS). The column 1 (most-favored-nation) rate of duty for this item is 1.5 cents per pound plus 9.5 percent ad valorem; the column 2 rate is 7 cents per pound plus 45 percent ad valorem. The column 1 rate, which has been in effect since January 1, 1972, represents the last of five staged reductions negotiated under the Kennedy round of trade negotiations pursuant to the General Agreement on Tariffs and Trade.

Valuation of imported saccharin for duty purposes is determined by the "American selling price" of domestically produced saccharin. This is the price at which a like or similar article produced in the United States is freely sold or, in the absence of sales, offered for sale in the United States in the ordinary course of trade and in the usual wholesale quantities.

Saccharin is on the list of articles eligible of duty-free entry under the Generalized System of Preferences (GSP). Effective January 1, 1976, imports of saccharin from certain beneficiary developing countries, including the Republic of Korea and the Republic of China, were eligible for duty-free entry. However, in 1976, 26 percent of saccharin imports from the Republic of Korea were ineligible for duty-free treatment because they did not conform with general headnote 3(c)(ii)(A) ^{1/} of the Tariff Schedules of the United States. That headnote provides that a beneficiary developing country must have contributed at least 35 percent of the appraised value of the article at the time of its entry into the United States. Because they did not meet this value-added criterion, these shipments were not eligible for duty-free entry under the GSP.

^{1/} See app. D.

Domestic Producer

Sherwin-Williams Co., of Cleveland, Ohio, is currently the only producer of saccharin in the United States. The only other U.S. firms which have produced saccharin in the last 12 years are as follows:

| <u>Company</u> | <u>Year saccharin production was stopped</u> |
|---|--|
| Monsanto Co----- St. Louis, Mo. | 1972 |
| Lakeway Chemical Co----- Muskegon, Mich. | 1971 |
| Pillsbury Co----- Minneapolis, Minn. | 1968 |
| Maumee Chemical Co----- Toledo, Ohio | 1966 |

Monsanto Co. was the first firm to produce saccharin in the United States and at the time of its exit from the market accounted for over 50 percent of domestic production. Officials of the company have stated that their decision to leave the market was based on an analysis of profits. The raw material input to Monsanto's saccharin production was o-toluenesulfonamide (OTS). This chemical, which had a limited number of producers, was also used in Monsanto's nylon, pharmaceutical, and pigment operations. A profitability study showed that the saccharin operation was not profitable enough to justify the use of a raw material which could be used in more profitable applications. On the basis of this analysis, saccharin production was stopped.

The Maumee Chemical Co.'s Cincinnati saccharin plant was bought by Sherwin-Williams in 1966, and has been operated by Sherwin-Williams since that date. Its present capacity amounts to * * * million pounds annually. There are no other plants operated by Sherwin-Williams that are now or have been involved in the manufacture of saccharin. Sherwin-Williams sells directly to saccharin consuming companies, and does not use distributors. It employs a nationwide sales organization.

Japanese and Korean Producers

There are six major producers of saccharin in Japan and three in the Republic of Korea. These companies and their estimated capacities to produce saccharin are as follows:

| <u>Producers</u> | <u>1976 capacity 1/</u> <u>1,000 pounds</u> |
|--------------------------------------|--|
| Japanese: | |
| Aisan Chemical Co----- | * * * |
| Daito Chemical Industry Co----- | * * * |
| Daiwa Chemical Co----- | * * * |
| Ikuwa Chemical Industry Co----- | * * * |
| Keihin Kagaku Kogyosho----- | * * * |
| Taiyo Chemical Co----- | * * * |
| Total----- | * * * |
| Korean: | |
| Choheung Chemical Industries Co----- | * * * |
| Jeil Moolsan Co., Inc----- | * * * |
| Kumbuk Chemical Industries Co----- | * * * |
| Total----- | * * * |

1/ Capacity figures were estimated by the Commission staff based on data submitted by Sherwin-Williams and counsel for Korean manufacturers.

Importers

Approximately 35 firms currently import saccharin. A number of large importers are pharmaceutical companies which enter saccharin for their own consumption. With the exception of these pharmaceutical companies and the large Japanese trading companies (Mitsubishi International Corp. and Mitsui and Co.), the importers are primarily small entrepreneurs, usually with no more than three or four employees. A few of these firms import large quantities of saccharin. At least two of them (Howard Hall and Co., Cos Cob, Conn., and Henry Interdoniti Inc., Great Neck, N.Y.) also act as brokers of saccharin. They buy saccharin from other importers who are unable to find a market for their imports and resell it. Most of the importers are located in the greater New York City metropolitan area.

Nature and Extent of Sales at Less Than Fair Value

LTFV sales from Korea

Treasury's investigation of U.S. imports from the Republic of Korea covered the 6-month period from July 1, 1976, through December 31, 1976. Only soluble sodium saccharin in granular and powder forms was examined. These two types of saccharin, as previously stated, account for approximately 85 percent of U.S. saccharin consumption. The Treasury investigation was limited to saccharin manufactured by Kumbuk Chemical Industries Co., Ltd.; Choheung Chemical Industries Co.; and Jeil Moolsan Co., Inc. These three companies, according to Treasury, accounted for over 90 percent of saccharin imports from Korea.

Treasury made comparisons on approximately 71 percent of the saccharin sold to the United States by the three aforementioned manufacturers during the period of investigation. The total value of sales examined was \$354,890. Treasury found that 100 percent of those sales were made at LTFV prices. The margins, as calculated by Treasury, ranged from 24 to 26 percent, with a weighted average margin for all sales of 25 percent.

In determining LTFV margins, Treasury calculated home-market price (or fair value) on the basis of the weighted average, packed, delivered price to wholesale purchasers in the Republic of Korea. Adjustments were made for transportation, interest expenses, rebates to a distributor, differences in packing expenses, and differences in the merchandise.

Since all of the merchandise compared was purchased or had been agreed to be purchased prior to the time of exportation (by the persons by whom, or for whose account, it was imported), Treasury calculated the purchase price on the basis of the cost, insurance, freight (c.i.f.) price to U.S. importers with deductions for ocean freight, marine insurance, shipping charges, banking charges, and inland freight.

LTFV sales from Japan

The Treasury investigation was limited to saccharin manufactured by Aisan Chemical Co., Ltd., and Daito Chemical Industrial Co. These two companies, according to Treasury's investigation, accounted for over 60 percent of U.S. imports of saccharin from Japan.

The investigation of saccharin from Japan covered two separate time periods. Imports manufactured by Aisan were examined for 7 months, from June 1, 1976, to December 31, 1976, while imports manufactured by Daito were examined for 6 months, from June 1, 1976, to November 30, 1976.

The Department of the Treasury made a tentative determination on June 8, 1977, that imports of saccharin from Japan were not being sold at LTFV (42 F.R. 29355). However, after completing its investigation, Treasury made a determination on September 14, 1977, that saccharin from Japan was being sold at LTFV with the exception of that produced by Aisan.

Treasury made price comparisons on approximately 90 percent of the saccharin sold to the United States by the two aforementioned manufacturers during the periods of investigation. The total value of sales examined was \$1,370,770 (\$1,255,000 for Aisans, \$115,770 for Daito).

Treasury found that 100 percent of Aisan's sales were at fair value. Treasury examined 45 percent of Daito's sales to the United States and found that 100 percent of such sales were at LTFV, with margins, as calculated by Treasury, ranging from 9 to 11 percent. The weighted average margin was 9.4 percent.

In determining LTFV margins, Treasury calculated home-market price (or fair value) on the basis of the free on board (f.o.b.) delivered price to

wholesale purchasers in Japan. Adjustments were made for inland freight, discounts (which were taken into consideration in arriving at a weighted average price), differences in packing, interest, and selling expenses up to the amount deducted for commissions in the calculation of purchase price, as appropriate.

Since all merchandise was purchased prior to the time of exportation (by the persons by whom, or for whose account, it was imported), Treasury calculated the purchase price on the basis of the c.i.f. packed price to the United States, or the f.o.b. packed price to the unrelated trading companies, with deductions for inland freight, ocean freight, insurance, shipping charges, banking fees, and commissions, as appropriate.

Consideration of Injury or Likelihood Thereof

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

Apparent U.S. consumption of saccharin rose from * * * million pounds in 1973 to * * * million pounds in 1974--amounting to an increase of 29 percent (table 2). Apparent consumption leveled off at * * * million pounds annually in 1975 and 1976. Sherwin-Williams' domestic shipments of saccharin rose from * * * million pounds in 1973 to * * * million pounds in 1976--amounting to an increase of 11 percent.

Table 2.--Saccharin: U.S. producer's domestic shipments, exports, imports for consumption, and apparent consumption, 1973-76, January-September 1976, and January-September 1977

| Period | U.S. producer's domestic shipments | Exports | Imports | Apparent consumption | Ratio of imports to consumption |
|---------------------|------------------------------------|--------------|--------------|----------------------|---------------------------------|
| | 1,000 pounds | 1,000 pounds | 1,000 pounds | 1,000 pounds | Percent |
| 1973----- | * * * | * * * | 2,072 | * * * | * * * |
| 1974----- | * * * | * * * | 3,415 | * * * | * * * |
| 1975----- | * * * | * * * | 3,086 | * * * | * * * |
| 1976----- | * * * | * * * | 2,710 | * * * | * * * |
| January-September-- | | | | | |
| 1976----- | * * * | * * * | 1,925 | * * * | * * * |
| 1977----- | * * * | * * * | 2,142 | * * * | * * * |

* * *

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

Exports of saccharin by Sherwin-Williams were * * *.

* * * * *

Table 3.--U.S. exports of saccharin by Sherwin-Williams, by principal markets, 1976 and January-October 1977

* * * * *

U.S. imports

U.S. imports of saccharin rose significantly (by 65 percent) from 1973 to 1974 (table 4). However, in 1975 and 1976, imports declined by a total of 21 percent from the high point of 1974. During the first 9 months of 1977, imports were 11 percent greater than those entered in the corresponding period of 1976. U.S. imports of saccharin, by types, and monthly import data are shown in tables 5 and 6.

The principal source of saccharin imports throughout the 1973-76 period was Japan. In 1973, imports from Japan accounted for 93 percent of total U.S. imports of saccharin. Japan's share of U.S. imports gradually declined during the 1973-77 period. In January-September of 1977, imports of Japanese saccharin accounted for 66 percent of U.S. imports, 10 percentage points less than their share in the corresponding period of 1976.

Imports from the Republic of Korea increased dramatically from 4 percent (91,000 pounds) of total U.S. imports in 1973 to 12 percent (423,000 pounds) of total U.S. imports in 1974. After 1974, imports from Korea continued to increase to 17 percent of total U.S. imports in 1976 and to 24 percent of the total in January-September 1977.

The rise in imports in 1976 and 1977 from the Republic of Korea and the Republic of China coincides with the granting of duty-free treatment on saccharin imports from these countries under the provisions of the Generalized System of Preferences. Imports from the Republic of China were negligible until 1976 when they amounted to 181,000 pounds. Imports in January-September 1977 rose to 202,000 pounds; 9 percent of total imports for that period.

Table 4.--Saccharin: U.S. imports for consumption, by sources, 1973-76
January-September 1976, and January-September 1977

| Source | 1973 | 1974 | 1975 | 1976 | Jan.-Sept.-- | |
|---------------------------------|--------|-----------|--------|--------|--------------|-----------|
| | | | | | 1976 | 1977 |
| Quantity (1,000 pounds) | | | | | | |
| Republic of Korea----- | 91 | 423 | 422 | 465 | 322 | 511 |
| Japan----- | 1,929 | 2,937 | 2,595 | 2,057 | 1,457 | 1,423 |
| Republic of China----- | - | 13 | 42 | 181 | 143 | 202 |
| Other countries----- | 52 | 43 | 27 | 7 | 3 | 6 |
| Total----- | 2,072 | 3,416 | 3,086 | 2,710 | 1,925 | 2,142 |
| Value (1,000 dollars) <u>1/</u> | | | | | | |
| Republic of Korea----- | 142 | 1,942 | 1,367 | 842 | 583 | <u>2/</u> |
| Japan----- | 2,643 | 12,306 | 7,837 | 4,073 | 2,885 | <u>2/</u> |
| Republic of China----- | - | <u>2/</u> | 146 | 362 | 286 | <u>2/</u> |
| Other countries----- | 73 | 182 | 82 | 14 | 6 | <u>2/</u> |
| Total----- | 2,858 | 14,430 | 9,432 | 5,291 | 3,760 | <u>2/</u> |
| Unit value (per pound) | | | | | | |
| Republic of Korea----- | \$1.56 | \$4.59 | \$3.24 | \$1.81 | \$1.81 | <u>2/</u> |
| Japan----- | 1.37 | 4.19 | 3.02 | 1.98 | 1.98 | <u>2/</u> |
| Republic of China----- | - | <u>2/</u> | 3.48 | 2.00 | 2.00 | <u>2/</u> |
| Other countries----- | 1.40 | 4.23 | 3.04 | 2.00 | 2.00 | <u>2/</u> |
| Total----- | 1.38 | 4.22 | 3.06 | 1.95 | 1.95 | <u>2/</u> |

1/ Foreign value rather than entered value. Saccharin imports are valued on American selling price (entered value) for duty purposes.

2/ Not available.

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

Table 5.--Saccharin: U.S. imports for consumption, by types and by sources, 1976 and January-September 1977

| Type and source | 1976 | | January-September 1977 | |
|--|---------------|------------------------|------------------------|------------------------|
| | Quantity | Share of total imports | Quantity | Share of total imports |
| | | by type | | by type |
| | <u>Pounds</u> | <u>Percent</u> | <u>Pounds</u> | <u>Percent</u> |
| Sodium saccharin in soluble granular form: | | | | |
| Republic of Korea----- | 279 | 60 | 291 | 58 |
| Japan----- | 1,316 | 64 | 768 | 54 |
| All other countries----- | 181 | 96 | 200 | 96 |
| Sodium saccharin in soluble powder form: | | | | |
| Republic of Korea----- | 75 | 17 | 26 | 5 |
| Japan----- | 679 | 33 | 598 | 42 |
| All other countries----- | 7 | 4 | 8 | 4 |
| All other forms of saccharin: | | | | |
| Republic of Korea----- | 111 | 24 | 194 | 38 |
| Japan----- | 62 | 3 | 57 | 4 |
| All other countries----- | 0 | - | 0 | - |
| Total----- | 2,710 | | 2,142 | |

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

Table 6.--Saccharin: U.S. imports for consumption, by sources and by months, 1974-76, January-September 1977

| (In pounds) | | | | | |
|----------------|-----------|-------------------|-------------------|--------|-----------|
| Period | Japan | Republic of Korea | Republic of China | Other | Total |
| 1974: | | | | | |
| January----- | 98,375 | 2,204 | 0 | 0 | 100,579 |
| February----- | 148,639 | 2,394 | 0 | 0 | 151,033 |
| March----- | 242,349 | 6,393 | 0 | 7,110 | 255,852 |
| April----- | 338,783 | 70,437 | 0 | 7,013 | 416,233 |
| May----- | 265,364 | 11,023 | 0 | 740 | 277,127 |
| June----- | 298,829 | 45,293 | 0 | 628 | 344,750 |
| July----- | 210,112 | 33,059 | 0 | 16,000 | 259,171 |
| August----- | 289,746 | 33,066 | 0 | 0 | 322,812 |
| September----- | 298,221 | 33,117 | 0 | 442 | 331,780 |
| October----- | 164,114 | 1,323 | 13,228 | 2,425 | 181,090 |
| November----- | 288,237 | 49,996 | 0 | 41 | 338,274 |
| December----- | 294,036 | 134,263 | 0 | 8,337 | 436,676 |
| Total----- | 2,936,805 | 422,568 | 13,228 | 42,736 | 3,415,377 |
| 1975: | | | | | |
| January----- | 405,322 | 39,227 | 2,000 | 220 | 446,769 |
| February----- | 290,275 | 101,813 | 20,000 | 8,873 | 420,961 |
| March----- | 398,643 | 76,533 | 0 | 2,646 | 477,822 |
| April----- | 572,511 | 68,821 | 0 | 551 | 641,883 |
| May----- | 249,331 | 22,635 | 1,804 | 0 | 273,770 |
| June----- | 174,326 | 11,027 | 0 | 11,023 | 196,376 |
| July----- | 80,572 | 26,455 | 10,000 | 0 | 117,027 |
| August----- | 33,341 | 8,509 | 8,000 | 0 | 49,850 |
| September----- | 5,310 | 5,410 | 0 | 661 | 11,381 |
| October----- | 66,108 | 44,410 | 0 | 0 | 110,518 |
| November----- | 97,705 | 6,615 | 0 | 2,800 | 107,120 |
| December----- | 221,264 | 10,803 | 0 | 0 | 232,067 |
| Total----- | 2,594,708 | 422,258 | 41,804 | 26,774 | 3,085,544 |
| 1976: | | | | | |
| January----- | 207,080 | 13,122 | 4,000 | 414 | 224,616 |
| February----- | 57,322 | 11,835 | 0 | 0 | 69,157 |
| March----- | 259,441 | 35,443 | 9,008 | 1,650 | 305,542 |
| April----- | 80,268 | 47,313 | 9,000 | 0 | 136,581 |
| May----- | 143,734 | 30,758 | 0 | 309 | 174,801 |
| June----- | 165,978 | 22,782 | 40,000 | 0 | 228,760 |
| July----- | 166,767 | 72,090 | 0 | 0 | 238,857 |
| August----- | 243,691 | 52,181 | 26,000 | 661 | 322,533 |
| September----- | 132,558 | 36,000 | 55,000 | 290 | 223,848 |
| October----- | 230,171 | 31,832 | 0 | 2,234 | 264,237 |
| November----- | 146,490 | 67,604 | 38,000 | 0 | 252,094 |
| December----- | 223,475 | 43,717 | 0 | 1,872 | 269,064 |
| Total----- | 2,056,975 | 464,677 | 181,008 | 7,430 | 2,710,090 |
| 1977: | | | | | |
| January----- | 180,295 | 159,146 | 0 | 81 | 339,522 |
| February----- | 157,547 | 0 | 33,999 | 749 | 192,295 |
| March----- | 164,411 | 84,087 | 41,200 | 234 | 289,932 |
| April----- | 221,657 | 30,900 | 6,000 | 0 | 258,557 |
| May----- | 178,824 | 70,700 | 0 | 2 | 249,526 |
| June----- | 92,112 | 17,346 | 7,000 | 121 | 116,579 |
| July----- | 71,651 | 24,294 | 52,046 | 3,382 | 151,373 |
| August----- | 194,367 | 76,462 | 28,046 | 1,653 | 300,528 |
| September----- | 161,872 | 47,717 | 34,000 | 0 | 243,589 |
| Total----- | 1,422,736 | 510,652 | 202,291 | 6,222 | 2,141,901 |

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

Capacity utilization

Sherwin-Williams increased its annual capacity to produce saccharin from * * * million pounds in 1974, a year in which there was a shortage of saccharin in the United States, to * * * million pounds in 1977. During this period, the level at which Sherwin-Williams operated its saccharin producing facilities declined from * * * percent of capacity in 1974 to * * * percent in 1976, before increasing to * * * percent in January-September 1977, as shown in table 7 below.

Table 7.--Saccharin: Sherwin-Williams' theoretical capacity and actual production, 1974-76 and January-September 1977

| Year | Capacity | Production | Ratio of production to capacity |
|-----------------------------|-------------------------------|-------------------------------|---------------------------------|
| | <u>1,000</u> <u>pounds</u> | <u>1,000</u> <u>pounds</u> | <u>Percent</u> |
| 1974----- | * * * | * * * | * * * |
| 1975----- | * * * | * * * | * * * |
| 1976----- | * * * | * * * | * * * |
| January-September 1977----- | * * * | * * * | * * * |

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

Officials of Sherwin-Williams indicated that capacity expansion was begun in 1973 at the insistence of their domestic customers. A two-phase expansion was begun to increase capacity from * * * million pounds to * * * million pounds. Phase two of the expansion began in 1976, but the anticipated increase in demand for saccharin did not materialize and the company curtailed expansion at the * * * million pound level. 1/ No additional increases in capacity are planned at this time.

All capacity data cited above reflect Sherwin-Williams' ability to produce granular saccharin based on operating its production facilities 24 hours per day, 7 days per week. If capacity statistics were based on Sherwin-Williams actual product mix, the overall capacity would be somewhat lower. All forms of saccharin must be produced from granular saccharin. For example, * * *, * * *, and * * * pounds of granular saccharin are required to produce 100 pounds of powdered saccharin, spray dried saccharin, 2/ and insoluble saccharin, respectively. Therefore, capacity figures based on product mix would reflect these differences. The relative shares of Sherwin-Williams' 1976 sales of saccharin were * * * percent granular, * * * percent powdered, * * * percent spray dried and * * * percent insoluble.

1/ Theoretical capacity for the full year 1977.

2/ A powdered form of saccharin containing about 1 percent water. Standard powdered saccharin contains about 5 percent water.

Production

Sherwin-Williams' production of saccharin increased from * * * million pounds in 1973 to * * * million pounds in 1975 (table 8). Declining demand in late 1975 led to the accumulation of large yearend inventories. Owing to the working off of these inventories in 1976, production declined to * * * million pounds. Production data for the first three quarters of 1977 indicate that Sherwin-Williams will surpass its 1976 production total in 1977.

Table 8.--Saccharin: Sherwin-Williams' production, by types, 1973-76, January-September 1976, and January-September 1977

(In thousands of pounds)

| Type | 1973 | 1974 | 1975 | 1976 | Jan.-Sept.-- | |
|--|-------|-------|-------|-------|--------------|-------|
| | | | | | 1976 | 1977 |
| Sodium saccharin in soluble granular form----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Sodium saccharin in soluble powder form----- | * * * | * * * | * * * | * * * | * * * | * * * |
| All other forms of saccharin----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Total----- | * * * | * * * | * * * | * * * | * * * | * * * |

Sources: Compiled from data submitted in response to a questionnaire of the U.S. International Trade Commission.

Inventories

Sherwin-Williams' yearend inventories of saccharin increased by * * * percent between 1973 and 1974 and then increased by * * * percent in 1975 (table 9). Company officials attribute this sharp increase in 1975 to a slackening of demand in the latter part of that year. Since 1975 saccharin inventories have decreased from * * * pounds to * * * pounds in September 1977, amounting to a decrease of * * * percent.

Table 9.--Saccharin: Sherwin-Williams' inventories, by types, 1973-76, January-September 1976, and January-September 1977

(In thousands of pounds)

| Type | As of Dec. 31-- | | | | As of Sept. 30-- | |
|--|-----------------|------|------|------|------------------|------|
| | 1973 | 1974 | 1975 | 1976 | 1976 | 1977 |
| Sodium saccharin in soluble granular form----- | *** | *** | *** | *** | *** | *** |
| Sodium saccharin in soluble powder form----- | *** | *** | *** | *** | *** | *** |
| All other forms of saccharin----- | *** | *** | *** | *** | *** | *** |
| Total----- | *** | *** | *** | *** | *** | *** |

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

Employment and person-hours

As shown in table 10, the average number of production and related workers employed in Sherwin-Williams' saccharin production operations rose from *** in 1973 to *** in 1976--for an increase of 32 percent. However, in January-September 1977, the average number of production and related workers decreased to ***. Labor requirements were affected by two counter-vailing factors. Capacity increases in the continuous saccharin process resulted in a *** increase in labor productivity. However, the productivity advantage gained from this capacity increase was partially offset by increased market demand for special types of saccharin, (e.g., spray-dried saccharin) which necessitated special runs and additional equipment and processing steps.

Table 10.--Average number of persons employed in Sherwin-Williams' Maumee Chemical plant, total and production and related workers, 1973-76, January-September 1976, and January-September 1977

| Period | All persons | Production and related workers | |
|---------------------|-------------|--------------------------------|------------------|
| | | Saccharin production | Other operations |
| 1973----- | *** | *** | *** |
| 1974----- | *** | *** | *** |
| 1975----- | *** | *** | *** |
| 1976----- | *** | *** | *** |
| January-September-- | | | |
| 1976----- | *** | *** | *** |
| 1977----- | *** | *** | *** |

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

As shown in table 11 the total person-hours for production and related workers engaged in the production of saccharin increased from * * * in 1973 to * * * in 1976. However, in January-September 1977 the number of person-hours decreased by * * * percent from that reported for the corresponding period of 1976.

Table 11.--Person-hours worked by production and related workers in Sherwin-Williams' Maumee Chemical plant, 1973-76, January-September 1976, and January-September 1977

| Item | 1973 | 1974 | 1975 | 1976 | Jan.-Sept.-- | |
|---|-------|-------|-------|-------|--------------|-------|
| | | | | | 1976 | 1977 |
| Production and related workers engaged in the production of-- | | | | | | |
| All products of the establishment---- | * * * | * * * | * * * | * * * | * * * | * * * |
| Saccharin----- | * * * | * * * | * * * | * * * | * * * | * * * |

Sources: Compiled from data submitted in response to a questionnaire of the U.S. International Trade Commission.

Financial experience of Sherwin-Williams

The overall net operating profit on all operations of the Maumee plant in which saccharin was produced * * *.

* * * * *

Table 12.--Selected financial data on all operations of Sherwin-Williams' Maumee plant, 1973-1976, January-September 1976, and January-September 1977

| Item | 1973 | 1974 | 1975 | 1976 | Jan.-Sept.-- | |
|--|-------|-------|-------|-------|--------------|-------|
| | | | | | 1976 | 1977 |
| Net sales-----1,000 dollars-- | * * * | * * * | * * * | * * * | * * * | * * * |
| Gross profit-----do----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Net operating profit-----do----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Fixed assets (book value)-----do----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Ratio of net operating profit to net sales-----percent-- | * * * | * * * | * * * | * * * | * * * | * * * |
| Ratio of net operating profit to fixed assets (book value)-----do----- | * * * | * * * | * * * | * * * | * * * | * * * |

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

* * * * *

Table 13.--Selected financial data on Sherwin-Williams' operations on sacharin, 1973-76, January-September 1976, and January-September 1977

| Item | 1973 | 1974 | 1975 | 1976 | Jan.-Sept.-- | |
|--|-------|-------|-------|-------|--------------|-------|
| | | | | | 1976 | 1977 |
| Net sales-----1,000 dollars-- | * * * | * * * | * * * | * * * | * * * | * * * |
| Gross profit-----do----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Net operating profit-----do----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Fixed assets (book value)----do----- | * * * | * * * | * * * | * * * | * * * | * * * |
| Ratio of net operating profit to net sales-----percent-- | : | : | : | : | : | : |
| Ratio of net operating profit to fixed assets (book value)-----do----- | * * * | * * * | * * * | * * * | * * * | * * * |

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

* * * * *

Research and development

Sherwin-Williams' internal expenditures for research and development (R&D) on saccharin increased from * * * in 1973 to * * * in 1976. The company has advised the Commission that the rising costs for R&D were due to increased research to improve the quality of its saccharin and to combat the proposed Food and Drug Administration (FDA) ban on saccharin (see pp. 26 and 27 of this report). R&D costs for 1977 are projected at * * *.

Consideration of the Causal Relationship Between LTFV
Imports and Alleged Injury

Market penetration of LTFV imports

The Department of the Treasury found no margins with regard to the sales of the Japanese producer, Aisan Chemical Co., and therefore, excluded Aisan from its determination of sales at LTFV. Aisan is by far the largest producer of saccharin in Japan and is also the largest exporter of saccharin to the United States (table 14). Therefore, imports from Japan, produced by firms other than Aisan, as discussed herein are substantially lower than total U.S. imports of saccharin from Japan.

Table 14.--Saccharin: U.S. imports from Aisan Chemical Co., from other Japanese producers, and total imports from Japan, 1973-76 and January-September 1977

| Period | Imports from Japan | | | Ratio of Aisan |
|-----------------------------|--------------------|--------|-----------|----------------|
| | Aisan | Other | Total | to total |
| | | | | U.S. imports |
| | Pounds | Pounds | Pounds | from |
| | | | | Japan |
| | | | | Percent |
| 1973----- | * * * | * * * | 1,928,562 | * * * |
| 1974----- | * * * | * * * | 2,936,805 | * * * |
| 1975----- | * * * | * * * | 2,594,708 | * * * |
| 1976----- | * * * | * * * | 2,056,975 | * * * |
| January-September 1977----- | * * * | * * * | 1,422,736 | * * * |

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

Japan.--Imports from Japan, other than those produced by Aisan, increased from * * * million pounds in 1973 to about * * * million pounds in 1974, a year in which there was a shortage of saccharin in the United States; this amounted to an increase of 40 percent (table 15). Thereafter, such imports from Japan decreased to * * * pounds in 1976--for a decline of 44 percent. The ratio of these imports from Japan to apparent consumption dropped from * * * percent in 1974 to * * * percent in 1976. Furthermore, despite an increase

in imports from Japan, other than those produced by Aisan, in January-September 1977, the ratio of such imports from Japan to apparent consumption declined to * * * percent for that period.

Republic of Korea.--Imports from the Republic of Korea, all of which were found to be sold at LTFV during the period of Treasury's investigation, increased rapidly from 91,000 pounds in 1973 to about 423,000 pounds in 1974 and 1975 and then increased again to 465,000 pounds in 1976. Imports in January-September 1977 already have surpassed total imports for the full year of 1976. The ratio of imports from the Republic of Korea to apparent consumption increased from * * * percent in 1973 to * * * percent in 1976, and increased further to * * * percent in January-September 1977.

Table 15.--Saccharin: Apparent U.S. consumption, imports from Japan, other than those produced by Aisan, and imports from the Republic of Korea, 1973-76, January-September 1976, and January-September 1977

| Period | Apparent | Imports | Imports | Ratio of imports | | |
|---------------------|-------------|---------|---------|-------------------------|---------|---------|
| | U.S. | from | from | to apparent consumption | | |
| | consumption | Japan | Korea | From | From | Total |
| | 1,000 | 1,000 | 1,000 | Percent | Percent | Percent |
| | pounds | pounds | pounds | Percent | Percent | Percent |
| 1973----- | * * * | * * * | 91 | * * * | * * * | * * * |
| 1974----- | * * * | * * * | 423 | * * * | * * * | * * * |
| 1975----- | * * * | * * * | 422 | * * * | * * * | * * * |
| 1976----- | * * * | * * * | 465 | * * * | * * * | * * * |
| January-September-- | | | | | | |
| 1976----- | * * * | * * * | 322 | * * * | * * * | * * * |
| 1977----- | * * * | * * * | 511 | * * * | * * * | * * * |

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

Loss of sales

Sherwin-Williams Co. supplied the Commission with a list of 26 firms to which it allegedly lost sales of saccharin totaling 914,000 pounds. ^{1/} The Commission contacted 15 of these firms but was able to confirm lost sales from only 4. Details on these lost sales are as follows:

| Company | Dates of lost sales | Quantity | Foreign source |
|---------|-------------------------------|---------------|--------------------|
| | | <u>Pounds</u> | |
| * * * | May 1976 to October 1977 | 75,000 | Korea |
| * * * | February 1976 to January 1977 | 50,000 | Korea |
| * * * | October 1975 to December 1976 | 10,000 | Korea |
| * * * | July 1976 to December 1976 | 50,000 | Japan and Korea |
| Total | | 185,000 | |

^{1/} The amounts of alleged lost sales were based on historical buying patterns and projections of potential sales by Sherwin-Williams' sales staff. In most cases these projections were overstated.

Purchasers, other than the four discussed above, indicated that although they may have shifted some purchases from Sherwin-Williams to foreign sources, their overall purchases of saccharin from Sherwin-Williams had grown. In these cases, the alleged lost sales were insignificant in comparison to Sherwin-Williams' total sales to these firms. Ten of the alleged lost sales were for amounts of less than 2,500 pounds and were not verified.

Prices

Granular saccharin from Japan.--During 1974, the height of the saccharin shortage period, imported Japanese granular saccharin sold at an average weighted price of \$5.51 per pound in contrast to Sherwin-Williams' average weighted price of \$1.79 per pound (table 16). However, as the shortage eased, prices for imported saccharin tumbled from a high of \$7.91 a pound in the second quarter of 1974 to a low of \$2.03 a pound in the last quarter of 1975. Prices for Japanese saccharin climbed slightly in the first two quarters of 1976 and then fell below \$2.00 a pound for the remainder of the year. From October 1975 through 1977, prices for granular Japanese saccharin were significantly lower than the prices charged by Sherwin-Williams. During June-November 1976, granular saccharin from Japan sold at from \$0.44 to \$0.55 less than the \$2.40 per pound charged by Sherwin-Williams.

Granular saccharin from the Republic of Korea.--During 1974, Korean granular saccharin sold for an average weighted price of \$3.18 per pound in the United States, while domestic saccharin was sold at an average weighted price of \$1.79 per pound. Prices fluctuated during 1975 then dropped sharply to a low of \$1.82 per pound in the last quarter of 1976. Prices increased in 1977, but to levels which were still significantly lower than those charged by Sherwin-Williams. During July-December 1976, Korean granular saccharin was sold for \$0.50 to \$0.58 per pound less than domestic saccharin. The LTFV margin of 25 percent accounted for over 90 percent of this margin of under-selling.

Table 16.--Granular saccharin: Imports from the Republic of Korea and Japan, other than those produced by Aisan, their weighted average net selling prices and Sherwin-Williams actual price, by quarter, 1974-76 and January-September 1977

| Period | Korea | | Japan | | Sherwin-Williams' |
|-----------------------|---------------|------------------|---------------|------------------|-------------------|
| | Quantity | Weighted | Quantity | Weighted | actual |
| | sold | price | sold | price | price |
| | <u>1,000</u> | | <u>1,000</u> | | |
| | <u>pounds</u> | <u>Per pound</u> | <u>pounds</u> | <u>Per pound</u> | <u>Per pound</u> |
| 1974: | | | | | |
| January-March----- | 0 | 0 | 19 | \$6.26 | \$1.35 |
| April-June----- | 0 | 0 | 24 | 7.91 | 1.65 |
| July-September----- | 5 | \$ 3.18 | 19 | 6.28 | 2.00 |
| October-December----- | 5 | 3.18 | 53 | 3.87 | 2.00 |
| 1975: | | | | | |
| January-March----- | 6 | 2.47 | 98 | 3.88 | 2.40 |
| April-June----- | 31 | 2.75 | 7 | 2.67 | 2.40 |
| July-September----- | 1 | 2.15 | 17 | 2.54 | 2.40 |
| October-December----- | 13 | 3.48 | 71 | 2.03 | 2.40 |
| 1976: | | | | | |
| January-March----- | 6 | 2.22 | 26 | 2.19 | 2.40 |
| April-June----- | 26 | 1.86 | 20 | 2.14 | 2.40 |
| July-September----- | 28 | 1.90 | 58 | 1.96 | 2.40 |
| October-December----- | 62 | 1.82 | 24 | 1.85 | 2.40 |
| 1977: | | | | | |
| January-March----- | 103 | 2.18 | 35 | 2.06 | 2.40 |
| April-June----- | 69 | 2.77 | 0 | 0 | 2.40 |
| July-September----- | 16 | 2.31 | 15 | 2.54 | 2.75 |

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

Powder saccharin from Japan.--Prices for imported Japanese powder saccharin reached their zenith during the shortage period of 1974, at an average weighted price of \$9.24 a pound. In contrast, Sherwin-Williams' price for powder saccharin started the year at \$1.90 a pound in January 1974 and rose to \$2.75 a pound in December (table 17). Again, as with granular saccharin, when the shortage eased, prices for imported powder saccharin tumbled to about \$2.75 in the last quarter of 1975. Prices continued to decline throughout 1976; during June-November 1976, Japanese powder saccharin sold for \$0.06 to \$0.31 per pound less than the \$2.75 per pound charged by Sherwin-Williams. Japanese powder saccharin prices increased to a weighted average of \$3.09 a pound in the third quarter of 1977.

Powder saccharin from the Republic of Korea.--Korean powder saccharin amounted to 17 percent of Korean exports of saccharin to the United States in 1976 and sold for an average weighted price of \$2.37 per pound, in contrast to Sherwin-Williams' price of \$2.75 per pound. Prices increased in 1977, but to levels which were still far below those charged by Sherwin-Williams. During July-December 1976, Korean powder saccharin sold for from \$0.33 to \$0.42 per pound less than the domestic product. The LTFV margin of 25 percent accounted for about half this margin of underselling.

Table 17.--Powder saccharin: Imports from the Republic of Korea and Japan, other than those produced by Aisan, their weighted average net selling prices and Sherwin-Williams' actual price, by quarters, 1974-76 and January-September 1977

| Period | Japan | | Korea | | Sherwin-Williams' actual price |
|-----------------------|---------------|----------------|---------------|----------------|--------------------------------|
| | Quantity sold | Weighted price | Quantity sold | Weighted price | |
| | 1,000 pounds | Per pound | 1,000 pounds | Per pound | Per pound |
| 1974: | | | | | |
| January-March----- | 42 | \$9.88 | 0 | 0 | \$1.90 |
| April-June----- | 90 | 9.86 | 0 | 0 | 1.90 |
| July-September----- | 60 | 9.11 | 0 | 0 | 2.30 |
| October-December----- | 63 | 8.04 | 0 | 0 | 2.75 |
| 1975: | | | | | |
| January-March----- | 84 | 6.91 | 0 | 0 | 2.75 |
| April-June----- | 25 | 4.23 | 0 | 0 | 2.75 |
| July-September----- | 42 | 4.70 | 0 | 0 | 2.75 |
| October-December----- | 10 | 2.75 | 1 | \$2.23 | 2.75 |
| 1976: | | | | | |
| January-March----- | 35 | 2.67 | 3 | 2.44 | 2.75 |
| April-June----- | 12 | 2.67 | 4 | 2.44 | 2.75 |
| July-September----- | 13 | 2.69 | 2 | 2.42 | 2.75 |
| October-December----- | 47 | 2.44 | 11 | 2.33 | 2.75 |
| 1977: | | | | | |
| January-March----- | 50 | 3.00 | 6 | 2.38 | 2.75 |
| April-June----- | 38 | 3.28 | 4 | 2.67 | 2.75 |
| July-September----- | 31 | 3.02 | 2 | 2.89 | 3.10 |

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

The downward trend in import prices from 1974 to 1976 would tend to support Sherwin-Williams' allegation of price suppression. Japanese and Korean prices rose to record levels during the shortage period of 1974. Sherwin-Williams, though under wage and price controls until April 1974, was able to increase prices to compensate for rising production costs. As the shortage situation dissipated (late 1975), import prices began to drop. Sherwin-Williams, faced with rising production cost on the one hand (table 18) and increasing price competition on the other, maintained December 1974 price levels. During 1976, prices of imported granular and powder saccharin decreased an average of 17 percent and 7 percent, respectively. Sherwin-Williams' cost of production increased an average of * * * percent from the first quarter of 1975 to the third quarter of 1977, but the firm did not pass on any of this cost increase until prices were raised in July 1977.

Counsel for Japanese and Korean manufacturers stated that Sherwin-Williams' inability to increase prices was caused less by cost considerations and competitive conditions than by price controls and long-term sales contracts. As previously stated, price controls were terminated in April 1974, well before the determination by Treasury of LTFV sales. The controls also allowed price increases to compensate for increased production costs as evidenced by Sherwin-Williams' price increases in 1974. The allegation of long-term contracts which did not allow for price increases was examined by the Commission's staff which found that the majority of sales contracts entered into by Sherwin-Williams were for 1-year periods and they provided for quarterly price adjustments.

Table 18.--Saccharin: Sherwin-Williams' cost of producing soluble sodium saccharin in the granular and powder forms, by specified months, 1974-77

(Per pound)

| Year and month | Soluble sodium saccharin | |
|----------------|--------------------------|---------------|
| | Powder form | Granular form |
| 1974: | | |
| February----- | * * * | * * * |
| May----- | * * * | * * * |
| August----- | * * * | * * * |
| November----- | * * * | * * * |
| 1975: | | |
| February----- | * * * | * * * |
| May----- | * * * | * * * |
| August----- | * * * | * * * |
| November----- | * * * | * * * |
| 1976: | | |
| February----- | * * * | * * * |
| May----- | * * * | * * * |
| August----- | * * * | * * * |
| November----- | * * * | * * * |
| 1977: | | |
| February----- | * * * | * * * |
| May----- | * * * | * * * |
| August----- | * * * | * * * |

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

The Proposed Saccharin Ban

The Federal Food, Drug, and Cosmetic Act, as amended by the Food Additives Amendment of 1958 (21 U.S.C. 348), requires the Food and Drug Administration (FDA) to establish regulations prescribing the conditions under which a food additive (such as saccharin) may be safely used. The proposed use of a food additive whose safety is not generally recognized must be approved by FDA.

Since saccharin was first introduced in the United States about 1900, more than 30 studies have been conducted to determine whether it is safe for human consumption. The findings of a majority of these studies have been inconclusive.

In accordance with the Food Additives Amendment of 1958, saccharin was for years generally recognized as safe and therefore permitted to be sold without regulation. However, on June 25, 1971, FDA proposed the removal of saccharin (and its salts) from the list of substances generally recognized as safe (GRAS) and the establishment of an interim food additive regulation. 1/ This proposal was based in part on scientific studies which followed in the wake of the October 1969 ban on cyclamates. On February 1, 1972, FDA ordered the removal of saccharin from the GRAS list and established an interim food additive regulation limiting the use of saccharin in human diets. 2/ Finally, on April 15, 1977, FDA proposed revocation of the aforementioned interim food additive regulation, based on scientific studies indicating that saccharin poses a significant risk of cancer for humans. 3/ This proposal, if implemented, would have resulted in a ban on the use of saccharin as a food additive.

Against the background of FDA's proposed saccharin ban, Congress passed and the President (on November 23, 1977) signed into law the Saccharin Study and Labeling Act (P.L. 95-203). This act provides, inter alia, that during the 18-month period beginning on the date of enactment of the act, FDA's interim food additive regulation regarding saccharin shall remain in effect; the Secretary of Health, Education and Welfare shall arrange for the conduct of a study to evaluate the safety of saccharin; the Secretary may not prohibit or restrict the sale or distribution of saccharin solely on the basis of information available to him prior to the date of enactment of the act; and food products containing saccharin shall bear a label warning of the risk of developing cancer by use of the product. The text of Public Law 95-203 is set out in appendix E.

1/ 36 F.R. 12109.

2/ 37 F.R. 2437.

3/ 42 F.R. 19996.

Appendix A

Treasury Memoranda Relating to the
Determination of Sales at LTFV



THE GENERAL COUNSEL OF THE TREASURY

WASHINGTON, D. C. 20220

RECEIVED

#1162

SEP 27 8 37 AM 1977

By [Signature]

Dear Mr. Chairman:

OFFICE OF THE SECRETARY
U.S. INTL. TRADE COMMISSION

In accordance with section 201(a) of the Antidumping Act, 1921, as amended, you are hereby advised that saccharin from Japan, with the exception of saccharin produced by Aisan Chemical Company, Ltd., and saccharin from the Republic of Korea is being, or is likely to be, sold at less than fair value within the meaning of the Act.

For purposes of Treasury's determinations, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

The U.S. Customs Service is making the files relative to these determinations available to the International Trade Commission under separate cover. These files are for the Commission's use in connection with its investigation(s) as to whether an industry in the U.S. is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of this merchandise into the U.S. Since some of the data in these files is regarded by the Treasury to be of a confidential nature, it is requested that the Commission consider all information therein contained for the use of the Commission only, and not to be disclosed to others without prior clearance with the Treasury Department.

Sincerely yours,

Robert H. Mundheim
Robert H. Mundheim
General Counsel

The Honorable
Daniel Minchew
Chairman
U.S. International Trade
Commission
Washington, D.C. 20436

Appendix B

**Commission's Notice of Investigations
and Hearing**

development of the Boston National Historical Park.

The members of the Advisory Commission are as follows:

- Mr. Richard Berenson, Chairman, Brookline, Mass.
- Dr. Evelyn Murphy, Lexington, Mass.
- Mr. Byron Rushing, Boston, Mass.
- Mrs. Katharine Kane, Boston, Mass.
- Mr. Maurice O'Shea, Charlestown, Mass.
- Mr. Gall Seybold, Boston, Mass.
- Mr. Guy Beninati, Boston, Mass.

The matters to be discussed at this meeting include:

1. Review of Draft General Management Plan.
2. Review and discussion of the future of Federal Advisory Commissions.
3. Review of plans for the park Visitor Center.
4. Plans for boundary adjustments to include additional historic buildings at the Charlestown Navy Yard.
5. Progress report on cooperative agreements.
6. Report and discussion of park administration and operation.

The meeting will be open to the public. However, facilities and space are limited, and it is expected that not more than 25 persons will be able to attend the session. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Hugh D. Gurney, Superintendent, Boston National Historical Park at 617-242-1700. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Superintendent, Building 136, Charlestown Navy Yard, Boston, Massachusetts.

Dated: September 13, 1977.

L. J. Hovic,
Acting Regional Director,
North Atlantic Region.

[FR Doc.77-28186 Filed 9-27-77; 8:45 am]

[4310-10]

CAPE COD NATIONAL SEASHORE
ADVISORY COMMISSION
Meeting

Notice is hereby given in accordance with Pub. L. 92-403 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, October 14, 1977, at 1:30 p.m. at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Mass.

The Commission was established pursuant to Public Law 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: (1) A Resource Management Program for Fort Hill; (2) A Proposed Town Beach for Eastham; and (3) Proposed boundary changes within Cape Cod National Seashore. The Superintendent will report on a variety of mat-

ters relating to Seashore programs and operations.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Mass. 02663, (telephone 617-349-3785). Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Mass.

Dated: September 13, 1977.

L. J. Hovic,
Acting Regional Director,
North Atlantic Region.

[FR Doc.77-28185 Filed 9-27-77; 8:45 am]

[7020-02]

INTERNATIONAL TRADE
COMMISSION

[Investigation No. 337-TA-29]

CERTAIN WELDED STAINLESS STEEL
PIPE AND TUBE

Order Dismissing Certain Respondents

This matter comes before the Commission as a result of the recommendation of the presiding officer to dismiss Keystone Tubular Service Corp., All-Boro Metal Products Co., Inc., and Prudential Plumbing Products Corp. as respondents in the instant investigation. After considering the presiding officer's recommendation, Prehearing Order No. 25, issued September 2, 1977, the circumstances thereof, and the pleadings of all parties concerning these matters, the Commission has decided to adopt the recommendation of Prehearing Order No. 25.

It is, therefore, hereby *Ordered*, That the oral motion of the Commission Investigative Attorney to dismiss as respondents Keystone Tubular Service Corp., All-Boro Metal Products Co., Inc., and Prudential Plumbing Product Co. is granted and they are hereby dismissed.

Issued: September 23, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-28391 Filed 9-27-77; 8:45 am]

[7020-02]

[AA1921-174 and 175]

SACCHARIN FROM JAPAN AND THE
REPUBLIC OF KOREA

Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on September

9, 1977, that saccharin from Japan, with the exception of that produced and sold by Asian Chemical Co., Ltd., and saccharin from the Republic of Korea is being, or is likely to be, sold at less than fair value, the United States International Trade Commission on September 23, 1977, instituted investigation Nos. AA1921-174 and 175 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of Treasury's determination, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

Hearing. A combined public hearing in connection with these investigations will be held in Washington, D.C. beginning at 10 a.m., e.d.t., on Wednesday, October 26, 1977, in the Hearing Room, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436. All persons shall have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Friday, October 21, 1977.

Issued: September 23, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-28390 Filed 9-27-77; 8:45 am]

LEGAL SERVICES CORPORATION
GRANTS AND CONTRACTS

SEPTEMBER 21, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996L. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications for demonstration projects submitted by the following:

- Federation of Southern Cooperatives, Epes, Ala.
- Legal Services Foundation of Mendocino County, Ukiah, Calif.
- Bet Tzedek, Los Angeles, Calif.
- National Retired Teachers Association and the American Association of Retired Persons, Washington, D.C.
- Idaho State Bar, Boise, Idaho.
- Consumers' Group Legal Services, Inc., Berkeley, Calif.

Appendix C

Treasury's Federal Register Notices

52352

NOTICES

lished in the **FEDERAL REGISTER** a proposed statement of agency policy and interpretation concerning the Hours of Service Act, as amended (45 U.S.C. 61-64b) (41 FR 42692). On November 2, 1976, FRA published in the **FEDERAL REGISTER** a notice extending the time for comment to November 29, 1976 and announcing a public conference which was to have been convened in Chicago on November 19, 1976 at the initiative of FRA (41 FR 48163). On November 16, 1976, FRA published in the **FEDERAL REGISTER** a notice announcing postponement of the public conference on an indefinite basis (41 FR 50522).

FRA has now determined that the rescheduling of a public conference cannot be accomplished within a sufficiently short period of time to permit an expeditious conclusion of this matter. There having been no written request for such a conference, it will not be rescheduled.

However, it has come to the attention of FRA that industry and employee representatives may wish to file a joint submission on certain of the issues and that a small amount of additional time is required for preparation of that information. Therefore, FRA hereby extends the period for comment through December 10, 1976. Comments received by that date will be considered in developing the final statement of agency policy and interpretation. All submissions should be made in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on November 26, 1976.

DONALD W. BENNETT,
Associate Administrator for Safety.

[FR Doc.76-35276 Filed 11-26-76; 11:27 am]

Office of Pipeline Safety Operations
TECHNICAL PIPELINE SAFETY
STANDARDS COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. D), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee to be held December 16 and 17, 1976, at 9:00 a.m., in Conference Room 3201 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. The agenda for this meeting is as follows: (1) Proposed rule changes on (i) Corrosion Control of Small Metal Fittings in Plastic Pipelines (Notice 76-1), and (ii) Longitudinal Seams in Pipe Bends (Notice 76-2); (2) Proposed revision of gas reporting forms; (3) Procedures for converting a pipeline from liquid to gas; (4) Existing Federal gas pipeline regulations which should be changed or updated because of new circumstances or technology; and (5) How the Federal safety regulatory jurisdiction over master meter systems should be exercised.

Attendance is open to the interested public but limited to the space available.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements should notify, not later than 3:00 p.m. December 15, 1976, and information may be obtained from David A. Watson, Office of Pipeline Safety Operations, 2100 Second Street, S.W., Washington, D.C. 20590, (202) 426-2392. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on November 23, 1976.

CESAR DELEON,
Acting Director, Office of
Pipeline Safety Operations.

[FR Doc.76-35285 Filed 11-26-76; 12:18 pm]

DEPARTMENT OF THE TREASURY

Office of the Secretary

ADVISORY COMMITTEE ON PRIVATE
PHILANTHROPY AND PUBLIC NEEDS
Establishment

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463) and appropriate Federal Regulations, the Secretary of the Treasury announces the establishment of an Advisory Committee on Private Philanthropy and Public Needs.

Philanthropy has long played a central role in our pluralistic American life. As an addition and sometimes as an alternative to government, private philanthropy has strengthened the deeply rooted American conviction that no single institutional structure should exercise a monopoly on filling public need.

It is estimated that the value of private giving in terms of monetary gifts and labor exceeds \$50 billion a year.

Yet, in spite of this monumental impact, there is a scarcity of information upon which sound government policies can be formulated.

To assist Treasury in its on-going need to formulate tax and regulatory policy affecting philanthropic and voluntary organizations, the Secretary needs the benefit of a broad range of views pertaining to such matters. It is anticipated that this advisory committee, comprised of a cross-section of philanthropic interests would guide the Secretary in determining the types of information to be collected and analyzed.

Questions or suggestions for committee membership should be made by December 10, 1976, to John Webster, Special Assistant to the Secretary for Consumer Affairs, Room 1454 Main Treasury Building, 15 and Pennsylvania Avenue, Washington, D.C. 20220 (202-556-5497).

GEORGE DIXON,
Deputy Secretary of the Treasury.

[FR Doc.76-35052 Filed 11-26-76; 8:45 am]

Office of the Secretary
SACCHARIN FROM JAPAN
Antidumping Proceeding

On October 20, 1976, information was received in proper form pursuant to

§§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Sherman-Williams Company of Cleveland, Ohio, indicating the possibility that saccharin from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

For the purposes of this notice the term "saccharin" means sodium saccharin in soluble powder and soluble granular form.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that imports of saccharin from Japan have substantially undersold the domestic product and that such underselling is roughly equivalent to the alleged margins of sales at less than fair value. That underselling has apparently contributed to the substantial share of the United States market for saccharin held by the Japanese. Other data indicate that the petitioner, the sole U.S. producer, has suffered a relative decline in profits and increased excess capacity in its manufacturing facility.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

Dated: November 22, 1976.

JERRY THOMAS,
Under Secretary of
the Treasury.

[FR Doc.76-34953 Filed 11-26-76; 8:45 am]

SACCHARIN FROM THE REPUBLIC OF
KOREA

Antidumping Proceeding

On October 20, 1976, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Sherman-Williams Company of Cleveland, Ohio, indicating the possibility that saccharin from the Republic of Korea is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

For the purposes of this notice the term "saccharin" means sodium saccha-

NOTICES

52553

rin in soluble powder and soluble granular form.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that imports of saccharin from the Republic of Korea have substantially undersold the domestic product and that such underselling is roughly equivalent to the alleged margins of sales at less than fair value. That underselling has apparently contributed to the substantial share of the United States market for saccharin held by the Republic of Korea. Other data indicate that the petitioner, the sole U.S. producer, has suffered a relative decline in profits and increased excess capacity in its manufacturing facility.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

Dated: November 22, 1976.

JERRY THOMAS,
Under Secretary of
the Treasury.

[FR Doc.76-34954 Filed 11-26-76; 8:45 am]

[Public Debt Series—No. 82-78]

TREASURY NOTES SERIES F-1980

NOVEMBER 23, 1976.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders for \$2,500,000,000, or thereabouts, of securities of the United States, designated Treasury Notes of December 31, 1980, Series F-1980 (CUSIP No. 912827 GF 3). The securities will be sold at auction with bidding on the basis of yield, and with the interest rate and the price equivalent of each accepted bid to be determined as set forth below. Additional amounts of these securities may be issued to Government accounts and to Federal Reserve Banks for their own account in exchange for maturing Treasury securities being held by them, and to Federal Reserve Banks, as agents of foreign and international monetary authorities, for new cash only.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated December 7, 1976, and will bear interest from that date, payable on a semiannual basis on June 30, 1977, and each 6 months thereafter on December 31 and June 30 until the principal amount becomes payable. They will mature December 31, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000 and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, November 30, 1976. Noncompetitive tenders, as defined below, will be considered timely if post-marked no later than Monday, November 29, 1976.

3.2. Each tender must state the face amount of securities bid for, which must be \$1,000 or a multiple thereof. Competitive tenders must show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers, provided the names of the cus-

tomers and the amount for each customer are furnished. Others will not be permitted to submit tenders except for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States and political subdivisions or instrumentalities thereof; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, following which public announcement will be made of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be determined at a $\frac{1}{8}$ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of yield. Additional tenders received from Government accounts and Federal Reserve Banks will be accepted at the average price of accepted competitive tenders.

3.6. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. Those submitting noncompetitive tenders will not be notified except when the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the

placed at the entrance to each track and on the locomotive units prior to a workman performing his tasks on the equipment. The blue signals will be visible to the tower operator who controls the switches providing access to the track. This method of operation was previously used by the Rock Island for many years without any injury to workmen at this facility.

(Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by Sec. 5(b) of the Federal Railroad Authorization Act of 1976, Pub. L. 94-343, 90 Stat. 817, July 8, 1976; § 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C., on June 2, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77-16179 Filed 6-7-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary
SACCHARIN FROM JAPAN

Antidumping; Tentative Determination of Sales at Not Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Tentative negative determination.

SUMMARY: This notice is to advise the public that there is no reason to believe or suspect, based on the information available, that saccharin from Japan is being sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Interested persons are invited to comment on this action not later than 30 days from the effective date of this notice.

EFFECTIVE DATE: June 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony L. Russo, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Information was received in proper form on October 20, 1975, from counsel acting on behalf of Sherwin-Williams Company of Cleveland, Ohio, alleging that saccharin from Japan was being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was

published in the FEDERAL REGISTER of November 20, 1976 (41 FR 52352).

For purposes of this notice, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

TENTATIVE DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE.

On the basis of the information developed in Customs investigation and for reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of saccharin from Japan is not less than fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

a. *Scope of the investigation.* It appears that over 60 percent of the imports of the subject merchandise from Japan were manufactured by Aisan Chemical Industrial Co., Ltd., and Daito Chemical Industrial Co. Therefore, the investigation was limited to these manufacturers.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since the export sales compared appear to be made to unrelated purchasers in the United States or to unrelated trading companies in the home market, which then sell the merchandise to unrelated firms in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise appears to be sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales of saccharin from Japan during the period June 1 through December 31, 1976.

c. *Purchase price.* For purposes of this tentative determination of sales at not less than fair value, since all merchandise was purchased prior to the time of exportation by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, purchase price has been calculated on the basis of the c.i.f. packed price, to the United States, or the f.o.b. packed price to the unrelated trading companies, with deductions for inland freight, ocean freight, insurance, shipping charges, banking fees and commissions, as appropriate.

d. *Home market price.* For purposes of this tentative determination of sale at

not less than fair value, the home market price was calculated on the basis of the f.o.b. delivered price to wholesale purchasers. Adjustments were made for inland freight, discounts (taken into consideration in arriving at a weighted-average price), differences in packing, interest and cost of production, and for selling expenses up to the amount deducted for commissions in the calculation of purchase price, as appropriate.

Adjustments for interest expenses and packing expenses relate to the difference in those costs between home market sales and sales for export to the United States.

The adjustment for differences in cost of production relates to discounts received on the purchase of raw materials used in the production of saccharin for export.

Adjustments were claimed for differences in circumstances of sale in accordance with section 153.10, Customs Regulations (19 CFR 153.10), for general selling expenses. Adjustments for these expenses have been disallowed. Adjustments to the home market price for selling expenses, in purchase price situations, are allowed only for circumstances of sale which bear a direct relationship to the sales under consideration. Since general selling expenses must be borne regardless of whether particular sales are made, they are not directly related to the sales under consideration.

e. *Result of fair value comparisons.* Using the above criteria, purchase price was found to be not less than the home market price of such or similar merchandise. Comparisons were made on approximately 90 percent of the saccharin sold to the United States by the manufacturers during the period of investigation.

In accordance with §§ 153.40(a) and 153.40(b), Customs Regulations (19 CFR 153.40(a), 153.40(b)), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than June 18, 1977. Such request must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than July 8, 1977.

This tentative determination and the statement of reasons therefor are published pursuant to § 153.34(a) of the Customs Regulations (19 CFR 153.34(a)).

Dated: June 2, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel
of the Treasury.

[FR Doc.77-16119 Filed 6-7-77;8:45 am]

NOTICES

29356

SACCHARIN FROM THE REPUBLIC OF KOREA**Antidumping; Withholding of Appraisalment****AGENCY:** United States Treasury Department.**ACTION:** Withholding of Appraisalment.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are sales of saccharin from the Republic of Korea to the United States at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisalment for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action not later than 30 days from the effective date of this notice.

EFFECTIVE DATE: June 8, 1977.**FOR FURTHER INFORMATION CONTACT:**

Mr. Anthony L. Russo, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Information was received in proper form on October 20, 1976, from counsel acting on behalf of Sherwin-Williams Company of Cleveland, Ohio, alleging that saccharin from the Republic of Korea was being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 29, 1976 (41 FR 52352).

For purposes of this notice, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in Customs investigation and for the reasons noted below, pursuant to section 201 (b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of saccharin from the Republic of Korea is less than the fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

a. *Scope of the investigation.* It appears that over 90 percent of the imports of the subject merchandise from the Republic of Korea were manufactured by Kumbuk Chemical Industries Co., Ltd., Chohchung Chemical Industrial Company, and Jeil Moolsam Co., Inc. Therefore, the investigation was limited to these manufacturers.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used for the export sales which appear to be made to unrelated importers in the United States. Home market price, as defined in section 143.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise appears to be sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales of saccharin from the Republic of Korea during the 6-month period July 1 through December 31, 1976.

c. *Purchase price.* For the purposes of this tentative determination of sales at less than fair value, since all of the merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the c.i.f. price to U.S. importers with deductions for ocean freight, marine insurance, shipping charges, banking charges, and inland freight, as appropriate.

Additions were made, where appropriate, for the amount of the commodity, defense and sales taxes incurred with respect to home market sales but not collected, or rebated upon exportation. Additionally, Korean defense tax and customs duty on imported raw materials, rebated at the time of exportation, were added. These additions were made in accordance with section 203 of the Act.

d. *Home market price.* For the purposes of this tentative determination of sales at less than fair value, the home market price has been calculated on the basis of the weighted average, packed, delivered price to wholesale purchasers. Adjustments have been made for transportation, rebates, interest expenses and for differences in packing expenses.

Adjustments for rebates, interest expenses and for differences in packing expenses were made in accordance with § 153.10, Customs Regulations (19 CFR 153.10).

Adjustments claimed for the following were not allowed: general selling and ad-

vertising expenses; credit costs associated with the payment of Korean customs duty and defense tax on imported raw material used in the production of saccharin for home market consumption; an alleged higher cost of production associated with the manufacture of saccharin sold in the home market; and profit derived from selling import rights which are based upon export sales.

General selling and advertising expenses and profit from selling import rights were not allowed because they were determined to be not directly related to the sales under consideration, in accordance with § 153.10, Customs Regulations (19 CFR 153.10).

Credit costs and the alleged production-cost differential were not allowed because they were not properly documented. Upon proper documentation, they may subsequently be allowed.

e. *Result of fair value comparisons.* Using the above criteria, preliminary analysis suggests that the purchase price probably will be lower than the home market price of such or similar merchandise. Comparisons were made on about 71 percent of the saccharin sold to the United States by the manufacturers during the period of investigation. Margins were tentatively found ranging from 30 percent to 33 percent on 100 percent of the sales compared. The weighted-average margin tentatively appears to be 31 percent.

Accordingly, Customs officers are being directed to withhold appraisalment of saccharin from Korea in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.40(a) and 153.40(b), Customs Regulations (19 CFR 153.40(a), 153.40(b)), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than June 18, 1977. Such request must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than July 8, 1977.

This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective June 8, 1977. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

Dated: June 2, 1977.

HENRY C. STOCKWELL, Jr.,
Acting General Counsel
of the Treasury.

[FR Doc.77-16118 Filed 6-7-77; 8:45 am]

Office of the Secretary
SACCHARIN FROM THE REPUBLIC OF
KOREA

Antidumping Determination of Sales at
Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that saccharin from the Republic of Korea is being sold at less than fair value under the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. This case is being referred to the U.S. International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony L. Russo, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on October 20, 1976, from counsel acting on behalf of Sherwin-Williams Co. of Cleveland, Ohio, alleging that saccharin from the Republic of Korea was being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of establishment of an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 29, 1976 (41 FR 52352).

A "Withholding of Appraisal Notice" was published in the FEDERAL REGISTER of June 8, 1977 (42 FR 29356).

For purposes of this notice, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

DETERMINATION OF SALES AT LESS THAN
FAIR VALUE

I hereby determine that, for the reasons stated below, saccharin from the Republic of Korea is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS
DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

(a) *Scope of the investigation.* Over 90 percent of the imports of the subject

merchandise from the Republic of Korea were manufactured by Kumbuk Chemical Industries Co., Ltd., Choheung Chemical Industrial Co., and Jell Mool-san Co., Inc. Therefore, the investigation was limited to these manufacturers.

(b) *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of such or similar merchandise. Purchase price, defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales were made to unrelated importers in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales of saccharin from the Republic of Korea during the 6-month period July 1 through December 31, 1976.

(c) *Purchase price.* For the purposes of this determination of sales at less than fair value, since all of the merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the c.i.f. price to U.S. importers with deductions for ocean freight, marine insurance, shipping charges, banking charges, and inland freight, as appropriate.

Additions were made, where appropriate, for the amount of the commodity, defense and sales taxes incurred with respect to home market sales but not collected, or rebated upon exportation. Additionally, Korean defense tax and customs duty on imported raw materials rebated at the time of exportation, were added.

The costs saved under the Korean Government's import deposit requirements by reason of the exportation of the merchandise were treated as indirect taxes and were added in accordance with the Act.

The deductions were based on actual costs incurred in transporting or selling the merchandise in accordance with section 203 of the Act. The addition for taxes and duties which were refunded or not collected by reason of the exportation of the merchandise relate to the refund of duties on raw materials and the non-collection of certain taxes. The addition for the cost savings under the import deposit program relates to monies which are usually deposited with the central bank for a fixed period of time when goods are imported. This deposit requirement is reduced by amount and time of deposit when materials are imported pursuant to export orders for a final product. The deposit requirement

has the same effect as a duty and the interest savings on the exported merchandise has been added in accordance with the Act.

(d) *Home market price.* For the purposes of this determination of sales at less than fair value, the home market price has been calculated on the basis of the weighted average, packed, delivered price to wholesale purchasers. Adjustments have been made for transportation, interest expenses, rebates to a distributor, differences in packing expenses, and differences in the merchandise.

Adjustments for interest expenses, rebates and for differences in packing expenses were made in accordance with section 153.10, Customs Regulations (19 CFR 153.10). Adjustments for differences in merchandise sold in the Republic of Korea and the United States were made based upon the cost of manufacture in accordance with section 153.11, Customs Regulations (19 CFR 153.11).

Adjustments claimed for the following were not allowed: general selling and advertising expenses; and profit derived from selling import rights which are based upon export sales.

General selling and advertising expenses and profit from selling import rights were not allowed because they were determined to be not directly related to the sales under consideration, in accordance with section 153.10, Customs Regulations (19 CFR 153.10).

(d) *Result of fair value comparisons.* Using the above criteria, the purchase price was found to be lower than the home market price of such or similar merchandise. Comparisons were made on about 71 percent of the saccharin sold to the United States by the manufacturers during the period of investigation. Margins were found ranging from 24 percent to 26 percent on 100 percent of the sales compared. The weighted-average margin is 25 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to section 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

Dated: September 8, 1977.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc.77-26633 Filed 9-13-77; 8:45 am]

SACCHARIN FROM JAPAN

Withholding of Appraisal Notice and
Determination of Sales at Less Than Fair
Value

AGENCY: United States Treasury Department.

ACTION: Withholding of Appraisal and Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation

46092

has been completed and that it has been determined that saccharin from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended, with the exception of saccharin produced by Aisan Chemical Co. Ltd. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price in the home market. This case is being referred to the United States International Trade Commission for determining whether an industry in the United States is being injured. Simultaneously, appraisements of entries of this merchandise will be withheld for 3 months, pending an injury determination by the International Trade Commission.

EFFECTIVE DATE: September 14, 1977.
FOR FURTHER INFORMATION CONTACT:

Mr. Anthony L. Russo, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Information was received in proper form on October 20, 1976, from counsel acting on behalf of Sherwin-Williams Company of Cleveland, Ohio, alleging that saccharin from Japan was being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, or the prevention of the establishment of, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 29, 1976 (41 FR 52352).

A "Notice of Tentative Determination of Sales at Not Less Than Fair Value" was published in the FEDERAL REGISTER of June 8, 1977 (42 FR 29355).

For purposes of this notice, the term "saccharin" means sodium saccharin in soluble granular and soluble powder forms.

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, saccharin from Japan is being, or is likely to be, sold at less than fair value, with the exception of saccharin produced by Aisan Chemical Co. Ltd., within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* Over 60 percent of the imports of the subject merchandise from Japan were manufactured by Aisan Chemical Industrial Co., Ltd., and Daito Chemical Industrial Co.

Therefore, the investigation was limited to these manufacturers.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since the export sales compared were made to unrelated purchasers in the United States or to unrelated trading companies in the home market, which then sell the merchandise to unrelated firms in the United States. Home market price, as defined in section 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports and home market sales of saccharin from Japan during the period June 1 through December 31, 1976.

c. *Purchase Price.* For purposes of this determination of sales at less than fair value, since all merchandise was purchased prior to the time of exportation by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, purchase price has been calculated on the basis of the c.i.f. packed price, to the United States, or the f.o.b. packed price to the unrelated trading companies, with deductions for inland freight, ocean freight, insurance, shipping charges, banking fees and commissions, as appropriate.

d. *Home Market Price.* For purposes of this determination of sales at less than fair value, the home market price was calculated on the basis of the f.o.b. delivered price to wholesale purchasers. Adjustments were made for inland freight, discounts (taken into consideration in arriving at a weighted-average price), differences in packing and interest and for selling expenses up to the amount deducted for commissions in the calculation of purchase price, as appropriate.

Adjustments for interest expenses and packing expenses relate to the difference in those costs between home market sales and sales for export to the United States.

Adjustments were claimed for differences in circumstances of sale in accordance with section 153.10, Customs Regulations (19 CFR 153.10), for general selling expenses. Adjustments for these expenses have been disallowed. Adjustments to the home market price for selling expenses, in purchase price situations, are allowed only for circumstances of sale which bear a direct relationship to the sales under consideration. Since general selling expenses must be borne regardless of whether particular sales

are made, they are not directly related to the sales under consideration. With regard to sales by Daito, although originally allowed, an adjustment for differences in raw material cost is now rejected because further investigation did not support Daito's claim in this regard.

e. *Result of Fair Value Comparisons.* Using the above criteria, purchase price was found to be less than the home market price of such or similar merchandise. Comparisons were made on approximately 90 percent of the saccharin sold to the United States by the manufacturers during the period of investigation. No margins were found on 100 percent of the sales made by Aisan Chemical Co., Ltd. Margins were found ranging from 9 to 11 percent on the sales compared made by Daito Chemical Industrial Co. The weighted-average margin on sales by Daito amounted to 9.4 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to section 153.40, Customs Regulations (19 CFR 153.40).

Further, and based on the reasons noted above, Customs officers are being directed to withhold appraisement of saccharin from Japan, except that produced by Aisan Chemical Industrial Co., Ltd., in accordance with section 153.48, Customs Regulations (19 CFR 153.48).

This withholding of appraisement notice is published pursuant to section 153.35(a), Customs Regulations (19 CFR 153.35(a)), and shall become effective upon publication in the FEDERAL REGISTER. Such action shall cease to be effective at the expiration of three months from the date of this publication unless previously revoked.

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

Dated: September 8, 1977.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 77-26634 Filed 9-13-77; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 221]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 14, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77399. By application filed September 6, 1977, CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, Ohio 44255, seeks temporary authority to transfer the operating rights of Scott Trucking, Inc., Post Office Box 128, 502 Standard Avenue, Masury, Ohio 44338, under Section 210a(b). The transfer to Carlton Enterprises, Inc., of the

Appendix D

**Headnote 3(c)(ii)(A) of the General Headnotes of
the Tariff Schedules of the United States**

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1976)

General Headnotes and Rules of Interpretation

Non-Independent Countries & Territories

| | |
|--|--|
| Afars and Issas, French Territory of the | Hong Kong |
| Antigua | Macao |
| Belize | Montserrat |
| Bermuda | Netherlands Antilles |
| British Indian Ocean Territory | New Caledonia |
| British Solomon Islands | New Hebrides Condominium |
| Brunel | Niue |
| Cayman Islands | Norfolk Island |
| Christmas Island (Australia) | Pitcairn Island |
| Cocos (Keeling) Islands | Portuguese Timor |
| Comoro Islands | Saint Christopher-Nevis-Anguilla |
| Cook Islands | Saint Helena |
| Dominica | Saint Lucia |
| Falkland Islands (Malvinas) and Dependencies | Saint Vincent |
| French Polynesia | Seychelles |
| Gibraltar | Spanish Sahara |
| ③ Gilbert Islands | Tokelau Islands |
| Heard Island and McDonald Islands | Trust Territory of the Pacific Islands |
| | Turks and Caicos Islands |
| | ③ Tuvalu |
| | Virgin Islands, British |
| | Wallis and Futuna Islands |

(ii) Articles for which the designations "A" or "A*" appear in the column entitled "GSP" of the schedules are those designated by the President to be eligible articles for purposes of the GSP pursuant to Section 503 of the Trade Act. The designation "A" signifies that all beneficiary developing countries are eligible for preferential treatment with respect to all articles provided for in the designated TSUS item, while the designation "A*" indicates that certain beneficiary developing countries, specifically enumerated in subdivision (c)(iii) of this headnote, are not eligible for such preferential treatment with regard to any article provided for in the designated TSUS item. Whenever an eligible article is imported into the customs territory of the United States directly from a country or territory listed in subdivision (c)(i) of this headnote, it shall receive duty-free treatment, unless excluded from such treatment by subdivision (c)(iii) of this headnote, provided that, in accordance with regulations promulgated by the Secretary of the Treasury:

(A) the sum of (1) the cost or value of the materials produced in the beneficiary developing country plus (2) the direct costs of processing operations performed in such country is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States; or

(B) the sum of (1) the cost or value of the materials produced in two or more beneficiary developing countries which are members of the same association of countries which is treated as one country under Section 502(a)(3) of the Trade Act, plus (2) the direct cost of processing operations performed in such countries is not less than 50 percent of the appraised value of such article at the time of its entry into the customs territory of the United States; and provided further that, for the purposes of (A) above, the term "country" does not include an association of countries which is treated as one country under Section 502(a)(3) of the Trade Act, but does include a country which is a member of any such association.

(iii) The following designated eligible articles provided for in TSUS item numbers preceded by the designation "A*", if imported from a beneficiary developing country set opposite the TSUS item numbers listed below, are not entitled to the duty-free treatment provided for in subdivision (c)(ii) of this headnote:

| TSUS Item Number | Country or territory | TSUS Item Number | Country or territory |
|------------------|----------------------|------------------|----------------------|
| 106.60 | India | 155.35 | Barbados |
| 107.20 | Argentina | 156.35 | Ivory Coast |
| 107.45 | Brazil | 156.45 | Dominican Republic |
| 107.48 | Argentina | 161.15 | Republic of China |
| | Brazil | 161.53 | Syria |
| 107.70 | Haiti | 161.69 | Mexico |
| 111.92 | Philippine Republic | 166.40 | Mexico |
| 121.52 | India | 168.15 | Trinidad |
| 121.55 | India | 176.15 | Brazil |
| 130.35 | Brazil | 176.33 | Malaysia |
| 130.40 | Mexico | 184.65 | Republic of China |
| 130.63 | Mexico | 186.40 | Mexico |
| 131.35 | Hong Kong | 192.85 | Mexico |
| 132.55 | Mexico | 200.91 | Honduras |
| 135.30 | Mexico | 202.62 | Mexico |
| 135.51 | Mexico | 203.20 | Costa Rica |
| 135.80 | Nicaragua | 206.47 | Republic of China |
| 135.90 | Mexico | 206.60 | Mexico |
| 136.00 | Dominican Republic | 206.98 | Republic of China |
| 136.80 | Mexico | 220.10 | Portugal |
| 136.98 | Dominican Republic | 220.15 | Portugal |
| 136.99 | Republic of China | 220.20 | Portugal |
| 137.71 | Mexico | 220.25 | Portugal |
| 137.75 | Costa Rica | 220.35 | Portugal |
| 138.05 | Mexico | 220.37 | Portugal |
| 140.09 | Thailand | 220.41 | Portugal |
| 140.10 | Chile | 220.48 | Portugal |
| 140.14 | Thailand | 220.50 | Portugal |
| 140.20 | Kenya | 222.10 | Hong Kong |
| 140.21 | Mexico | 222.34 | Philippine Republic |
| 140.25 | Peru | 222.62 | Philippine Republic |
| 140.35 | Turkey | 240.02 | Philippine Republic |
| 141.35 | Turkey | 240.10 | Panama |
| 141.55 | Dominican Republic | 240.12 | Republic of Korea |
| 141.70 | Republic of China | 240.38 | Philippine Republic |
| 141.77 | Mexico | 256.60 | Republic of Korea |
| 145.09 | Dominican Republic | 256.80 | Mexico |
| 145.52 | Portugal | 256.85 | Mexico |
| 145.53 | Turkey | 274.00 | Mexico |
| 145.60 | Republic of China | 304.04 | Philippine Republic |
| 146.12 | Argentina | 304.40 | Thailand |
| 146.22 | Turkey | 304.48 | Brazil |
| 146.44 | Philippine Republic | 304.58 | India |
| 147.33 | Jamaica | 305.20 | India |
| 147.36 | Republic of China | 305.22 | India |
| 147.80 | Philippine Republic | 305.28 | India |
| 147.85 | Brazil | 305.30 | Republic of China |
| 148.72 | Chile | 305.40 | Philippine Republic |
| 148.77 | Republic of Korea | 306.52 | Peru |
| 149.15 | Dominican Republic | 308.30 | Republic of Korea |
| 149.50 | Chile | 316.50 | Philippine Republic |
| 152.43 | Dominican Republic | 319.01 | India |
| 152.54 | Brazil | 319.03 | India |
| 152.72 | Honduras | 319.05 | India |
| 153.02 | Dominican Republic | 319.07 | India |
| 153.28 | Portugal | 335.50 | India |
| 154.40 | Republic of China | 347.30 | India |
| | Argentina | 355.04 | Mexico |
| | Brazil | 360.35 | India |
| | Republic of China | 360.82 | Hong Kong |
| | Colombia | 370.17 | Portugal |
| | Dominican Republic | 407.08 | Dominican Republic |
| | El Salvador | 407.12 | Romania |
| | Guatemala | 408.40 | Mexico |
| | Guyana | 417.90 | Malaysia |
| 155.20 | India | 418.78 | Chile |
| | Jamaica | 418.80 | Mexico |
| | Nicaragua | 420.82 | Israel |
| | Panama | 422.76 | Mexico |
| | Peru | 425.00 | Republic of China |
| | Philippine Republic | 425.84 | Netherlands Antilles |
| | Thailand | | |

Appendix E

Saccharin Study and Labeling Act

Ninety-fifth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourth day of January,
one thousand nine hundred and seventy-seven*

An Act

To require studies concerning carcinogenic and other toxic substances in food, the regulation of such food, the impurities in and toxicity of saccharin, and the health benefits, if any, resulting from the use of nonnutritive sweeteners; to prohibit for 18 months the Secretary of Health, Education, and Welfare from taking certain action restricting the continued use of saccharin as a food, drug, and cosmetic; to require certain labels and notices for foods containing saccharin; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Saccharin Study and Labeling Act".

SEC. 2. (a) (1) The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall arrange, in accordance with subsection (b), for the conduct of a study, based on available information, of—

(A) current technical capabilities to predict the direct or secondary carcinogenicity or other toxicity in humans of substances which are added to, become a part of, or naturally occur in, food and which have been found to cause cancer in animals;

(B) the direct and indirect health benefits and risks to individuals from foods which contain carcinogenic or other toxic substances;

(C) the existing means of evaluating the risks to health from the carcinogenicity or other toxicity of such substances, the existing means of evaluating the health benefits of foods containing such substances, and the existing statutory authority for, and appropriateness of, weighing such risks against such benefits;

(D) instances in which requirements to restrict or prohibit the use of such substances do not accord with the relationship between such risks and benefits; and

(E) the relationship between existing Federal food regulatory policy and existing Federal regulatory policy applicable to carcinogenic and other toxic substances used as other than foods.

(2) The Secretary shall arrange, in accordance with subsection (b), for the conduct of a study to determine, to the extent feasible—

(A) the chemical identity of any impurities contained in commercially used saccharin,

(B) the toxicity or potential toxicity of any such impurities, including their carcinogenicity or potential carcinogenicity in humans, and

(C) the health benefits, if any, to humans resulting from the use of nonnutritive sweeteners in general and saccharin in particular.

(b) (1) The Secretary shall first request the National Academy of Sciences (hereinafter in this section referred to as the "Academy"), acting through appropriate units, to conduct the studies, required by subsection (a), under an arrangement whereby the actual expenses incurred by the Academy directly related to the conduct of such studies will be paid by the Secretary. If the Academy agrees to such request, the Secretary shall enter into such an agreement with the Academy.

S. 1750—2

(2) If the Academy declines the Secretary's request to conduct any such study under such an arrangement, then the Secretary shall enter into a similar arrangement with another appropriate public or non-profit private entity to conduct such study.

(3) Any arrangement entered into under paragraph (1) or (2) of this subsection for the conduct of a study shall require that such study be completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsection (c).

(c) (1) Within 12 months of the date of the enactment of this Act the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (A) the results of the study conducted pursuant to subsection (a) (2) (including supporting data and other materials provided by the entity which conducted the study), and (B) any action proposed to be taken on the basis of the results of the study.

(2) Within 15 months of the date of the enactment of this Act the Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (A) the results of the studies (including supporting data and other materials provided by the entity which conducted the study) conducted pursuant to subsection (a) (1), (B) the recommendations, if any, of such entity for legislative and administrative action, and (C) such recommendations for legislative action as the Secretary deems necessary.

(d) For purposes of this section and section 3, the term "saccharin" includes calcium saccharin, sodium saccharin, and ammonium saccharin.

Sec. 3. During the 18-month period beginning on the date of the enactment of this Act, the Secretary—

(1) may not amend or revoke the interim food additive regulation of the Food and Drug Administration of the Department of Health, Education, and Welfare applicable to saccharin and published on March 15, 1977 (section 180.37 of part 180, subchapter B, chapter 1, title 21, Code of Federal Regulations (42 Fed. Reg. 14638)), or

(2) may, except as provided in section 4 and the amendments made by such section, not take any other action under the Federal Food, Drug, and Cosmetic Act to prohibit or restrict the sale or distribution of saccharin, any food permitted by such interim food additive regulation to contain saccharin, or any drug or cosmetic containing saccharin,

solely on the basis of the carcinogenic or other toxic effect of saccharin as determined by any study made available to the Secretary before the date of the enactment of this Act which involved human studies or animal testing, or both.

Sec. 4. (a) (1) Section 403 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new paragraph:

"(o) (1) If it contains saccharin, unless, except as provided in subparagraph (2), its label and labeling bear the following statement: 'USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS'. Such statement shall be located in a conspicuous place on such label and labeling as proximate as possible to the name of such food and shall appear in conspicuous and legible type in con-

S. 1750—3

trast by typography, layout, and color with other printed matter on such label and labeling.

“(2) The Secretary may by regulation review and revise or remove the requirement of subparagraph (1) if the Secretary determines such action is necessary to reflect the current state of knowledge concerning saccharin.”

(2) The amendment made by paragraph (1) shall apply only with respect to food introduced or delivered for introduction in interstate commerce on and after the 90th day after the date of the enactment of this Act.

(3) The Secretary shall report to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives any action taken under section 403(o)(2) of the Federal Food, Drug, and Cosmetic Act.

(b)(1) Section 403 of the Federal Food, Drug, and Cosmetic Act is amended by adding after paragraph (o) the following new paragraph:

“(p)(1) If it contains saccharin and is offered for sale, but not for immediate consumption, at a retail establishment, unless such retail establishment displays prominently, where such food is held for sale, notice (provided by the manufacturer of such food pursuant to subparagraph (2)) for consumers respecting the information required by paragraph (o) to be on food labels and labeling.

“(2) Each manufacturer of food which contains saccharin and which is offered for sale by retail establishments but not for immediate consumption shall, in accordance with regulations promulgated by the Secretary pursuant to subparagraph (4), take such action as may be necessary to provide such retail establishments with the notice required by subparagraph (1).

“(3) The Secretary may by regulation review and revise or remove the requirement of subparagraph (1) if he determines such action is necessary to reflect the current state of knowledge concerning saccharin.

“(4) The Secretary shall by regulation prescribe the form, text, and manner of display of the notice required by subparagraph (1) and such other matters as may be required for the implementation of the requirements of that subparagraph and subparagraph (2). Regulations of the Secretary under this subparagraph shall be promulgated after an oral hearing but without regard to the National Environmental Policy Act of 1969 and chapter 5 of title 5, United States Code. In any action brought for judicial review of any such regulation, the reviewing court may not postpone the effective date of such regulation.”

(2) The amendment made by paragraph (1) shall apply with respect to food which is sold in retail establishments on or after the 90th day after the effective date of the regulations of the Secretary of Health, Education, and Welfare under paragraph (p)(4) of the Federal Food, Drug, and Cosmetic Act.

(3) Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following:

“(z) The term ‘saccharin’ includes calcium saccharin, sodium saccharin, and ammonium saccharin.”

(c) The Secretary may by regulation require vending machines through which food containing saccharin is sold to bear a statement of the risks to health which may be presented by the use of saccharin. A regulation under this subsection shall require such statement to be located in a conspicuous place on such vending machine and as proxi-

S. 1750—4

mate as possible to the name of each food containing saccharin which is sold through such machine. Any food containing saccharin which is sold in a vending machine which does not meet any applicable requirement promulgated under this subsection shall, for purposes of the Federal Food, Drug, and Cosmetic Act, be considered a misbranded food.

(d) The Secretary shall (1) prepare information respecting the nature of the controversy surrounding the use of food containing saccharin, and (2) provide for the distribution of such information for display by retail establishments where such food is sold but not for immediate consumption. The Secretary may review and revise such information if he determines such action is necessary to reflect the current state of knowledge concerning the risks to health presented by the use of saccharin.

SEC. 5. (a) Section 204(d) of the National Research Act (Public Law 93-348) is amended by striking out "36-month period" each place it appears and inserting in lieu thereof "42-month period".

(b) Section 211(b) of such Act is amended by striking out "January 1, 1978" and inserting in lieu thereof "November 1, 1978".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

Appendix F

Treasury Letter Relating to Exclusion of Taiyo
Chemical Industries from the Determination
of Sales at Less than Fair Value



A-47

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

DEC 6 1977

Dear Mr. Chairman:

On September 9, 1977 Treasury advised the U.S. International Trade Commission that saccharin from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. On the basis of that information, the Commission promptly undertook an investigation to determine whether an industry is being or is likely to be injured by reason of those sales at less than fair value.

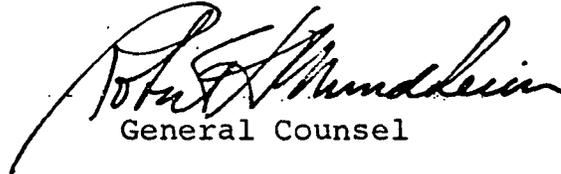
During the course of the Commission's investigation, a Japanese producer of saccharin not originally investigated by Treasury, Taiyo Chemical Industries, Ltd., submitted information in support of a request that it be excluded from the Determination of Sales at Less Than Fair Value. After analysis of that information by the Customs Service and review of such information by Treasury, it has been determined that saccharin from Japan produced and sold by Taiyo Chemical Industries, Ltd., is not being, nor is likely to be, sold at less than fair value within the meaning of the Antidumping Act.

Accordingly, the U.S. International Trade Commission is hereby advised that Taiyo Chemical Industries is excluded from the Determination of Sales at Less Than Fair Value issued in this case.

For the Commission's information, which is not to be disclosed to others without prior clearance from Treasury, sales of sodium saccharin in soluble granular and soluble powder forms to the United States by Taiyo Chemical Industries amounted to * * * kilograms, valued at * * * during the period June-November 1976.

Please accept my apology for the lateness of this notification, which was due to the belated submission by the company and the time needed to verify its data.

Sincerely yours,



General Counsel

The Honorable
Daniel Minchew
Chairman
U.S. International Trade
Commission
Washington, D.C. 20436

Library Cataloging Data

U.S. International Trade Commission.

Determinations of injury or likelihood thereof in investigations nos. AA1921-174 and 175 under the Antidumping act, 1921, as amended, together with the information obtained in the investigations. Prepared by William I. Schechter. Washington, 1977.

13, A-48 p. illus. (USITC Publication 846)

1. Saccharin. I. Title. II. Schechter, William I.

UNITED STATES
INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

OFFICIAL BUSINESS

ADDRESS CORRECTION REQUESTED

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



ADDRESS CHANGE

- Remove from List
 - Change as Shown
- Please detach address label and mail to address shown above.