POTASSIUM PERMANGANATE

Report to the President on
Investigation No. TA-201-54
Under Section 201 of the
Trade Act of 1974

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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REPORT TO THE PRESIDENT
ON INVESTIGATION NO. TA-201-54
POTASSIUM PERMANGANATE

UNITED STATES INTERNATIONAL TRADE COMMISSION
April 30, 1985

Determination

On the basis of the information developed in the course of investigation No. TA-201-54, the Commission has determined 1/ that potassium permanganate, provided for in item 420.28 of the Tariff Schedules of the United States (TSUS), is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Background

On November 30, 1984, the United States International Trade Commission instituted investigation No. TA-201-54, under section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), in order to determine whether potassium permanganate is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The investigation was instituted following the receipt of a petition for import relief filed on behalf of Carus Chemical Co., the sole domestic producer of potassium permanganate.

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade

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1/ Commissioner Eckes determined that potassium permanganate is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

Commission, Washington, DC, and by publishing the notice in the Federal Register of December 19, 1984 (49 FR 49392). The hearing was held in Washington, DC on March 5, 1985, at which time all persons were afforded the opportunity to appear in person, present evidence, and be heard. 1/ The Commission's determination in this investigation was made in a public meeting held on April 8, 1985.

The report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act. The information in the report was obtained from fieldwork and interviews by members of the Commission's staff, and from information obtained from other Federal agencies, responses to Commission questionnaires, information presented at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

1/ A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation were attached to the original report sent to the President. Copies are available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

VIEWS OF CHAIRWOMAN PAULA STERN AND COMMISSIONERS SEELEY G. LODWICK AND DAVID B. ROHR 1/

We determine that potassium permanganate 2/ is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic potassium permanganate industry. Having found that the requirements of section 201 of the Trade Act of 1984 3/ are not satisfied, we do not recommend to the President that import relief be provided.

Section 201 of the Trade Act requires that each of three conditions be satisfied before we make an affirmative determination--

(1) imports are increasing, either in actual terms or relative to domestic production;

(2) the domestic industry is seriously injured or threatened with serious injury; and

(3) the increased imports are a substantial cause of the serious injury or threat thereof to the domestic industry. 4/

In the present case, we find that imports are increasing and that the domestic industry is suffering serious injury. However, we find that the

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1/ Vice Chairman Liebeler concurs in the result reached by Chairwoman Stern and Commissioners Lodwick and Rohr. She joins in the section relating to the definition of the domestic industry. Because the rationale for her determination differs from that of the rest of the majority, Vice Chairman Liebeler has addressed the remaining issues in separate views which follow.

2/ Potassium permanganate is provided for in item 420.28 of the Tariff Schedules of the United States (TSUS). In two recent investigations, the Commission determined that less than fair value imports of potassium permanganate from China (Inv. No. 731-TA-125 (Final)) and Spain (Inv. No. 731-TA-126 (Final)) had materially injured an industry in the United States. The weighted average margins calculated by the Department of Commerce (Commerce) were 5.49 percent for imports from Spain and 39.63 percent for imports from China. 48 Fed. Reg. 53,589 (1983); 48 Fed. Reg. 5,737 (1983). Collection of antidumping duties with respect to the imports from Spain was suspended following an expedited administrative review by Commerce, pursuant to section 736(c) of the Tariff Act of 1930.

3/ 19 U.S.C. § 2251.

4/ Id.

third condition, that the increase in imports and the industry's serious injury causally be linked, is not satisfied. Therefore, we have made a negative determination.

Domestic Industry

In the present case, we must address two issues. First, we must determine what domestic articles are like or directly competitive with the imported articles. Second, we must determine what domestic facilities produce the like or directly competitive article.

The domestic industry for purposes of an investigation under section 201 consists of the producers of articles which are "like or directly competitive with the imported article." 5/ Under the statute, like articles are those which are "substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.)." 6/ Directly competitive articles are those which "although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor." 7/ The terms "like" or "directly competitive" are disjunctive in nature and serve to distinguish between like articles and articles which, although they are not "like," are "directly competitive." 8/

The imported article which is the subject of this investigation is potassium permanganate, a dark-purple, inorganic compound which has the

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5/ 19 U.S.C. § 2251(b)(3).
6/ S. Rep. No. 1298, 93rd Cong., 2d Sess. 122 (1974).
7/ Id.
8/ Id. at 121-22.

chemical formula $K Mn O_4$. Potassium permanganate is manufactured in three grades: technical, free-flowing, and pharmaceutical. 9/

With the exception of pharmaceutical uses, which account for a negligible portion of domestic consumption, the three grades are generally substitutable in their applications. 10/ Potassium permanganate is used primarily for water and wastewater treatment, but is also employed in chemical manufacture and processing, aquaculture, metal processing, and air and gas purification. Both the U.S. and Spanish producers are able to manufacture potassium permanganate to comparable specifications. 11/ The primary foreign producer, the Spanish firm Asturquimica, produces all three grades. 12/

We note there are competing products or alternative processes for the various specific end uses. However, no product competes with potassium permanganate over the complete range of applications. 13/ Therefore, we conclude that the domestic article which is like or directly competitive with the imported product is potassium permanganate.

There is only one domestic producer of potassium permanganate. Carus Chemical Company (Carus) has manufactured potassium permanganate since 1915 and has been the sole U.S. producer since shortly after the First World War. Carus produces potassium permanganate in all three grades. There have been no

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9/ All three grades of potassium permanganate are provided for in item 420.28 of the TSUS.
10/ Report of the Commission (Report) at A-3.
11/ Id.
12/ Imports from Czechoslovakia and the German Democratic Republic are classified as technical grade. All potassium permanganate produced in China is of one variety, which is considered to be comparable to the U.S. and Spanish pharmaceutical grades, but is often referred to as technical grade. East German, Czechoslovak, and Chinese manufacturers all produce a technical grade that is substitutable in all applications, with the exception of pharmaceutical uses for which only the Chinese products compete. Id.
13/ Id. at A-42.

arguments made in support of considering the various grades of potassium permanganate as separate industries. Accordingly, we find that the domestic industry consists of the facilities of Carus producing potassium permanganate.

Increased Imports

The requirement that imports must be increasing is satisfied where an increase is "either actual or relative to domestic production." 14/ Whether imports of potassium permanganate are increasing may depend on what year is selected as the base year. The statute is silent with respect to the period of time during which imports are to have increased; however, the normal practice of the Commission is to consider the most recent five years. 15/

Imports of potassium permanganate are increasing in both actual and relative terms. The quantity of imports increased from 1.2 million pounds in 1980 to 1.4 million pounds in 1981, and, again to 1.7 million pounds in 1982. 16/ From 1982 to 1983, imports rose to 2.9 million pounds, followed by a decline to 2.6 million pounds in 1984. 17/ The unit value of U.S. imports has fluctuated over the 1980 to 1984 period, increasing slightly from 1980 to 1981, decreasing between 1981 and 1983, then rising from 1983 to 1984. 18/ The value of imports in 1984 is greater than the value of imports in each of the preceding four years. 19/

Imports of potassium permanganate also increased relative to domestic production. The ratio of imports to domestic production increased from 1980

14/ 19 U.S.C. 2251(b)(2)(c).
15/ See, e.g., Stainless Steel Table Flatware, Inv. No. TA-201-49, USITC Pub. 1536 (1984), Views of the Commission at 9.
16/ Report at A-11.
17/ Id.
18/ Id.
19/ Id. at A-12, Table 3.

to 1982. In 1983, the ratio of imports to production again increased, but declined in 1984. 20/ U.S. production declined between 1980 and 1982, rose in 1983, and remained essentially stable between 1983 and 1984. 21/ Despite increased domestic production from 1982 to 1983, imports relative to domestic production rose. 22/ In summary, we conclude that the facts of this case satisfy the first statutory requirement: imports are increasing.

Serious Injury

The statute does not define the term "serious injury," but instead sets forth certain economic factors which the Commission is to take into account in making its determination with respect to serious injury. Section 201(b)(2) provides that--

> [T]he Commission shall take into account all economic factors which it considers relevant, including (but not limited to) . . . with respect to serious injury, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry. . . . 23/

The Trade and Tariff Act of 1984 amended section 201(b)(2) in several respects. These amendments, among other things, state that the presence or absence of any other economic factors is not dispositive, and they define the term "significant idling of productive facilities."

The first amendment to the existing law is new section 201(b)(2)(D), which provides that:

> [T]he presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and

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20/ Id. at A-13.
21/ Id.
22/ Id.
23/ 19 U.S.C. § 2251(b)(2)(A).

> (B) shall not necessarily be dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.

The second amendment to section 201(b) consists of a paragraph defining the term "significant idling of productive facilities." This term is defined to include "the closing of plants or the underutilization of production capacity." 24/ The legislative history to this amendment indicates that it is "intended to clarify congressional intent by elaborating on the language of section 201." 25/

Trends for production, capacity, shipments, employment, and financial data were all affected by the loss of Carus' primary customer of potassium permanganate in 1981. The domestic industry's production for Chemagro alone declined between 1980 and 1981, and ceased altogether in the last half of 1981. 26/ Consequently, overall domestic production of potassium permanganate decreased substantially from 1980 to 1982. Between 1982 and 1983, production increased slightly and remained essentially stable in 1984. Production for customers other than Chemagro rose from 1980 to 1981, but fell in the period 1981 to 1982. 27/

Prior to 1980, the domestic industry increased its capacity to produce potassium permanganate by 50 percent to accommodate demand by Chemagro. However, capacity remained constant throughout the 1980-84 period. 28/ Capacity utilization declined from 1980 to 1982, increased to a certain degree

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24/ 19 U.S.C. § 2251(b)(7).
25/ S. Rep. No. 1156, 98th Cong., 2d Sess. 141-42 (1984).
26/ Report at A-14.
27/ Id. at A-15.
28/ Id.

in 1983, but declined again slightly in 1984. 29/ The level of capacity utilization in 1984 was less than half the 1980 level. In addition to the decline in capacity utilization during the period under investigation, the domestic industry also experienced plant shutdowns between 1982 and 1984. 30/

Domestic shipments of potassium permanganate, excluding those to Chemagro, fluctuated only slightly between 1980 and 1982, and then increased to above the 1980 level in 1983 and 1984.

Year-end inventories of potassium permanganate fluctuated over the period of investigation. Inventories rose sharply between 1980 and 1981, but dropped in 1982. In 1983, inventories again increased, but declined in 1984. The 1984 level of inventories is well below that in 1980.

Employment of production and production-related workers declined from 1980 to 1982. Similarly, the number of hours worked declined steadily during the same period. 31/ Both employment and hours worked rose in the period January-May 1984 as compared with the same period in 1983. 32/

The domestic potassium permanganate industry experienced declining net profits between 1980 and 1981. 33/ After the loss of Chemagro, in 1982, the domestic industry incurred net losses. 34/ These losses decreased in 1983 and 1984, but the industry still experienced a net loss at the end of the reporting period. 35/

While the overall condition of the domestic industry appears to be somewhat improved, capacity utilization and employment are still below 1980

29/ Id.
30/ Id.
31/ Id. at A-20.
32/ Id. The Commission used January-May comparisons because production workers were on strike during June-December 1984.
33/ Id. at A-22.
34/ Id.
35/ Id.

levels, and the industry continues to operate at a loss. Therefore, we determine that the domestic industry is seriously injured.

Substantial Cause

Having found that imports have increased and that the domestic industry is suffering serious injury, we must determine whether increased imports are a substantial cause of such injury. For the reasons set forth below, we have concluded that they are not.

In order for the Commission to make an affirmative determination, it must also find that increased imports are a "substantial cause" of serious injury or the threat of serious injury. Substantial cause is defined as "a cause which is important and not less than any other cause." 36/ The statute also provides that the Commission, in considering the cause question, is to take into account all economic factors which it considers relevant, including but not limited to--

> an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers. 37/

In determining whether increased imports are a substantial cause of injury, we believe that section 201 provides that we are to isolate, to the extent practicable, each of the economic factors relevant to the question of serious injury and to compare each of them with the factor of increased imports. We are not to aggregate other economic factors which may be present

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36/ 19 U.S.C. § 2251(b)(4).
37/ 19 U.S.C. § 2251(b)(2)(C).

and then compare the total with the factor of increased imports. 38/ However, this does not mean that a given causal factor will not have multiple effects. It often will. Therefore, we must be careful to distinguish between factors which are causes of serious injury and the effects of these factors.

As we have noted earlier in these views, imports of potassium permanganate have increased in both actual terms and relative to domestic production. In addition, imports have increased their share of the domestic market, with the ratio of imported potassium permanganate to domestic consumption showing an upward trend during the five-year period of investigation. The rate of imports to U.S. consumption increased steadily between 1980 and 1983, but declined in 1984. 39/

We find at least one cause of injury, the loss of the domestic industry's major customer, Chemagro, to be a more important cause of injury than increased imports. 40/ The loss of Chemagro in 1981 resulted in a significant

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38/ The Senate Report discusses the substantial cause standard and the Commission's analysis as follows--

> The Committee recognizes that 'weighing' causes in a dynamic economy is not always possible. It is not intended that a mathematical test be applied by the Commission. The Commissioners will have to assure themselves that imports represent a substantial cause or threat of injury, and not just one of a multitude of equal causes or threats of injury. It is not intended that the escape clause criteria go from one extreme of excessive rigidity to complete laxity. An industry must be seriously injured or threatened by an absolute increase in imports, and the imports must be deemed to be a substantial cause of the injury before an affirmative determination should be made.

S. Rep. No. 1298, 93rd Cong., 2d Sess. 120-21 (1974).

39/ Report at A-36-37.

40/ Chairwoman Stern notes further that declines in the aggregate value of export shipments may have been at least as important a cause of injury to the domestic producer as increases in the value of imports, cumulatively throughout the period as well as each year between 1980 and 1983. It is difficult to directly compare the net contribution to profit (or loss) of the considerable drop in exports in 1983 and 1984 and the simultaneous increases

(Footnote continued)

loss of demand for domestically produced potassium permanganate. 41/ Total domestic shipments by the U.S. industry declined precipitously between 1980 and 1982. Simultaneously, approximately 50 percent of the domestic industry's capacity devoted to production for Chemagro was idled, and employment of production workers fell, together with the number of hours worked by the remaining employees.

The loss of Chemagro's business also caused the industry to suffer a severe financial squeeze. Not only did sales volume decline, but unit costs, both variable and fixed, escalated sharply from 1980 to 1982. 42/ Although variable and fixed unit costs fluctuated between 1982 and 1984, they remained high throughout the latter period and well above the 1980 level. A breakeven analysis substantiates the conclusion that Carus was not able to quickly shed its costs in proportion to the loss of Chemagro's sales. Rather, Carus required several years to reduce its cost structure in proportion to its reduced sales. 43/

Carus argued that a primary indicator of its serious injury due to increased imports was its inability to obtain further financial resources and greater difficulty servicing its debts. 44/ However, a ratio analysis of Carus' financial condition since 1980, particularly concerning the company's

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(Footnote continued)
in imports because of unusual variations in the unit value of exports. However, an analysis of the changes in value (quantity multiplied by unit value) of exports and imports does indicate that the decline in the value of exports during most years and in the aggregate throughout 1980-84 surpassed increases in the value of imports. Compare Id. at Table 6 with Id. at Table 3.

41/ Id. at A-41.

42/ Id. at A-33, Table 20.

43/ Id.

44/ Petitioners argued that "our borrowing capacity is near its limits" and that "lenders are not giving us any more money." Transcript of hearing (Tr.) at 120 and 117. Also, petitioners stated that they were "paying very high interest rates in order to just get borrowing capacity to fund the losses we have. There is no more." Id. at 117.

debt to equity and cash flow position, reveal that the bulk of Carus' financial problems stem from the earlier period of investigation, when the loss of Chemagro, and not increased imports, was Carus' primary concern. 45/

A further result of the decline in demand associated with the termination of the Chemagro contract and the concomitant imbalance between production and sales volume was a considerable increase in inventories in 1981. 46/ These inventories and their release on the market in 1982 clearly had a dampening effect on prices. Prices weakened in the second half of 1981, remained at depressed levels during 1982, and began to improve only by mid-1983. Thus, although Carus argued that a major source of serious injury was its inability to raise prices throughout the period of investigation, this price suppression occurred in the earlier period, and was due primarily to the decline in domestic demand. Moreover, Carus did increase prices in mid-1983 and late-1984, when imports were at their highest levels. The domestic industry's gross margin, which measures the relationship between the price and the cost of goods sold, improved in both 1983 and 1984. The 1984 gross margin was the highest for the 1980-84 period.

In comparison to the loss of Chemagro, the effect of imports on the domestic industry was modest. Imports grew from 1.20 million pounds in 1980 to 1.75 million pounds in 1982, but these volumes are small relative to the decline in domestic shipments. 47/ In fact, the increase in imports in 1982 is far less than even the rate of destocking in that year, and the total volume of imports in 1982 is only of a comparable magnitude to the stock

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45/ See Report at Table 15 and A-29.
46/ Id. at A-18, Table 8.
47/ Id. at A-16.

withdrawals. Further, the decline in exports during 1980 and 1982 also exceeded the increase in imports. 48/

During 1983 and 1984 import volumes were somewhat higher, 2.86 million pounds and 2.62 million pounds respectively, 49/ but these occurred in the context of recovering domestic shipments and generally improved performance of the domestic industry. 50/ The increase in imports from 1982 to 1984 is only a small fraction of the increase in domestic shipments during that period. Domestic production has trended upward since 1982, utilization of the capacity that was not shut down with the loss of Chemagro is currently fairly high, and inventories at year-end 1984 are down considerably from year-end 1982 levels. 51/

Threat of Serious Injury

Section 201(b)(2)(B) states that the Commission is to take into account all relevant economic factors, including but not limited to--

> (B) with respect to threat of serious injury, a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned.

The Senate Finance Committee Report makes the following comment on the analysis the Commission is to undertake:

> With respect to threat of serious injury, the Commission should consider a decline in sales, a higher and growing inventory, and downward trend in production, profits, wages, or employment (or increasing underemployment) in the affected domestic industry. The existence of any of these factors such as the growth in inventory would not in itself be relevant to the threat of injury from imports if it resulted from conditions

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48/ Id. at A-18.
49/ Id. at A-14.
50/ Id. at A-17.
51/ Id. at A-15 and A-18.

> unrelated to imports. Such conditions could arise from a variety of other causes, such as changes in technology or in consumer tastes, domestic competition from substitute products, plant obsolescence, or poor management. It is the intention of the Committee that the threat of serious injury exists when serious injury, although not yet existing, is clearly imminent if imports trends continued unabated. 52/

Among the factors, other than those noted by Congress, that the Commission has taken into account in prior cases in assessing a threat of serious injury are excess capacity in the exporting countries, 53/ the fact there is no domestic market for the product in the exporting country, 54/ a sudden increase in imports or a strong upward trend in imports, 55/ high inventories maintained by importers, 56/ and a downward trend in prices of imports. 57/ It has been pointed out that although the threat of injury analysis requires an estimate of future events, "the fundamental statutory tests of injury and causation are no less rigorous." 58/

As we have noted, despite the increase in imports, the performance of the domestic industry has been improving since 1983 and 1984 as indicated by rising production, sales, and prices.

52/ S. Rep. No. 1298, 93rd Cong., 2d Sess. 121 (1974). We note that the admonition in the legislative history against regarding the presence or absence of any one factor as dispositive on the question of threat of substantial injury is now embodied in the statute. 19 U.S.C. § 2251(b)(2)(D).

53/ See, e.g., Stainless Steel and Alloy Tool Steel, Inv. No. TA-201-51, USITC Pub. 756 (1976), Opinion of Commissioners Moore and Bedell at 11.

54/ See Heavyweight Motorcycles and Engines and Power Train Subassemblies Therefor, supra, Views of Chairman Eckes at 14. Motorcycles of more than 750cc could not legally be sold in Japan.

55/ Mushrooms, TA-210-17, USITC Pub. 708 (1977) at 13-14.

56/ Heavyweight Motorcycles and Engines and Power Train Subassemblies Therefor, supra, Views of Chairman Eckes at 13. ("[P]rimary factor underlying threat of injury to this industry consists of importers' and dealers' inventories.") Commissioner Stern, however, considered the large inventories to be the result of an over optimistic demand forecast, and predicted that liquidation of inventories would result in a reduction in imports. Id. at 73.

57/ Honey, Inv. No. TA-201-14, USITC Pub. 781 (1976) at 11.

58/ Heavyweight Motorcycles and Engines and Power Train Subassemblies Therefor, supra, Views of Commissioner Stern at 70.

Capacity figures for the foreign exporters reveal that, where data is available, very little excess capacity exists. 59/ Asturquimica, the Spanish exporter, has been producing at near capacity in 1984. 60/ Capacity in China declined from 1980 to 1982 with the closure of two plants, which are not scheduled to reopen. According to the best available information, the East German producers operated at capacity in 1984, as did producers in Czechoslovakia and the U.S.S.R. 61/ Excess capacity may exist in India and Japan. 62/

Importers' inventories of potassium permanganate trended downward between 1980 and 1984. Imports increased steadily from 1980 to 1983, but declined in 1984. 63/ The imports' share of U.S. consumption, excluding Chemagro, increased from 1980 to 1982. In 1983, domestic shipments of imports held an increased share of the U.S. market as compared with 1982, but the imports' market share declined in 1984. 64/

Conclusion

In view of the foregoing, we have concluded that potassium permanganate is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

59/ Report at A-34-35, Table 21.
60/ Id. at A-34, Table 21.
61/ Id. at A-35.
62/ Id.
63/ Id. at A-12, Table 3.
64/ Id. at A-36.

ADDITIONAL VIEWS OF VICE CHAIRMAN LIEBELER

A. INTRODUCTION

I have joined with the majority in defining the domestic industry and the like product covered by this investigation. The like product is potassium permanganate. The domestic industry is comprised of the sole domestic producer of potassium permanganate, Carus. I concur with the Commission majority in determining that the increased importation of potassium permanganate is not a substantial cause of serious injury or threat thereof to the domestic industry. Because my analysis of increased imports, injury and causation differs from that of the majority, I offer these additional views.

Competition among producers of goods and services is generally regarded as beneficial to society.[1] Our economic system is premised on the notion that competition, both domestic and foreign, will increase efficiency and enhance consumer welfare. This country and other nations have experimented with import barriers and retaliatory tariffs. There is general agreement among policymakers and commentators that those measures have been counterproductive. As a result, the United States signed the General Agreements on Tariffs and Trade (GATT), the purpose of which is to move the world toward a state of free trade.

Our import relief laws attempt to incorporate the spirit of the GATT. Congress fashioned a series of statutes to protect

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[1]The classic defense of free trade was written by Adam Smith over 200 years ago. The Wealth of Nations (Mod. Libr. ed. 1937).

domestic industries from "unfair" trade practices where there has been a "wrongful or unfair" practice by foreign competitors, importers or foreign countries.[2] Congress also provided for import relief from goods which are fairly traded when the domestic industry is harmed by the imports: the relief is available even though there has been no wrongful act or unfair practice.[3] A comparison of the requirements concerning rising imports, causation, and injury in these laws makes it clear that the requirements for relief are far more stringent under those statutes dealing with fairly traded goods.[4]

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[2]The following statutes require the finding of an unfair trade practice as a condition for import relief: sections 303 and 705 of the Tariff Act of 1930, 19 U.S.C. §§ 1303 and 1671d (1982) (subsidy); section 735 of the Tariff Act of 1930, 19 U.S.C. § 1673d (1982) (dumping); section 337 of the Tariff Act of 1930, 19 U.S.C. 1337 (1982) (unfair competition other than dumping or subsidies).

[3]These statutes include section 201 of the Trade Act of 1974, 19 U.S.C. § 2251 (1982) (escape clause) and section 406 of the Trade Act of 1974, 19 U.S.C. § 2436 (1982) (market disruption).

[4]The "fair" trade statutes require rising imports. Section 406 requires rapidly increasing imports, either absolutely or relatively. Section 201 requires that articles be imported in increased quantities. There is no similar requirement that imports be increasing under the unfair trade laws. Also, a higher injury standard is found in the fair trade statutes. Section 201 requires serious injury or threat of serious injury to a domestic industry. For Title VII subsidy and dumping cases, the injury need only be material. For unfair import practice cases under Section 337, the injury standard is the effect or tendency to destroy or substantially injure a domestic industry, the prevention of the establishment of such an industry, or the restraint

(Footnote continued to page 19)

This investigation is under a fair trade statute, Section 201. Under this statute, petitioners need not allege any wrongdoing on the part of any importers, foreign producers, or foreign governments. Rather, they merely must allege that increased imports are a substantial cause of serious injury, or threat thereof, to the domestic industry.

B. INCREASED IMPORTS

The first hurdle that a petitioner must leap in order to obtain relief is the requirement of increased imports. I concur with the majority's finding of increased imports. I do so because potassium permanganate is being imported in increased quantities. I do not agree with their construction of the statute that the increased imports requirement is satisfied if imports are increasing only relative to domestic production.[5]

(Footnote continued from page 18)
or monopolization of trade and commerce in the United States. Section 406, which does not require unfair trade, only requires a finding of material injury or threat thereof. This lower standard is attributable to the fact that these imports are from Communist countries.

[5]Reference to relative increases in imports in Section 201 concern the causation strand of the test for relief. Before this issue can be reached, it must first be determined that imports are increasing absolutely. In contrast, the statute governing market disruption allegations explicitly states that the increase in imports can be either absolute or relative. Section 406 of the Trade Act of 1974, 19 U.S.C. § 2436 (1982). For a full discussion of this issue, see Views of Vice Chairman Liebeler in Carbon and Certain Alloy Steel Products: Report to the President on Investigation No. TA-201-51, USITC Publication 1553 (July 1984) ("Carbon and Certain

(Footnote continued to page 20)

C. INJURY

The focus of my inquiry with respect to serious injury is whether the domestic potassium permanganate industry is in danger of disappearing or suffering a major contraction.[6]

The confidential record in this case indicates that the sole domestic producer of potassium permanganate is not financially healthy. The majority's opinion describes Carus' recent production and financial statistics.[7] Although these data provide a good indication that Carus' financial position is precarious, the question remains whether the viability of the industry is at stake. It is my view that Congress was not concerned with the fate of individual firms and workers, but rather the long-run existence of the industry. Although some suppliers of labor and capital may be displaced by imports, if it is clear that the industry can survive, then there is no serious injury.[8]

Operationalizing this notion of serious injury is not easy. Section 201(b)(2)(A) lists a number of factors which are

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(Footnote continued from page 19)
Alloy Steel Products") at 132-34 and Views of Vice Chairman Susan Liebeler in Unwrought Copper: Report to the President on Investigation No. TA-201-52, USITC Publication 1549 (July 1984) ("Unwrought Copper") at 54-55.

[6]See Carbon and Certain Alloy Steel Products, supra note 5, at 132, 134-37; Unwrought Copper, supra note 5, at 54, 56-59.

[7]See Majority Views, at 7-10.

[8]See Carbon and Certain Alloy Steel Products, supra note 5, at 137; Unwrought Copper, supra note 5, at 56-58.

indicative of the long-run prospects of an industry. These include: "significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry . . . ." Factors which the Commission considers as evidence of threat of serious injury are listed in section 201(b)(2)(B) and include "a decline in sales, a higher and growing inventory, a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry . . . ." All of the factors enumerated in the statute concern the viability of an industry.

Analysis of this particular industry is complicated by the fact that there is only one firm, ergo, a monopolist, making it hard to separate the prospects of the firm from the prospects of the industry. Carus' production and shipments have declined precipitously during the period under investigation. Exports have also declined substantially. Carus testified that its debt-equity ratio has reached a point where it is no longer able to borrow. It would be easy to fall into the trap that as Carus goes, so goes the industry. Though Carus may be forced to abandon the industry because of the large loss associated with losing its major customer, an examination of Carus' performance, excluding Chemagro, indicates that the long term prospects for the industry are not

as bleak as are the prospects for Carus.[9] For example, total shipments, excluding Chemagro, remained steady during the period of investigation even though exports decreased substantially. Domestic shipments, excluding Chemagro, increased substantially, more than making up for the decrease in exports. Moreover, most of the domestic increase in shipments occurred during 1983 and 1984, a period in which Carus was able to raise its prices significantly.

Thus, a company unburdened by the financial distress caused by the loss of a major customer could prove to be a viable entrant into this industry.[10] The question is a close one

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[9]The separation of the situation of Carus from that of the industry is clearly illustrated if one assumes that Carus will go bankrupt without import relief. Because Carus' assets may still have a positive net present value in the same use, either Carus will reorganize or another firm may buy its assets. The industry would then continue in operation.

[10]Another way to view this problem would be to view production of potassium permanganate for Chemagro as one industry and production for all other customers as a different industry. One justification for such an approach is that Chemagro's use for the chemical (for production of herbicide) was different from the use that others made of the chemical (generally for water purification). Under such an approach, it is clear that the Chemagro industry was seriously injured, in fact destroyed. The case for serious injury to the other "industry", as noted above, is not as clear.

in this case. The financial data do not permit an unambiguous conclusion on the question of viability, and therefore injury. Because I have determined that imports are not a substantial cause of whatever injury the domestic industry is suffering, I will not belabor this discussion and assume arguendo that the domestic industry is suffering serious injury.

D. SUBSTANTIAL CAUSE

Section 201 requires that the Commission find that increased imports are a substantial cause of serious injury, or a threat thereof, to the domestic industry before granting relief. Substantial cause is defined as "a cause which is important and not less than any other cause."[11] In an effort to achieve some methodological consistency and rigor, I have attempted to compare increased imports with concepts of the same level of generality.[12] An adverse change in the fortunes of a domestic firm or industry must entail a decrease either in the quantity of the product which they sell, its price, or both. At this level of generality, there are only three possible causes which could be responsible for such

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[11]19 U.S.C. § 2251(b)(4) (1982).

[12]See Views of Vice Chairman Liebeler in Carbon and Certain Alloy Steel Products, supra note 5, at 137-42, and in Unwrought Copper, supra note 5, at 60-65.

changes. They are (1) a decline in demand, represented by an inward and leftward shift of the demand curve; (2) a decline in domestic supply, represented by an inward and leftward shift of the domestic supply curve; and (3) an increase in foreign supply, represented by an outward and rightward shift of the foreign supply curve.

The loss of Chemagro as a customer is reflected in (1) above, an inward and leftward shift of the domestic demand curve. A small part of this decrease in demand was apparently offset by an increase in demand for new potassium permanganate products.[13]

According to the testimony of Carus, a shift outward and to the right of the domestic supply curve occurred during the period under investigation as a result of cost saving measures.[14]

Finally, imports increased between 1980 and 1984. An increase in imports can result from a shift in either the domestic supply and demand curves, or shifts in both curves. Thus, if demand in the U.S. increases (e.g., new uses) or

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[13]Report at A-48.

[14]Report at A-31.

domestic supply at a given price decreases (e.g., wage rates up), imports may increase. This type of import increase is not actionable under section 201 because the increase is the result of problems in the domestic market, not the cause of them. However, because domestic demand declined and domestic supply costs decreased, the increase in imports in this investigation was not caused by changes in the domestic market.

Rather, the increased imports seem to have been primarily the result of a shift outward and to the right of the foreign supply curve, the type of shift for which relief can be granted under section 201.[15] The next question is whether this shift in the import supply curve was at least as great as the downward shift in domestic demand. Even the most casual comparison of the decrease in domestic demand with the increase in imports demonstrates that the imports were not "a cause

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[15]Foreign production appears to be down somewhat over the period. See Report at A-34. If this is true, then the increase in imports may be due to a decrease in foreign demand for potassium permanganate. The fact that Carus' exports decreased substantially over the period lends some evidence to this conclusion.

which is important and not less than any other cause."[16] Imports increased from 1.2 million pounds in 1980 to 2.62 million pounds in 1984. This increase is substantially less than the drop in demand occasioned by the loss of Chemagro. I therefore find that the increased imports are not a substantial cause of serious injury to the domestic industry.

E. THREAT OF SERIOUS INJURY

I find nothing in the record to forbode a shift in the import supply curve of such a magnitude so as to replace the loss of Chemagro as the most important cause of the domestic industry's current and future condition. The record indicates that there is very little excess foreign capacity available.[17] Further, there is no evidence that foreign demand is going to decrease substantially.

F. CONCLUSION

I concur in the determination of the majority that potassium permanganate is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

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[16]19 U.S.C. § 2251(b)(4) (1982).

[17]Report at A-53, Table 21.

VIEWS OF COMMISSIONER ECKES

I respectfully disagree with my colleagues who made a negative determination. Potassium permanganate is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

Like most escape clause investigations, this one has certain unique aspects that warrant particular attention. Unlike automobiles, fishing rods, motorcycles, steel, footwear and tuna--all subjects of recent Section 201 escape clause investigations--potassium permanganate, a dark purple inorganic compound, is not a familiar product with which one can easily identify. And, the petitioner, Carus Chemical Corporation, is not a giant public corporation or broad-based industry. Instead, Carus is a small firm, and a monopoly. When its officials appeared before the Commission to argue their case, they were accompanied only by counsel, not by legions of expert witnesses, public officials, publicity agents and other interested parties who sometimes embellish such proceedings.

In my view the domestic industry presented a factual, comprehensive, and cogent case. It easily satisfied the statutory tests of increasing imports and serious injury, and

clearly demonstrated that imports are a substantial cause of injury. Consequently, I am puzzled that the Commission majority could report a negative determination. From my vantage point, only an affirmative determination is consistent with the facts, the law, and congressional intent. One of my colleagues has described the ITC as "a veritable M.A.S.H. unit for the battlefield victims of international competition." 1/ I trust the present determination is not an indication that the Commission is abandoning these victims.

So that I can explain fully the basis for my own decision, a few preliminary comments about the statute are necessary. Section 201(b)(1) of the Trade Act of 1974 stipulates that:

> . . . the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.2/

Based on this statutory instruction the Commission customarily employs a four-step analysis in each case. First, it defines the industry in terms of a product that is like or directly competitive with the imported article. Second, it considers whether the imported article is increasing either in actual terms or relative to domestic production. Third, the

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1/ Speech delivered by Chairwoman Paula Stern to the Chemical Manufacturers Association, in Washington, D.C., on November 14, 1984.

2/ 19 U.S.C. sec. 2251(b)(1).

Commission considers whether the domestic industry is experiencing serious injury or threat of serious injury. And, last, the Commission assesses whether increased imports are a substantial cause of the serious injury or threat thereof.

In this investigation, it is my impression that all members of the Commission are in agreement concerning the definition of the appropriate domestic industry. It is also my impression that members of the Commission agree that imports are increasing and that the domestic industry is experiencing serious injury. Although these issues apparently are not in dispute, I shall consider each in order to satisfy my statutory responsibility. But, I will concentrate this discussion on what I believe to be the principal point of disagreement--whether the facts in this case warrant the conclusion that imports are a substantial cause of serious injury.

Before elaborating on this analysis, it is appropriate to observe that this escape clause investigation is not the first in which this agency has analyzed potassium permanganate import trends and their impact on the domestic industry. In two separate investigations completed slightly more than a year ago, the Commission found that less-than-fair-value imports from Spain and China were each a cause of material injury to this domestic industry. 3/ One colleague even concluded that

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3/ Potassium Permanganate from the People's Republic of China, Inv. No. 731-TA-125 (Final) USITC Pub. 1480, 1984, (Hereinafter, "Potassium Permanganate from China") and Potassium Permanganate from Spain, Inv. No. 731-TA-126 (Final) USITC Pub. 1474, 1984, (Hereinafter, "Potassium Permanganate from Spain").

imports from each country were also a real and imminent threat of material injury 4/. Moreover, with respect to Chinese imports the Commission found it appropriate to impose retroactive duties because of the "massive" nature of those imports during the 1983 period. That, incidentally, is one of the rare instances where the Commission majority voted to impose retroactive duties in a Title VII investigation.

Domestic Industry--

For purposes of a section 201 investigation the domestic industry consists of the producers of articles which are "like or directly competitive with the imported article." In the present case the imported article is potassium permanganate, a dark purple, inorganic compound of manganese, potassium and oxygen. It is manufactured in three distinct grades: technical, free-flowing, and pharmaceutical. However, these three grades are generally substitutable in their applications, except for pharmaceutical uses which account for a negligible percent of domestic consumption.

Potassium permanganate is used principally in water and wastewater treatment. Although other products compete for various specific end uses, no other such product competes with potassium permanganate over the complete range of its various

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4/ See "Views of Commissioners Stern, Haggart, and Lodwick," Potassium Permanganate from China, footnote 40 at 12, and "Views of the Commission," Potassium Permanganate from Spain, footnote 36 at 10.

applications. Nor did the Commission hear any requests during the current investigation to consider the various grades as separate industries.

Consequently, I find that the appropriate "like product" is all potassium permanganate, and conclude that the domestic industry consists of only one domestic producer, Carus Chemical Company and its facilities.

Increasing Imports--

The requirement that imports must be increasing is satisfied where an increase is "either actual or relative to domestic production."5/ In the instant investigation imports have increased from 1.2 million pounds in 1980 to 2.6 million pounds in 1984. It is true that the 1984 import level is slightly lower than the record 2.9 million pounds imported in 1983. But, as I will explain later in this opinion, the slight drop in 1984 imports has no significance, and it cannot properly be the basis for dismissing the petition.

Imports as a share of production followed a similar rising trend, ranging from an import penetration of less than 5 percent in 1980 to nearly 20 percent in 1983, then dropping slightly in 1984. In my judgment these data provide compelling evidence for concluding that imports have increased both in actual numbers and relative to domestic production over the

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5/ 19 U.S.C. Sec. 2251(b)(2)(C).

five-year period for which data were collected in this investigation. These import trends, therefore, satisfy the second statutory requirement.

Serious Injury

The statute itself does not define the term "serious injury," but over the years Commissioners have concluded that the phrase requires a finding of damage or a hurt of grave or important proportions. One Commissioner, for instance, held the view that serious injury was "an important, crippling, or mortal injury; one having permanent or lasting consequences." 6/ My own analysis in this case does not seek to reinterpret Commission practice.

The statute does provide some guidance to the Commission, and this language suggests the approach I shall take in this opinion. The Commission in making its determinations:

> . . .shall take into account all economic factors which it considers relevant, including (but not limited to)--
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> (A) with respect to serious injury, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry; 7/

6/ "Views of Commissioner George M. Moore," Bolts, Nuts, and Screws of Iron or Steel, No. TA-201-2, USITC Pub. 747, 1975, at 19.

7/ 19 U.S.C., Sec. 2251 (b)(2)(A).

Because there is only one domestic producer, much of the data gathered in this investigation must remain classified as business confidential. I shall describe only the trends in this written opinion. Concerning the idling of productive facilities, one should note that production dropped sharply in 1982 and recovered only slightly through 1984. Capacity utilization also dropped sharply in 1982 and remained at sharply depressed levels through 1984. After the same sharp decline in 1982, domestic shipments recovered somewhat, reflecting the industry's success in finding additional uses for potassium permanganate. Nonetheless, total 1984 shipments remained substantially below the 1980 peak level. 8/

Export sales plummeted in 1983 and recovered slightly in 1984, but remained significantly below the levels recorded in 1980 and 1981. Despite export sales volume declines, these lower-volume sales on a value basis accounted for only a slightly lower percentage of the value of total domestic shipments than they did during 1980 and 1981. Inventories fluctuated throughout the period. In 1981 and 1983 inventories reached higher levels than in 1980, but extended plant

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8/ Some may observe that the growth in shipments from 1982 to 1984 exceeds the growth in imports over the same period. This fact demonstrates how Carus' management has sought to adjust to adversity. It does not, however, explain away serious injury, or demonstrate that imports are an unimportant cause of that injury. When considered in conjunction with extended production shutdowns during the period and information concerning inventory levels, it is apparent that a substantial amount of those shipments has been from inventory, and that during a significant period of time covered by this investigation, the domestic productive facilities have been idle.

shutdowns in 1982 and 1983 affected year-end levels. Because of a strike, beginning in June 1984, year-end 1984 levels were almost non-existent. Based on the information discussed above, I can only conclude that there has been a "significant idling of productive facilities in the industry."

From the data on production and capacity utilization, one might surmise that the domestic industry had difficulty operating at a "reasonable level of profit." The confidential information supports that conclusion. Carus' operating margins on its chemical operations, most of which reflect the production of potassium permanganate, show a decline in profitability from 1980 to 1981, and then substantial losses in 1982 and 1983 with only marginal profitability in 1984. The apparent improvement in 1984 is deceptive and overstates the actual situation. It reflects considerable labor cost economies growing out of the strike situation as well as increased sales made in anticipation of price increases for January 1985.

Viewed in a comparative framework, Carus had operating income margins considerably below both the all-industry average and the average for manufacturers of industrial inorganic chemicals during 1981-1984. 9/

Finally, let me address briefly the issue of "significant unemployment or underemployment." The number of employees and hours worked peaked in 1980 and 1981 and then dropped

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9/ Memorandum from the Acting Director, Office of Investigations, Inv.-I-070, dated Apr. 5, 1985.

precipitously in 1982 and still further in 1983. In this category, as in the others relating to production and profitability, the basic data point to serious injury.

The data must be viewed in a broad perspective as well. A review of the record indicates that there have been two significant events impacting the condition of the domestic industry during this five-year period. In 1981 Carus lost its largest customer, Chemagro. The presence of Chemagro augmented Carus' data in 1980 but marred that chemical producer's performance, in 1982 and 1983, especially. Separately, however, imports became a major factor. They first entered the open market in substantial quantities in 1981, and registered significant volume and market share increases during the 1981 to 1984 period.

Substantial Cause--

As I have indicated, the outcome of this investigation appears to rest on the interpretation of a fourth criterion, substantial cause of serious injury. Before analyzing this issue and my points of difference with the majority of the Commission, it is appropriate to note statutory considerations. The law provides:

> In making its determinations . . . the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)--
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> > . . . (C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers. 10/

10/ 19 U.S.C. Sec. 2251(b)(2)(C).

It further provides:

> For purposes of this section, the term "substantial cause" means a cause which is important and not less than any other cause. 11/

The Senate Report also offers guidance to the Commission regarding analysis of the substantial cause criterion:

> The Committee recognizes that "weighing" causes in a dynamic economy is not always possible. It is not intended that a mathematical test be applied by the Commission. The Commissioners will have to assure themselves that imports represent a substantial cause or threat of injury, and not just one of a multitude of equal causes or threats of injury. (emphasis added) 12/

During the course of this investigation the Commission heard four possible substantial causes for the current serious injury being experienced by Carus. These were: (1) loss of a major customer (Chemagro); (2) a decline in export performance; (3) a shift to substitute products; and (4) increased imports. My colleagues obviously believe that either imports are an unimportant cause of serious injury or that some other cause is more important than imports. I disagree. Increased imports are both an important cause and a cause not less than any other cause of serious injury.

Earlier in these views, I noted that there have been previous Title VII investigations regarding imports of potassium permanganate. Although the statutory standards regarding injury and causation differ in a Title VII investigation and a sec. 201 investigation, the salient facts

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11/ 19 U.S.C. Sec. 2251 (b)(4).
12/ S. Rep. No. 1298, 93rd Cong. 2nd Sess. at 120.

underlying each determination are the same. Almost 11 years ago, in 1974, Carus entered into an exclusive five-year supply agreement with Chemagro which was subsequently extended by mutual agreement through 1982. There was a major decline in shipments under the extended agreement in 1980 through 1981; there were no shipments to Chemagro in 1982. Thus, the agreement was effectively terminated in 1981.

The record also shows that only subsequently did imports become a significant factor in the marketplace. In 1980, well under 1 million pounds were imported for open-market consumption. In 1981, imports rose to 1.4 million pounds, climbed further to 1.7 million pounds in 1982, and soared in 1983 to 2.9 million pounds. In the four-year period, then, the quantity of imports essentially quadrupled. In the fifth year, 1984, it is true that imports declined slightly to 2.6 million pounds, but, as I discuss below, this decline has no significance.

Rather, these data show not only that imports soared but also that during that period two emerging suppliers, Spain and China, seized a substantial portion of the domestic market in a four-year period. The over-all ratio of imports to U.S. consumption increased from less than 5 percent in 1980 to almost 20 percent in 1983 and 1984. As a share of domestic production imports also quadrupled during the five-year period of the investigation, even as consumption recovered from earlier declines. In light of these dramatic import trends, it is impossible for this Commissioner to dismiss imports as an unimportant cause of serious injury.

I do not attach any particular significance to the slight dip in import quantities during 1984. There is a persuasive explanation for that phenomenon, which is shown in the confidential data. The domestic industry filed antidumping petitions in 1983 against producers in China and Spain. As a consequence of these proceedings, it is reasonable to infer that importers boosted shipments to avoid any antidumping duties--and these actions inflated import figures for 1983. Similarly, these trade proceedings had another delayed impact on imports in 1984. Importers reduced imports and increased, instead, their sales from inventories accumulated in the United States. From my standpoint, the special circumstances brought about by the antidumping cases adequately explain the slight decline in 1984 imports. There is no evidence on the record that foreign suppliers are withdrawing from the U.S. market.

Nor can one cite pricing data to create a persuasive case that increased imports are unimportant because imports oversold, not undercut, the domestic product. It is true that a comparison of weighted-average f.o.b. point-of-shipment prices to distributors shows that imported potassium permanganate of the free-flowing grade occasionally costs more than the domestic equivalent. However, this comparison lacks broader significance. The Commission report unambiguously points out that "the three grades of potassium permanganate are generally substitutable in their various applications." The

f.o.b. comparison for technical grade potassium permanganate shows that imports consistently undersold the domestic technical grade since the first quarter of 1983.

Other pricing information for at least one substitute product (chlorine) indicates that the price trends for potassium permanganate failed to track price increases for chlorine, particularly during the last half of 1983 and 1984. These data support my overall conclusion that imports have captured market share on the basis of price because of the product's fungible nature. This condition of trade, as the Commission knows from its investigations of other fungible products like steel, makes this domestic industry particularly sensitive to import competition. Nor is this a novel revelation in this investigation; as the Commission emphasized in both of the earlier Title VII affirmative determinations, "Potassium permanganate is a fungible product which is especially price sensitive." 13/

Is the loss of a single large customer, Chemagro, a more important cause of present serious injury than imports? This is the key question which the Commission is required by law to answer. It is in analyzing this issue that I believe my colleagues have gone astray. Because there is only one domestic producer, it is impossible to discuss specific data publicly. Nonetheless, I would infer that my colleagues

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13/ Potassium Permanganate from China at 10; Potassium Permanganate from Spain at 9.

believe that in losing the Chemagro contract Carus lost a greater volume of shipments and percentage of its overall sales than it has lost to imports. Consequently, a mathematical weighing might suggest that Chemagro was a more important cause of injury than imports.

In my judgment, such a line of analysis places undue emphasis on remote events--the loss of Chemagro in 1981 and 1982--and neglects the emerging role of increased imports as a dominant cause of injury in 1983 and 1984. Such analysis also rests on a flimsy foundation of hypothetical assumptions, "what-if" calculations, and "mathematical weighing." Further, it raises questions as to which period of serious injury is the focus of my colleagues' analysis.

Neither the statute nor the legislative history establishes a time-frame for considering serious injury. Thus, the Commission has discretion to determine the appropriate period based on the facts of each investigation. Customarily, the Commission utilizes a five-year period for its analysis, but in some instances where events have warranted, the Commission has considered a shorter, more relevant period of time. 14/ It is evident from both the statute and Commission practice that the focus of the Commission's determination is on the impact of increasing imports and the performance of the industry. 15/ In

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14/ In one group of investigations the time-frame began with the conclusion of the period covered by a prior escape-clause investigation. In a second group of cases the time-frame began with removal of import restrictions.

15/ See 19 U.S.C. Sec. 2251(b)(2)(C), quoted at p. 9.

this investigation, I believe that the appropriate period for the causal analysis should be the most recent three-year period. It is evident that the conditions of trade in 1984 differed from the conditions in 1980 and 1981. Since the loss of Chemagro, imports have entered the market, and increased dramatically, both absolutely and relatively. As a result, Carus has experienced a sharp decline in its market share.

In response to requests from the Commission, the staff performed a number of interesting hypothetical exercises to evaluate the relative importance of the Chemagro loss and imports. At the request of Chairwoman Stern, for instance, Carus submitted a restatement of its yearly earnings with the assumption that the Chemagro business had been retained. 16/ As a companion to that, the Commission staff developed an alternative model which rested on the assumption that Carus may have managed the fixed cost portion of its chemical business to maintain a constant gross margin (percentage) return. 17/ At my own request the Commission staff sought to calculate Carus' adjusted net income before taxes on chemical operations, assuming: That imports remained constant at the 1980 level in 1981-1984, that Carus increased its sales to replace actual imports in the period, and that Carus sold the increased volume

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16/ Memorandum from the Acting Director, Office of Investigations, INV-I-063, dated Apr. 3, 1985.

17/ Id.

at the same average price as its actual sales during 1981-1984. 18/

The divergent results must necessarily remain confidential. But I hasten to say the numbers do suggest the relative importance of the Chemagro sale and imports at various points over the five-year period, depending on the assumptions employed. In my view such an approach is quite consistent with the statutory injunction for the Commission to take into account "all economic factors which it considers relevant." But, in my view the differing studies all confirmed the underlying wisdom of the Senate Finance Committee's awareness that "'weighing' causes in a dynamic economy is not always possible." Consequently, I did not attempt to apply a mathematical test to answer the key question regarding the relative importance of imports and the Chemagro loss.

Based on the complete record before the Commission, it is clear that the Chemagro cause is less consequential than imports to present serious injury. Carus knew when it entered the fixed-term agreement to supply Chemagro in 1974 that the contract was for a limited duration. Nothing in the record suggests that Carus' management imprudently ignored the pending termination of the agreement, or that the loss skewed Carus' current profit-and-loss data. Instead, the record shows how the petitioner recovered the cost of its plant expansion before

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18/ Memorandum from the Acting Director, Office of Investigations, INV-I-069, dated Apr. 5, 1985.

1980 and made substantial successful attempts to reduce its fixed costs. Carus made the necessary adjustments in 1981 and 1982, before the full impact of increased imports hammered the firm's performance in 1983 and 1984.

It is evident that although the Chemagro sale may have been the most important cause of any injury in 1981 and 1982, imports were at least as important by 1983 and were far more important than the lost customer by 1984. To claim that imports are a less important cause than the Chemagro contract, the majority must reach back some four years for an alternative explanation. Such an exercise is necessarily simplistic, because it ignores "dynamic" changes in the market for potassium permanganate, namely increased imports from Spain and China. Such an explanation also seems to ignore the analysis done in two antidumping investigations when the Commission found imports were suppressing domestic prices and underselling Carus' product by margins in some instances in excess of 30 percent.

Is it possible that other factors--competition from substitute products or diminished exports--are a more important cause of the serious injury afflicting Carus? While there has been some product switching, evidence on the record suggests a greater volume of switching from substitute products <u>to</u> potassium permanganate rather than the reverse. Also, Carus has presented persuasive data that prices for competing products have generally risen faster than those for the Carus

product since 1980. This suggests that imports, not substantial competition from substitutes, have been the principal cause of suppressed potassium permanganate prices.

When one looks carefully at Carus' exports, one finds that export volume has fallen sharply from 1980, but Carus' export prices are higher than previous levels. Given the steep rise in the dollar which has made Carus' exports less competitive in foreign markets and imports correspondingly more competitive in the U.S. market, one would expect that lost export sales would have some impact on Carus' profit-and-loss figures. I do not think it was the intent of Congress for the Commission to weigh increased imports against diminished exports, which in part are both consequences of a strong dollar, and thus deny domestic petitioner's relief from increased imports. Carus is not responsible for the strong dollar, and without some measure of relief against increased imports an otherwise competitive industry could be precluded from adjusting to increasing import trends.

Further, attempts to quantify the domestic industry's export performance as a more important cause of injury are flawed. The record of this investigation contains no analysis regarding the selling price differentials between domestic and export market sales. Nor does it offer any cogent explanation of the relative price structure for exports, imports and domestic sales. Moreover, the impact of export sales on the domestic profit-and-loss data remains unclear.

To deny an industry relief because exports are perceived to be a greater cause of injury at a time when currency values fluctuate widely, disrupting longstanding comparative advantages and patterns of trade, is a prescription for dismantling the U.S. industrial base. I do not think this was Congress' intent.

The congressional authors of the 1974 Trade Act also emphasized that the escape clause was not intended "to protect industries which fail to help themselves become more competitive through reasonable research and investment efforts, steps to improve productivity and other measures that competitive industries must continually undertake." 19/ Based on the record of this investigation, these factors do not disqualify Carus from escape clause relief. Rather, Carus is the victim of a high-dollar and changing global competitive conditions, which together have heightened import competition. In my view, this is one type of situation that the escape clause was designed to address. It is intended to provide temporary assistance to facilitate orderly adjustment to increased import competition in the U.S. market.

In conclusion, the Commission's negative majority determination is disturbing. Carus should not be denied relief because of a lost customer four years in the past, or because of macroeconomic factors--the high dollar--beyond Carus'

19/ S. Rep. No. 1298, 93rd Cong. 2nd Sess. at 122.

control. Carus has adjusted to the loss of its customer, and its imaginative management has cut costs and developed new uses for its product.

The fact that Carus is a monopoly does not warrant special consideration in this investigation. Congress did not say that the ITC should deny monopolies import relief when imports were increasing, when the domestic industry was seriously injured, and when the increased imports were a substantial cause of the serious injury. By statute, the President, not the Commission, is authorized to consider "the effect of import relief on consumers . . . and on competition in the domestic markets for such articles."

For the Commission to reach back for distant causes, engage in hypothetical weighing, and overlook the present dynamic conditions of trade is to call into question the usefulness of Section 201 as an import relief remedy. The domestic industry competing with increased imports can find little comfort in the majority's "what if" scenarios, when the conditions under which this industry actually competes point to imports as the dominant cause of its serious injury. Hopefully, the majority's determination in this investigation will not dissuade individual producers, large and small, from availing themselves of this country's trade laws. The ITC has the statutory responsibility to provide more than lip service to such "battlefield victims."

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On November 30, 1984, the U.S. International Trade Commission instituted investigation No. TA-201-54, under section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), to determine whether potassium permanganate, provided for in item 420.28 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The investigation was instituted following receipt of a petition filed by counsel on behalf of Carus Chemical Co. (Carus), the sole domestic producer of potassium permanganate.

Notice of the institution of the investigation and the scheduling of a public hearing to be held in connection with the investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of December 19, 1984 (49 FR 49392). 1/ The Commission's public hearing was held in Washington, DC, on March 5, 1985. 2/ The Commission voted on the injury issue in this investigation on April 8, 1985. An administrative deadline of April 30, 1985, has been established for transmitting the Commission's determination and report on the investigation to the President; the statutory deadline is May 30, 1985.

Past Commission Investigations

During 1927-28, the U.S. Tariff Commission conducted an investigation under the provisions of section 315 of title III of the Tariff Act of 1922 at the request of Carus Chemical Co. The Commission examined the differences in costs of production and other advantages and disadvantages in competition of potassium permanganate in the United States and Germany, the principal source of competing imports. Upon the recommendation of the U.S. Tariff Commission, the President proclaimed an increase in the duty on potassium permanganate from 4 cents per pound to 6 cents per pound.

More recently, on July 6, 1982, the Commission instituted a countervailing duty investigation, No. 701-TA-183 (Final), concerning imports of potassium permanganate from Spain. The investigation was instituted in response to a final affirmative subsidy determination by the Department of Commerce. No preliminary material injury investigation was conducted by the Commission because Spain was not a "country under the Agreement" when the

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1/ A copy of the Commission's notice is presented in app. A.
2/ A copy of the calendar of the public hearing is presented in app. B.

petition was originally filed on November 10, 1981. 1/ The Commission made no determination in that case because the petitioner, Carus Chemical Co., withdrew its petition.

On February 22, 1983, Carus filed an antidumping petition under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) concerning imports of potassium permanganate from Spain and the People's Republic of China (China). On January 5 and 20, 1984, the Commission unanimously determined that an industry in the United States was materially injured by reason of less than fair value (LTFV) imports from Spain (investigation No. 731-TA-126 (Final)) and the People's Republic of China (investigation No. 731-TA-125 (Final)), respectively. The determinations were published in the Federal Register issues of January 11, 1984 (49 FR 1436) and January 25, 1984 (49 FR 3148), respectively.

In the Department of Commerce's final determination of sales at less than fair value, the weighted-average margins calculated were 5.49 percent with respect to imports from Spain and 39.63 percent with respect to imports from China. 2/ Collection of antidumping duties with respect to imports from Spain was suspended following an expedited administrative review at Commerce in accordance with section 736(c) of the Tariff Act of 1930. 3/ By comparing the U.S. price with the foreign market value, Commerce determined that no dumping existed for potassium permanganate manufactured by Asturquimica, S.A. (the Spanish producer and exporter of potassium permanganate) or entered during the prescribed period of review, August 8, 1983, through January 10, 1984. 4/

The Product

Description and uses

The subject of this investigation, potassium permanganate, or permanganate of potash, is the compound of manganese, potassium, and oxygen which has the chemical formula $KMnO_4$. It exists at room temperature as a dark-purple crystalline solid of rhombic shape with a blue metallic sheen. Potassium permanganate is odorless and has a sweetish, astringent taste. It is soluble in water, acetone, and methanol and it decomposes in alcohol. It is highly toxic by ingestion or inhalation, is a strong irritant to tissue, and is a dangerous fire risk when in contact with combustible acids, reducing agents, and organic material because of its strength as an oxidizing agent. Potassium permanganate should be stored in a cool, dry area in closed containers. It must be shipped in accordance with Interstate Commerce Commission regulations for oxidizing material.

1/ On Apr. 14, 1982, Spain acceded to the Subsidies Code and became a "country under the Agreement" in accordance with section 701(b) of the Tariff Act of 1930, entitling it to the injury test in U.S. countervailing duty investigations; see 19 U.S.C. 1671(b).

2/ 48 FR 53589, Nov. 28, 1983; 48 FR 57347, Dec. 29, 1983.

3/ 49 FR 2277, Jan. 19, 1984; 49 FR 6956, Feb. 24, 1984.

4/ 49 FR 18341, Apr. 30, 1984.

Potassium permanganate is manufactured and sold in three grades: free-flowing, technical, and pharmaceutical. 1/ All three grades have the same chemical formula but are generally distinguishable by the variations in their degree of purity. The grades are available in a variety of particle sizes, although particle size is seldom an important determinant of end use. All three grades are produced by Carus and Asturquimica, which employ similar manufacturing processes. In contrast, all potassium permanganate produced in China is of one variety, which is most comparable to the U.S. and Spanish pharmaceutical grades but is often referred to as technical grade. Imports of potassium permanganate from Czechoslovakia and East Germany are classified as technical grade.

Technical grade potassium permanganate, from which free-flowing and pharmaceutical grades are derived, must be at least 97 percent potassium permanganate by weight, although approximately * * * of the technical grade has an assay of at least 99 percent. The free-flowing grade is produced by adding an anticaking agent to the technical grade, preventing the particles from sticking together when in contact with moisture. As a result of the addition of the anticaking agent, the free-flowing grade has a grayish hue and is slightly less pure than the technical or pharmaceutical grades. The minimum assay is 95 percent, but the product is usually assayed at 97 or 98 percent.

The pharmaceutical grade must be at least 99 percent potassium permanganate by weight in order to conform with the requirements specified in the United States Pharmacopeia (U.S.P.) and the British Pharmacopeia (B.P.). It is the only grade approved by the Food and Drug Administration for use in applications involving contact with food and for pharmaceutical use. The pharmaceutical grade usually requires more testing than the other grades and may require recrystallization to remove additional impurities or to meet customer specifications regarding particle size. Carus produces this grade, which accounts for about * * * percent of its production, only on order.

Although virtually 100 percent of the potassium permanganate produced in China qualifies as pharmaceutical (U.S.P./B.P.) grade, only a relatively small but undetermined percentage of it is purchased for applications requiring that grade. The manufacturing process used in China involves a recrystallization step that yields a large-particle, high-assay product. * * *.

With the exception of the pharmaceutical applications, the three grades of potassium permanganate can generally be substituted for one another in their various applications. According to Carus, pharmaceutical applications account for approximately 0.1 percent of domestic consumption. The free-flowing grade cannot be used in such applications because it does not meet the 99-percent assay requirement. The same is true for about * * * of the technical grade produced by Carus and Asturquimica.

1/ The three grades of potassium permanganate were determined to constitute a single "like product" by the Commission in recent antidumping investigations (Nos. 731-TA-125 and 731-TA-126 (Final), January 1984).

In the more important applications of water and wastewater treatment, which together currently account for about * * * percent of domestic shipments, all three grades can be used, but the free-flowing grade is preferred by customers that use a dry chemical feeder to inject the potassium permanganate into the water. The other grades have a tendency to "cake up" in the feeder, prohibiting a smooth, even injection into the water. The alternative is a solution tank feeder system, which can efficiently use any of the three grades. Dry chemical feeders are used by the majority of water and wastewater treatment customers because Carus, as a practice, has provided such feeders to new customers for a trial period, following which the feeders are offered for sale or lease. The majority of these customers have retained the dry chemical feeders, but others have switched to solution feeders for a variety of reasons. The dry chemical feeder, a more complex piece of equipment, was more susceptible to mechanical failure and had caused a number of fires. At the end of 1983, Carus worked with BIF, a manufacturer of dry materials feeders, to develop a new all-metal feeder to eliminate the fire hazards associated with the feeders. 1/ The costs of the solution tank and dry chemical feeders are approximately the same, ranging from about $2,500 to $10,000 depending on the volume of potassium permanganate that must be processed.

Potassium permanganate is used principally as an oxidizing agent in the following applications:

1. Water treatment: 2/
   a. Municipal--Removes iron, manganese, and hydrogen sulfide; eliminates taste, odor, and color; and controls algae growth.
   b. Industrial--Controls phenol and other industrial pollutants.

2. Wastewater treatment: 2/
   a. Municipal--Oxidizes organic and inorganic contaminants, removes toxic and corrosive hydrogen sulfide from sanitary sludge, deodorizes wastewater streams, and dewaters sludge.
   b. Industrial--Removes soluble iron and manganese from acid mine wastes, removes hydrogen sulfide from sludge, and dewaters sludge.

3. Chemical manufacture and processing: 3/ Aids in synthesis of organic products for the chemical process and pharmaceutical industries.

1/ Conversation with John J. Bortak during a field trip to La Salle, IL, Jan. 17, 1985.

2/ The free-flowing grade is most commonly used in this application.

3/ The technical grade is most commonly used in this application.

4. Aquaculture (fish farming): 1/ Controls fish diseases and parasites, and detoxifies poisons while relieving oxygen depletion in fish ponds.

5. Metal processing: 1/ Removes oxides, mill scale, and carbon residues on steel.

6. Air and gas purification: 1/ Removes pollutants from air and impurities from industrial gases, and quenches slag from foundry operations.

According to a study prepared by the Department of Defense, potassium permanganate is used in national defense applications for which there are no known substitute products. These uses include * * *. 2/

In addition to the above, potassium permanganate is used as a decoloring and bleaching agent in the textile and tanning industries, as an etchant in the manufacture of printed circuit boards, as an aid in flotation processes used in mining, and in numerous other applications.

Carus' domestic shipments of potassium permanganate by end use were estimated as follows during 1984:

End use	Percent of total
Wastewater treatment	***
Water treatment	***
Chemical manufacturing and processing	***
Aquaculture	***
Metal processing	***
Air and gas purification	***
Other uses	***
Total	100

Wastewater treatment is the fastest growing market for potassium permanganate, accounting for * * * percent of Carus' new accounts in 1984 and growing at a rate of more than * * * percent a year. This application was developed by Carus in 1980, and by the end of 1984 it accounted for more than * * * of domestic shipments of the product.

1/ The technical grade is most commonly used in this application.
2/ Petitioner's posthearing brief, p. 32 and exhibit M.

Water treatment, an application for more than 10 years, currently accounts for * * * of U.S. shipments. This application may grow in importance as a result of a recent finding that potassium permanganate reduces tri-halo-methane (THM) levels in drinking water. THM is a suspected carcinogen.

Consumption of potassium permanganate in the chemical-manufacturing and metal-processing applications had been depressed because of the influence of the recession on those industries. Sales to the rapidly growing aquaculture industry have been stable because of the increased use of aeration as a substitute for potassium permanganate.

There are no products that compete with potassium permanganate over the complete range of applications in which it is used. However, there are competing products or alternative processes for specific end uses. For example, activated carbon is the major product that competes with potassium permanganate in the purification of drinking water; hydrogen peroxide competes in the treatment of wastewater; and aeration of water is often used as a substitute in aquaculture.

Manufacturing processes

The primary process for potassium permanganate production is based on the electrolytic oxidation of potassium manganate (K_2MnO_4), which is prepared by the fusion of pyrolusite and potassium hydroxide. The manganese ion in potassium manganate is oxidized to change the molecular structure to potassium permanganate ($KMnO_4$).

The production of potassium manganate may be accomplished by one of two processes: the liquid-phase process or the roasting process. In the liquid-phase process, manganese dioxide ore (MnO_2) and potassium hydroxide (KOH) are mixed together to form a slurry, and oxygen is blown through the mixture in an oxidizer. The potassium manganate produced is then centrifuged with the liquor that is being returned to the oxidizer. In the roasting process, manganese dioxide ore is reacted with caustic potash in a rotary kiln or roaster to form hypomanganite (K_3MnO_4). The hypomanganite is ground in a ball mill and then transferred to a second rotary kiln or roaster where it is oxidized to potassium manganate. Part of the potassium manganate is returned to the first reactor.

In both the liquid-phase and roasting processes, the solid potassium manganate produced is dissolved in water in a leach tank and solid impurities are removed by a vacuum filter. The solution is further clarified and then pumped through electrolytic cells, where the potassium manganate is oxidized

to potassium permanganate. The solution is cooled and crystallized, with the crystals separated from the mother liquor. The crystals are then dried and packaged. Most manufacturers of permanganate use the roasting process, or a variation of it, in the manganate stage of production. 1/ The liquid-phase technology, however, is employed in the United States and the U.S.S.R. Unlike the Soviet process, Carus' liquid-phase operation is continuous and highly automated.

Although the oxidation of manganate to permanganate can be accomplished by chlorination, ozonation, or disproportionation, electrolysis is the preferred method of oxidation. The commercial manufacturing process used in the United States and Spain is continuous electrolysis of a solution of potassium manganate with continuous crystallization, resulting in the production of potassium permanganate and the byproducts potassium hydroxide and hydrogen gas, according to the reaction--

$$2K_2MnO_4 + 2H_2O \xrightarrow{\text{electrolysis}} 2KMnO_4 + 2KOH + H_2.$$

The potassium permanganate crystals formed by these processes are packaged for shipment in steel drums or in bulk. Shipments made in bulk accounted for approximately * * * percent of sales in 1984. 2/ The most common sizes of drums are 50 kilogram (kg) and 150 kg, although shipments made in 25 kg drums are * * * and represented roughly * * * percent of sales in 1984. 3/

U.S. tariff treatment

Potassium permanganate is classified in TSUS item 420.28. Since January 1, 1985, the column 1 (most-favored-nation) rate of duty for potassium permanganate has been 5.7 percent ad valorem. 4/. This rate represents the sixth in a series of staged reductions granted in the Tokyo round of the Multilateral Trade Negotiations (MTN). The duty is being reduced through eight annual staged reductions beginning with a rate of 7.5 percent ad valorem, effective January 1, 1980, and ending with a rate of 5 percent ad valorem, effective January 1, 1987.

1/ Kirk-Othmer: Encyclopedia of Chemical Technology, John Wiley & Sons (New York, 1981), 3d ed., vol. 14, p. 870.

2/ Conversation with John J. Bortak during a field trip to La Salle, IL, Jan. 17, 1985.

3/ Ibid.

4/ Col. 1 rates of duty are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, these rates do not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences or under the LDDC column.

Imports of potassium permanganate from least developed developing countries (LDDC's) are dutiable at 5 percent ad valorem. 1/ The column 2 rate of duty is 23 percent ad valorem. 2/ Imports of potassium permanganate from beneficiary developing countries have been designated as eligible for duty-free treatment under the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI). 3/

Since China has been removed from the list of Communist countries for the purposes of general headnote 3(f) of the TSUS and is neither an LDDC nor a beneficiary developing country under the GSP, imports from both China and Spain are subject to the column 1 rate of duty. In addition, imports from China are subject to antidumping duties, as described above. Imports from the remaining producers, East Germany, the U.S.S.R., and Czechoslovakia, are subject to the column 2 duty rates.

U.S. Producer

The sole U.S. manufacturer of potassium permanganate is Carus Chemical Co., located in La Salle, IL. The firm is a division of Carus Corp., a small, privately held firm. Carus has manufactured potassium permanganate, sold under the trade name CAIROX, since 1915 and has been the sole U.S. producer since shortly after World War I. The firm also produces small quantities of other chemicals at the La Salle plant.

Carus Corp. has four operating divisions, which, in addition to Carus Chemical Co., include the Open Court Publishing Co., which publishes textbooks in the field of elementary education; the Magazine Division, which publishes Cricket Magazine for children ages 6-12; and the La Salle Transport Co., which operates three small railroads in the Midwest.

U.S. Importers

There were five principal U.S. importers of potassium permanganate during 1980-84 (table 1). From 1981 to 1984, four importers accounted for more than 70 percent of all imported potassium permanganate. * * *, American International Chemical, is currently the sole importer of Spanish potassium permanganate and has purchased imports exclusively from Spain since 1983. 4/

1/ The preferential rates of duty in the LDDC column reflect the full U.S. MTN concession rates implemented without staging for particular items that cover products of LDDC's enumerated in general headnote 3(d) of the TSUS.

2/ Col. 2 rates of duty apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

3/ The GSP, enacted as title V of the Trade Act of 1974, and the CBI, pursuant to the Caribbean Basin Economic Recovery Act, provide duty-free entry to specified eligible articles imported directly from designated beneficiary developing countries.

4/ Transcript of the hearing, p. 179.

Table 1.--Potassium permanganate: U.S. importers' shares of reported imports, 1980-84

(In percent)

Importer	1980	1981	1982	1983	1984
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
All other----------	***	***	***	***	***
Total----------	100.0	100.0	100.0	100.0	100.0

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

The Domestic Market

U.S. consumption

As shown in table 2, overall U.S. consumption of potassium permanganate declined by * * * percent from 1980 to 1981 and by * * * percent from 1981 to 1982, and then increased by * * * percent from 1982 to 1983 and by * * * percent from 1983 to 1984. The downward trend during 1980-82 can be explained in large part by reduced purchases of potassium permanganate by Carus' largest customer, Chemagro Agricultural Division of Mobay Chemical Corp. (Chemagro), a U.S. subsidiary of Farbenfabriken Bayer, AG, of West Germany. Chemagro accounted for * * * percent of U.S. consumption of potassium permanganate in 1980, * * * percent in 1981, and zero in 1982-84. 1/ The rise in consumption from 1982 to 1983 resulted from increases in both the U.S. producer's and the importers' domestic shipments. From 1983 to 1984, U.S. consumption of potassium permanganate continued to rise, despite a slight decline in domestic shipments of imports.

Channels of distribution

Distribution of potassium permanganate, whether domestic or imported, takes place through either direct sales to end users or sales to distributors or jobbers, which in turn supply end-user markets. Carus stocks potassium permanganate only at its plant in La Salle, IL; whereas * * *, American International Chemical, maintains stocks throughout the United States in the following locations: * * *. 2/

1/ For more information concerning Chemagro, refer to the section of this report entitled "The Question of Serious Injury."

2/ Conversation with Michael D. Schrage, president of American International Chemical, Inc., Mar. 11, 1985.

Table 2.--Potassium permanganate: U.S. consumption, 1980-84

(In thousands of pounds)

Item	1980	1981	1982	1983	1984
U.S. producer's domestic shipments	***	***	***	***	***
Domestic shipments of imports	***	***	***	***	***
Total	***	***	***	***	***

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

The domestic producer, Carus, sells * * * (about * * * percent) of its domestic shipments of potassium permanganate to distributors. Carus' principal end-user customers are municipalities, which purchase on a contract basis. Approximately 50 percent of the total market for potassium permanganate is supplied through annual public competitive bids. The share of Carus' total sales made under contract increased from * * * percent in 1982 to * * * percent in 1984. The percentages of estimated shares of Carus' domestic shipments that were made to distributors and end users during 1982-84 are shown in the following tabulation:

Year	Shipments to distributors	Shipments to end users
1982	***	***
1983	***	***
1984	***	***

Imported potassium permanganate is sold by foreign producers to importing firms, which then resell the material either to distributors (the majority), or to end users, in particular municipalities, on a bid basis.

In general, distributors do not have agreements with domestic or foreign producers, or with importers, to sell one producer's product to the exclusion of the others'. As a matter of practice, many of the small distributors handle potassium permanganate from Carus and/or one foreign source.

The Question of Increased Imports

U.S. imports

Total U.S. imports of potassium permanganate, as reported by the Department of Commerce, 1/ increased steadily from 1980 to 1982, by 17.5 percent from 1980 to 1981 and by 24.3 percent from 1981 to 1982. From 1982 to 1983 imports climbed by 63.9 percent, followed by a decline of 8.4 percent from 1983 to 1984. The average unit value of imported potassium permanganate increased only slightly from 1980 to 1981, decreased from 1981 to 1982 and again from 1982 to 1983, and then increased by 19.0 percent from 1983 to 1984 (table 3).

The two principal sources of imported potassium permanganate during the period covered by this investigation were Spain and China, which together accounted for more than 85 percent of all imports for each year from 1980 to 1984. Though there were no imports of potassium permanganate from Spain in 1980, Spain was the largest source of imports of the product in 1981 and 1982, and again in 1984. Imports from Spain rose by 5.3 percent from 1981 to 1982, by 1.9 percent from 1982 to 1983, and by 91.2 percent from 1983 to 1984. Imports of potassium permanganate from Spain accounted for 69.5 percent of all imports of potassium permanganate in 1981, 58.9 percent in 1982, 36.7 percent in 1983, and 76.5 percent in 1984.

Imports of potassium permanganate from China have fluctuated considerably during the period covered by this investigation. Imports decreased by 72.4 percent from 1980 to 1981, more than doubled from 1981 to 1982, almost tripled from 1982 to 1983, and then dropped by 76.9 percent from 1983 to 1984. The sharp decrease in imports of potassium permanganate from China from 1983 to 1984 reflects the imposition of a 39.63-percent antidumping duty on Chinese material, retroactive to early May 1983. The Department of Commerce determined that "critical circumstances" existed, on the basis of the finding that importers knew or should have known that the material was being imported at LTFV and that there were massive imports of the Chinese material over a relatively short period (March through July 1983). Imports from China accounted for 85.1 percent of all imports of potassium permanganate in 1980, 20.0 percent in 1981, 33.7 percent in 1982, 59.4 percent in 1983, and 15.0 percent in 1984.

Current known producers of potassium permanganate are also located in East Germany, Czechoslovakia, and the U.S.S.R. Imports from the U.S.S.R. accounted for 2.8 percent of all imports of potassium permanganate in 1981. There were no imports from the U.S.S.R. in 1982, 1983, or 1984. Imports from East Germany, which accounted for 2.9 percent of total potassium permanganate imports in 1983, rose to 6.7 percent of total imports in 1984. There were no imports from Czechoslovakia from 1980 to 1983 and, in 1984, Czechoslovakian exports represented 1.5 percent of all imported potassium permanganate.

1/ The Department of Commerce has revised its import statistics for 1983 and 1984. The revisions have not yet been published but are reflected in the Commerce statistics presented in this section.

Table 3.--Potassium permanganate: U.S. imports for consumption, by specified sources, 1980-84

Source	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
China	1/ 1,019	281	588	2/ 1,702	3/ 392
Spain	0	977	1,029	1,049	4/ 2,006
East Germany	0	0	0	82	176
Czechoslovakia	0	0	0	0	40
All other	178	5/ 147	6/ 129	30	9
Total	1/ 1,196	5/ 1,405	6/ 1,746	2/ 2,862	3/4/ 2,623
	Value (1,000 dollars)				
China	695	183	323	852	201
Spain	-	699	704	801	1,596
East Germany	-	-	-	40	84
Czechoslovakia	-	-	-	-	20
All other	183	151	142	125	77
Total	878	1,033	1,169	1,818	1,977
	Unit value (per pound)				
China	$0.68	$0.65	$0.55	$0.50	$0.51
Spain	-	.72	.68	.76	.80
East Germany	-	-	-	.49	.48
Czechoslovakia	-	-	-	-	.51
All other	1.03	1.02	1.11	4.17	8.56
Average	.73	.74	.67	.63	.75
	Percent of total quantity				
China	85.1	20.0	33.7	59.4	15.0
Spain	-	69.5	58.9	36.7	76.5
East Germany	-	-	-	2.9	6.7
Czechoslovakia	-	-	-	-	1.5
All other	14.9	10.5	7.4	1.0	.3
Total	100.0	100.0	100.0	100.0	100.0

1/ Includes * * * pounds purchased by Carus.

2/ Includes 501 thousand pounds that were transshipped through Europe and were originally reported as 576 thousand pounds of mostly European origin.

3/ Includes 83 thousand pounds that were transshipped through Europe and were originally reported as of European origin.

4/ Includes 40 thousand pounds that were originally reported as of other European origin and 18 thousand pounds that were not recorded.

5/ Does not include * * * pounds of Carus-produced potassium permanganate imported in 1981.

6/ Does not include * * * pounds of Carus-produced potassium permanganate imported in 1982.

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

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

According to official statistics, other sources of potassium permanganate during the period of investigation included Belgium and Luxembourg, Canada, West Germany, Hong Kong, Italy, Japan, the Netherlands, Sweden, Taiwan, and the United Kingdom. Most of this material is believed to have originated in China and to have been transshipped. The Department of Commerce has revised its import statistics for 1983 and 1984. These revisions include 501,000 pounds and 83,000 pounds of Chinese potassium permanganate that were originally reported as 576,000 pounds and 83,000 pounds in 1983 and 1984, respectively, of mostly European origin. Revisions for 1984 also include 40,000 pounds of Spanish potassium permanganate that were originally reported as of other European origin and 18,000 pounds that were not previously recorded. Counsel for Asturquimica has suggested that the domestic industry may not be benefiting from all of the relief afforded by antidumping duties on potassium permanganate from China because these duties are not being assessed on transshipments. 1/ According to the U.S. Customs Service, antidumping duties were not assessed on liquidated entries of 348,600 pounds of potassium permanganate that were transshipped through Europe and entered the United States since May 11, 1983. 2/ The antidumping duties on this merchandise would have totalled approximately $60,275.

Data on imports of potassium permanganate, as reported by Commerce, do not include imports of Carus-produced material that was exported to Europe and reimported into the United States duty free. These imports, if added to the Commerce statistics, would account for * * * percent and * * * percent of all imports of potassium permanganate in 1981 and 1982, respectively.

Ratio of imports to production

The ratio of imports to domestic production has followed the trend of imports of potassium permanganate over the 5-year period, increasing steadily from * * * percent in 1980 to * * * percent in 1983 and then declining to * * * percent in 1984 (table 4). The level of imports relative to domestic production increased sharply from 1981 to 1982 because of the decline in production and the rise of imports of potassium permanganate. In spite of the increase in production from 1982 to 1983, imports relative to domestic production rose from * * * percent to * * * percent as a result of the sharp increase in the quantity of imports.

1/ Transcript of the hearing, p. 137; Asturquimica's posthearing brief, p. 9.
2/ Telex from U.S. Customs Service, June 29, 1984.

Table 4.--Potassium permanganate: U.S. imports, production, and ratio of imports to production, 1980-84

Item	1980	1981	1982	1983	1984
Imports----------1,000 pounds--	1,196	1,405	1,746	2,862	2,623
Production----------do----	***	***	***	***	***
Ratio of imports to production percent--	***	***	***	***	***

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

The Question of Serious Injury

To analyze the question of serious injury, the Commission sent a questionnaire to Carus Chemical Co., the sole U.S. producer. The analysis is complicated by the 1981 loss of Carus' largest customer, Chemagro. In 1974, Carus signed a 5-year agreement (subsequently extended) to supply free-flowing grade potassium permanganate to Chemagro for production of a herbicide. In order to supply the quantities specified in the agreement, which varied from approximately 4 million to 12 million pounds a year, Carus increased its plant capacity by 50 percent to a level of 30 million pounds a year. 1/ In 1981, Chemagro switched to a different manufacturing process that did not require the use of potassium permanganate. 2/ The impact of the loss of this customer on Carus is evident through examination of the share of total company shipments that were directed to Chemagro. These shipments decreased from * * * percent of the total in 1980 to * * * percent in 1981 and to zero in 1982.

Carus acknowledged in the petition for this investigation that the loss of Chemagro as a large customer was arguably a special case for the U.S. industry but that the magnitude of the alleged injury attributable to increased imports is far greater than the loss of demand associated with Chemagro. 3/ To the extent possible, the data and analyses that follow both include and exclude Chemagro.

1/ Petition on investigations Nos. 731-TA-125 and 731-TA-126, January 1984, p. 4.

2/ In a telephone conversation on Mar. 18, 1983, a Carus official indicated that Chemagro used potassium permanganate in the manufacture of an organic chemical intermediate, which, in turn, was used in the manufacture of a soybean herbicide. By means of a * * * investment, Chemagro was able to develop a completely new manufacturing process that eliminated the oxidation step that formerly required the use of potassium permanganate. Carus' final shipment to Chemagro occurred in * * * 1981.

3/ Petition on investigation No. TA-201-54, p. 20.

U.S. production, capacity, and capacity utilization

Carus' total production of potassium permanganate decreased by * * * percent from 1980 to 1981 and by * * * percent from 1981 to 1982 before increasing by * * * percent from 1982 to 1983. From 1983 to 1984, production * * * (table 5). Production for customers other than Chemagro * * *. Production for Chemagro declined by * * * from 1980 to 1981 and by 100 percent from 1981 to 1982.

Carus' capacity to produce potassium permanganate remained constant at * * * million pounds a year during 1980-84. Carus' plant expansion by 50 percent to the present capacity was completed by the end of 1976. 1/ Carus' capacity utilization declined from * * * percent in 1980 to * * * percent in 1981. In 1982, when no material was produced for Chemagro, capacity utilization fell to * * * percent. The trend reversed to a degree in 1983 when capacity utilization increased to * * * percent, but that was followed by a * * * decline to * * * percent in 1984.

Carus closed its La Salle plant for 10 weeks during the summer in 1982, for 9 weeks in 1983, and for 8 weeks in 1984 in order to liquidate inventories. According to Carus, these shutdowns were not for maintenance purposes. Carus alternates between two independently operated production lines, eliminating the need for maintenance-related shutdowns. 2/

Table 5.--Potassium permanganate: U.S. production, capacity, and capacity utilization, 1980-84

Item	1980	1981	1982	1983	1984
Production:					
For Chemagro------1,000 pounds--	***	***	***	***	***
For other customers-------do----	***	***	***	***	***
Total-------------------do----	***	***	***	***	***
Capacity 1/-----------------do----	***	***	***	***	***
Capacity utilization-----percent--	***	***	***	***	***

1/ Practical rated capacity is defined as the normal sustained production that can be achieved on an annual basis, making allowances for normal maintenance and downtime. It is based on a 24-hour-a-day, 7-day-a-week, 52-week-a-year operation.

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

1/ Transcript of the hearing, pp. 70-71.

2/ Petitioner's posthearing brief, p. 9. Each of these two production lines has a capacity of approximately 50 percent of Carus' total capacity. Carus reports that, with the loss of Chemagro as a customer, it chose to operate only one line at a time, effectively halving its functional capacity (see, e.g., petitioner's posthearing brief, pp. 19-20). * * * (see exhibit L to petitioner's posthearing brief, letter of Yale Brozen).

Production workers, represented by Local 79 of the International Chemical Workers Union, have been on strike since June 1, 1984. According to Carus, the company has been able to maintain full production volume since the strike by operating its highly automated plant with management personnel and nonunion workers. 1/

U.S. producer's shipments, inventories, and imports

As shown in table 6, Carus' total domestic shipments of potassium permanganate decreased by * * * percent from 1980 to 1981 and by * * * percent from 1981 to 1982, before increasing by * * * percent from 1982 to 1983 and by * * * percent from 1983 to 1984. Shipments to domestic customers other than Chemagro * * *, whereas shipments to Chemagro fell by * * * percent and then by 100 percent during the same periods.

Export shipments declined by * * * percent from 1980 to 1981, by * * * percent from 1981 to 1982, and by * * * percent from 1982 to 1983. Carus attributed its decline in exports in 1983 to a decision to raise prices on sales to Europe (see unit values of exports in table 6). The petitioner allegedly * * *. From 1983 to 1984, export shipments rose by * * * percent. In spite of the steady decline in exports from 1980 to 1982, such shipments increased as a share of total shipments, from * * * percent to * * * percent during that period. However, from 1982 to 1983, when exports declined by * * * percent, such shipments as a share of total shipments also fell, to * * * percent of total shipments in 1983. In 1984, when exports increased by * * * percent over those in the previous year, exports held a * * * percent share of total shipments.

The unit value of Carus' domestic shipments to customers other than Chemagro fluctuated upward from * * * per pound in 1980 to * * * per pound in 1984. The unit value of Carus' shipments to Chemagro * * *. * * *. The unit values of Carus' export shipments were below the unit values of its domestic shipments * * * from 1980 to 1984. The unit value of Carus' exports * * * from 1980 to 1982. The unit value of Carus' exports rose by * * * percent to * * * per pound in 1983, * * *.

As shown in table 7, * * * and * * * were the two largest markets for Carus' export shipments from 1980 to 1984. * * * accounted for * * * percent of Carus' exports in 1980, * * * percent in 1981, * * * percent in 1982, * * * percent in 1983, and * * * percent in 1984. Carus' shipments to * * * represented * * * percent of exports in 1980, * * * percent in 1981, * * * percent in 1982, * * * percent in 1983, and * * * percent in 1984. In 1982, * * * was one of the largest markets for Carus' exports, accounting for * * * percent of export shipments for that year.

1/ Petition on investigation No. TA-201-54, p. 3.

Table 6.--Potassium permanganate: U.S. producer's domestic shipments, export shipments, and total shipments, 1980-84

Item	1980	1981	1982	1983	1984
	Quantity (1,000 pounds)				
Domestic shipments:					
To Chemagro	***	***	***	***	***
To other customers	***	***	***	***	***
Total	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments:					
Total (including Chemagro)	***	***	***	***	***
Total (excluding Chemagro)	***	***	***	***	***
	Value (1,000 dollars)				
Domestic shipments:					
To Chemagro	***	***	-	-	-
To other customers	***	***	***	***	***
Total	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments:					
Total (including Chemagro)	***	***	***	***	***
Total (excluding Chemagro)	***	***	***	***	***
	Unit value (per pound)				
Domestic shipments:					
To Chemagro	***	***	-	-	-
To other customers	***	***	***	***	***
Average	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments:					
Average (including Chemagro)	***	***	***	***	***
Average (excluding Chemagro)	***	***	***	***	***

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

Carus' total shipments of potassium permanganate declined steadily from 1980 to 1982, falling by * * * percent from 1980 to 1981 and by * * * percent from 1981 to 1982. Carus' total shipments to customers other than Chemagro * * *. As a result of the sharp decline in export shipments, Carus' total shipments fell by * * * percent from 1982 to 1983 despite an increase in domestic shipments of * * * percent during that period. From 1983 to 1984, Carus' total shipments rose by * * * percent because of increases in both domestic shipments and export shipments.

Table 7.--Potassium permanganate: U.S. producer's export shipments, by markets, 1980-84

(In thousands of pounds)

Country	1980	1981	1982	1983	1984
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
* * *----------	***	***	***	***	***
Other countries----------	***	***	***	***	***
Total----------	***	***	***	***	***

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

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

End-of-year inventories held by Carus * * * (table 8). * * *. End-of-period inventories as a share of shipments * * *.

Table 8.--Potassium permanganate: U.S. producer's yearend inventories, 1980-84

Item	1980	1981	1982	1983	1984
Inventories 1/------1,000 pounds--	***	***	***	***	***
Ratio of inventories to shipments::					
Including Chemagro-----percent--	***	***	***	***	***
Excluding Chemagro--------do----	***	***	***	***	***

1/ All inventories held by Carus were reported by Carus to be related to production for customers other than Chemagro.

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

Carus' production, shipments, and inventories, by grades, are shown in table 9.

Table 9.--Potassium permanganate: U.S. producer's production, shipments, and inventories, by grades, 1980-84

(In thousands of pounds)

Item	1980	1981	1982	1983	1984
Production:					
Free-flowing	***	***	***	***	***
Technical	***	***	***	***	***
Pharmaceutical	***	***	***	***	***
Total	***	***	***	***	***
Inventories:					
Free-flowing	***	***	***	***	***
Technical	***	***	***	***	***
Pharmaceutical	***	***	***	***	***
Total	***	***	***	***	***
Domestic shipments:					
Free-flowing	***	***	***	***	***
Technical	***	***	***	***	***
Pharmaceutical	***	***	***	***	***
Total	***	***	***	***	***
Export shipments:					
Free-flowing	***	***	***	***	***
Technical	***	***	***	***	***
Pharmaceutical	***	***	***	***	***
Total	***	***	***	***	***
Total shipments:					
Free-flowing	***	***	***	***	***
Technical	***	***	***	***	***
Pharmaceutical	***	***	***	***	***
Total	***	***	***	***	***

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

Carus purchased * * *. Carus' purchases of imports were as follows (in thousands of pounds):

Purchases of imports from--	1980	1981
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
Total----------	***	***

U.S. employment and productivity

The number of workers engaged in employment related to the production of potassium permanganate and hours worked by such workers * * * from 1980 to 1981 (table 10). Employment and hours worked fell by * * * from 1981 to 1982 and decreased by * * * percent and * * * percent, respectively, from 1982 to 1983. Employment and hours worked * * * in January-May 1984 compared with those in January-May 1983. 1/ Average hourly wages and total compensation paid to production workers * * *.

Table 10.--Average number of production and related workers engaged in the manufacture of potassium permanganate, hours worked by such workers, wages paid, and total compensation, 1980-83, January-May 1983, and January-May 1984

Period	Number of workers	Hours worked	Wages paid	Total compensation 1/
		Thousands	Per hour	
1980	***	***	***	***
1981	***	***	***	***
1982	***	***	***	***
1983	***	***	***	***
January-May 2/--				
1983	***	***	***	***
1984	***	***	***	***

1/ Wages plus fringe benefits.
2/ January-May comparisons are made because production workers were on strike during June-December 1984.

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

1/ January-May comparisons are made because production workers were on strike during June-December 1984.

Plant shutdowns in 1982 and 1983 resulted in the layoff of more than * * * percent of Carus' production workers on each occasion. These shutdowns were the first in recent years. On September 28, 1982, Carus and the International Chemical Workers Union, Local 79, which represents the production workers at Carus, signed a negotiated modification to the collective bargaining agreement between the two parties. The contract modification, in effect from October 1982 through December 1983, resulted in concessions in wages, hours worked, and benefits equivalent to $1.80 per hour. Carus attributed both the shutdowns and the concessions to lost sales and suppressed prices caused by imports. Wages and benefits were fully restored as of January 1, 1984. 1/

Production workers have been on strike since June 1, 1984, after the failure to renegotiate a labor contract. Production workers are seeking to recoup the value of wage and benefit concessions made during the last contractual period and to secure an increase in future wages and benefits. Carus' management is requesting that workers make both permanent and temporary concessions. The requested temporary concessions include * * *. 2/

The productivity of the company's workers involved in the production of potassium permanganate * * *. In 1983, the number of pounds produced per 1,000 hours worked by employees producing potassium permanganate * * *. Productivity levels for January-May 1983 and January-May 1984 are not available. However, as a result of its experience since June 1, 1984, Carus anticipates that when the strike is over it will be able to improve its productivity by combining jobs and raising the efficiency of labor. 3/ The following tabulation describes the quantity of potassium permanganate produced in pounds per hour worked by employees producing potassium permanganate.

Year	Quantity
1980	***
1981	***
1982	***
1983	***

1/ Transcript of the hearing, p. 123.
2/ Petitioner's prehearing brief, p. 5.
3/ Transcript of the hearing, p. 93.

Financial experience of the U.S. producer

Carus Chemical Co. operations.--The major product produced and sold by Carus Chemical Co. has been potassium permanganate, which accounted for * * * percent of total chemical sales over the past 5 years. Therefore, the analysis herein, unless stated otherwise, is performed on total chemical sales because the sales of other chemical products, which amounted to * * * percent of total chemical sales in the 1980-84 period, * * *.

Table 11 summarizes Carus' operating results during 1980-84. Sales of potassium permanganate declined irregularly, from * * * in 1980 to * * * in 1984, a decrease of * * * percent. The company lost a major customer, Chemagro, in 1982 after Chemagro reformulated a herbicide that no longer uses potassium permanganate as an ingredient. Sales to Chemagro accounted for * * * percent of sales in 1980 and * * * percent in 1981. With the sales to Chemagro, Carus * * *. * * *.

* * * * * * *

Overall operations of Carus Corp.--From 1980 to 1982, Carus Corp.'s net sales derived from all four of its operating divisions * * * (table 12). * * *.

* * * * * * *

Table 11.--Income-and-loss experience of Carus Chemical Co. on its chemical operations, for the 12-month periods ending on December 31, 1980-84

Item	1980	1981	1982	1983	1984
Net sales:					
Potassium permanganate					
1,000 dollars--	***	***	***	***	***
Other chemicals----do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Cost of goods sold:					
Raw materials------do----	***	***	***	***	***
Energy----------do----	***	***	***	***	***
Direct labor-------do----	***	***	***	***	***
Other factory costs					
1,000 dollars--	***	***	***	***	***
Total----------do----	***	***	***	***	***
Gross profit---------do----	***	***	***	***	***
General, selling, and administrative expenses					
1,000 dollars--	***	***	***	***	***
Operating income or (loss)					
1,000 dollars--	***	***	***	***	***
Other income or (expense), net 1/----1,000 dollars--	***	***	***	***	***
Net income or (loss) before income taxes					
1,000 dollars--	***	***	***	***	***
Depreciation and amortization expense					
1,000 dollars--	***	***	***	***	***
Cash flow from operations					
1,000 dollars--	***	***	***	***	***
Ratio to net sales:					
Cost of goods sold					
percent--	***	***	***	***	***
Gross profit-------do----	***	***	***	***	***
General, selling, and administrative expenses:					
percent--	***	***	***	***	***
Operating income or (loss)--------percent--	***	***	***	***	***
Net income or (loss) before income taxes					
percent--	***	***	***	***	***
Ratio of potassium permanganate sales to total chemical sales--percent--	***	***	***	***	***

1/ * * *.

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

Table 12.--Income-and-loss experience of Carus Corp. on its overall company operations, for the 12-month periods ending on December 31, 1980-84

Item	1980	1981	1982	1983	1984
Net sales:					
Potassium permanganate					
1,000 dollars--	***	***	***	***	***
Other products-----do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Cost of goods sold---do----	***	***	***	***	***
Gross income---------do----	***	***	***	***	***
General, selling, and administrative expenses					
1,000 dollars--	***	***	***	***	***
Operating income or (loss)					
1,000 dollars--	***	***	***	***	***
Interest expense-----do----	***	***	***	***	***
Net income or (loss) before income taxes 1/					
1,000 dollars--	***	***	***	***	***
Depreciation and amortization expense					
1,000 dollars--	***	***	***	***	***
Cash flow from operations					
1,000 dollars--	***	***	***	***	***
Ratio to net sales:					
Gross income----percent--	***	***	***	***	***
Operating income or (loss)--------percent--	***	***	***	***	***
Net income or (loss) before income taxes percent--	***	***	***	***	***
Cost of goods sold percent--	***	***	***	***	***
General, selling, and administrative expenses: percent--	***	***	***	***	***
Potassium permanganate net sales-----percent--	***	***	***	***	***

1/ * * *.

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

* * * * * * *

Combined publishing, railroad, and magazine operations.--The income-and-loss experience of Carus Corp. on its combined publishing, magazine, and railroad operations for 1980-84 is presented in table 13. * * *.

Carus Corp.'s financial condition.--Carus Corp.'s balance sheets for the past 5 years are shown in table 14. A ratio analysis of the company's financial condition is presented in table 15.

In reviewing liquidity indicators such as the ratio of current assets to current liabilities (current ratio) or the sum of cash plus trade receivables to current liabilities (acid-test or quick ratio), * * *. * * *.

Table 13.--Income-and-loss experience of Carus Corp. on its combined publishing, railroad, and magazine operations, for the 12-month periods ending on December 31, 1980-84 1/

Item	1980	1981	1982	1983	1984
Net sales---1,000 dollars--	***	***	***	***	***
Cost of goods sold---do----	***	***	***	***	***
Gross income---------do----	***	***	***	***	***
General, selling, and administrative expenses 1,000 dollars--	***	***	***	***	***
Operating income or (loss) 1,000 dollars--	***	***	***	***	***
Other income or (expense), net-------1,000 dollars--	***	***	***	***	***
Net income or (loss) before income taxes 1,000 dollars--	***	***	***	***	***
Depreciation and amortization expense 1,000 dollars--	***	***	***	***	***
Cash flow from operations 1,000 dollars--	***	***	***	***	***
Ratio to net sales:					
Gross income----percent--	***	***	***	***	***
Operating income or (loss)--------percent--	***	***	***	***	***
Net income or (loss) before income taxes percent--	***	***	***	***	***
Cost of goods sold percent--	***	***	***	***	***
General, selling, and administrative expenses: percent--	***	***	***	***	***

1/ Includes operations of the Open Court Publishing Co., the La Salle Transport Co., and Cricket Magazine.

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

Table 14.--Consolidated balance sheets of Carus Corp. as of December 31, 1980-84

(In thousands of dollars)

Item	1980	1981	1982	1983	1984
Assets:					
Current assets:					
Cash	***	***	***	***	***
Accounts receivable	***	***	***	***	***
Other receivables	***	***	***	***	***
Inventories	***	***	***	***	***
Prepaid expenses	***	***	***	***	***
Other current assets	***	***	***	***	***
Subtotal, current assets	***	***	***	***	***
Fixed assets (original cost)	***	***	***	***	***
Accumulated depreciation	***	***	***	***	***
Net fixed assets	***	***	***	***	***
Other assets	***	***	***	***	***
Total assets	***	***	***	***	***
Liabilities:					
Current liabilities:					
Notes payable-bank	***	***	***	***	***
Accounts payable	***	***	***	***	***
Accrued liabilities	***	***	***	***	***
Taxes payable	***	***	***	***	***
Current maturities of long-term debt	***	***	***	***	***
Subtotal, current liabilities	***	***	***	***	***
Deferred taxes	***	***	***	***	***
Pension liability	***	***	***	***	***
Term debt	***	***	***	***	***
Unearned subscription income	***	***	***	***	***
Total liabilities	***	***	***	***	***
Equity:					
Common stock	***	***	***	***	***
Capital surplus	***	***	***	***	***
Retained earnings	***	***	***	***	***
Treasury stock	***	***	***	***	***
Total equity	***	***	***	***	***
Total liabilities and equity	***	***	***	***	***

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

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

Table 15.--Ratio analysis of Carus Corp., 1980-84

Item	1980	1981	1982	1983	1984
Liquidity ratios:					
Acid-test or quick ratio	***	***	***	***	***
Current ratio	***	***	***	***	***
Receivables turnover	***	***	***	***	***
Average collection period--days	***	***	***	***	***
Inventory turnover	***	***	***	***	***
Inventory on hand----days	***	***	***	***	***
Accounts payable outstanding--days	***	***	***	***	***
Leverage:					
Debt to worth	***	***	***	***	***
Capitalization----percent	***	***	***	***	***
Fixed assets to net worth percent	***	***	***	***	***
Debt coverage--------do----	***	***	***	***	***
Other ratios:					
Return on assets--percent	***	***	***	***	***
Return on investment-do----	***	***	***	***	***
Dividend payout------do----	***	***	***	***	***

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

Receivables turnover, which is also an indication of the liquidity of receivables and a barometer of how well or poorly credit is managed, * * *.

* * * * * * *

The interest cost of the corporation's debt is reflected in the following tabulation, on the basis of data from the Federal Reserve Bulletin and Carus Corp.'s annual reports.

(In percent)

Item	1980	1981	1982	1983	1984
Carus' average borrowing rate	***	***	***	***	***
Average prime rate	15.27	18.87	14.86	10.61	12.04
Difference	***	***	***	***	***

* * * * * * *

Carus Corp.'s cash flow.--

* * * * * * *

Research and development expenditures.--As shown in table 16, * * *.

Table 16.--Research and development expenditures on potassium permanganate, 1980-84

Item	1980	1981	1982	1983	1984
Research and development expenditures-1,000 dollars	***	***	***	***	***
Net sales of potassium permanganate----------do----	***	***	***	***	***
Potassium permanganate research and development, as a percentage of sales percent	***	***	***	***	***

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

Capital and investment.--The following quotation is taken from Carus' response to the Commission's questionnaire:

* * * * * * *

Capital expenditures.--As shown in table 17, * * *.

Table 17.--Carus Chemical Co.'s capital expenditures for facilities and equipment used principally in potassium permanganate production and marketing, 1980-84

Item	1980	1981	1982	1983	1984
All chemical products					
1,000 dollars	***	***	***	***	***
Potassium permanganate---do	***	***	***	***	***
Potassium permanganate, as a share of total expenditures------percent	***	***	***	***	***

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

As shown in table 18, * * *. * * *.

Table 18.--Carus Chemical Co.'s capital expenditures resulting from efforts to comply with various Government regulations, 1980-84

Item	1980	1981	1982	1983	1984
Expenditures resulting from efforts to comply with regulations of:					
EPA 1/------1,000 dollars--	***	***	***	***	***
OSHA 2/----------do----	***	***	***	***	***
Other----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Potassium permanganate expenditures, as a share of total expenditures percent--	***	***	***	***	***

1/ Environmental Protection Agency.
2/ Occupational Safety and Health Administration.

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

Production costs.--As shown in table 19, * * *. * * *.

* * * * * * *

Unit costs and breakeven analysis.--

* * * * * * *

Table 19.--Carus Chemical Co.'s aggregated costs of producing potassium permanganate, 1/ 1980-84

Item	1980	1981	1982	1983	1984
Raw materials-1,000 dollars--	***	***	***	***	***
Energy----------do----	***	***	***	***	***
Direct labor----------do----	***	***	***	***	***
Depreciation and amortization------1,000 dollars--	***	***	***	***	***
Other factory costs:					
Hourly fringe benefits 1,000 dollars--	***	***	***	***	***
Maintenance labor----do----	***	***	***	***	***
Engineering----------do----	***	***	***	***	***
Supervisory----------do----	***	***	***	***	***
Waste disposal-------do----	***	***	***	***	***
Analytical laboratory 1,000 dollars--	***	***	***	***	***
Maintenance supplies-do----	***	***	***	***	***
LIFO-FIFO 2/ adjustments 1,000 dollars--	***	***	***	***	***
Strike expense-------do----	-	-	-	-	***
Fixed cost (to)/from inventory at standard 1,000 dollars--	***	***	***	***	***
Subtotal, other factory costs---1,000 dollars--	***	***	***	***	***
Total factory costs 1,000 dollars--	***	***	***	***	***
As a share of total costs:					
Raw materials-----percent--	***	***	***	***	***
Energy----------do----	***	***	***	***	***
Direct labor---------do----	***	***	***	***	***
Depreciation and amortization----------percent--	***	***	***	***	***
Other factory costs:					
Hourly fringe benefits percent--	***	***	***	***	***
Maintenance labor--do----	***	***	***	***	***
Engineering--------do----	***	***	***	***	***
Supervisory--------do----	***	***	***	***	***
Waste disposal-----do----	***	***	***	***	***
Analytical laboratory percent--	***	***	***	***	***
Maintenance supplies percent--	***	***	***	***	***
LIFO-FIFO adjustments percent--	***	***	***	***	***
Strike expense-----do----	-	-	-	-	***
Fixed cost (to)/from inventory at standard percent--	***	***	***	***	***
Subtotal, other factory costs-----percent--	***	***	***	***	***
Total factory costs percent--	100.0	100.0	100.0	100.0	100.0

1/ The cost data in this table are for Carus' total chemical operations, of which potassium permanganate accounted for * * * percent during 1980-84.

2/ Last-in-first-out-first-in-last-out (LIFO-FIFO).

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

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

Table 20 was compiled from data submitted in response to the Commission's questionnaire and provides unit cost and income data and breakeven points for Carus Chemical Co. * * *.

Table 20.--Unit cost and breakeven analysis of Carus Chemical Co.'s operations, 1980-84

Item	1980	1981	1982	1983	1984
Average unit sales price	***	***	***	***	***
Unit variable costs	***	***	***	***	***
Contribution	***	***	***	***	***
Unit fixed costs 1/	***	***	***	***	***
Profit (loss) per unit	***	***	***	***	***
Contribution--1,000 dollars	***	***	***	***	***
Fixed costs--do	***	***	***	***	***
Gross margin--do	***	***	***	***	***
General, selling, administrative, and other expenses 1,000 dollars	***	***	***	***	***
Net income (loss)--do	***	***	***	***	***
Sales volume---1,000 pounds	***	***	***	***	***
Breakeven volume--do	***	***	***	***	***
Difference--do	***	***	***	***	***
Percent of overage or (shortage)	***	***	***	***	***

1/ Includes production costs and general, selling, and administrative costs.

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

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

* * * * * * *

The Question of the Threat of Serious Injury

Foreign producers: their capacity, production, and capacity utilization

Spain.--The sole producer of potassium permanganate in Spain is Asturquimica, S.A., located in Trubia, Spain. Asturquimica, organized in 1978, is currently wholly owned by Industrial Quimica del Nalon of Spain (Nalon). Nalon, a company with annual sales of about $38 million, has been involved in the manufacture of potassium permanganate since 1943.

Data provided by counsel for Asturquimica show that the firm's production of potassium permanganate increased by * * * percent from 1980 to 1981 and then declined by * * * percent from 1981 to 1982 and by * * * percent from 1982 to 1983, before increasing * * * in 1984 (table 21). * * *. Capacity utilization rose from * * * percent in 1980 to * * * percent in 1981 and then declined sharply to * * * percent in 1982 and to * * * percent in 1983. In 1984, Asturquimica operated at near capacity, * * *.

Asturquimica's exports to the United States, as a share of the company's total exports, increased from * * * percent in 1980 to * * * percent in 1981, to * * * percent in 1982, and to * * * percent in 1983. As a result of the * * *, the level of Asturquimica's exports to the United States relative to

Table 21.--Asturquimica, S.A.'s capacity, production, and exports of potassium permanganate, 1980-84

Item	1980	1981	1982	1983	1984
Capacity 1/---------1,000 pounds--	***	***	***	***	***
Production----------do----	***	***	***	***	***
Excess capacity 1/----------do----	***	***	***	***	***
Capacity utilization 1/--percent--	***	***	***	***	***
Exports:					
To the United States 1,000 pounds--	***	***	***	***	***
To other markets----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***

1/ * * *. Asturquimica's prehearing brief, attachment 6.

Source: Compiled from data provided by counsel for Asturquimica, S.A.

the company's total exports fell to * * * percent in 1984 * * *. The Spanish producer's projected sales targets for 1985 are * * * pounds for its home market, * * * pounds for other European markets, * * * pounds for the U.S. market, and * * * pounds for other markets.

China.--There are eight Chinese producers of potassium permanganate: * * *. International trade in the product is handled by the China National Chemicals Import & Export Corp. (SINOCHEM), located in Beijing, China. China's capacity to produce potassium permanganate was reported to be 12 million pounds a year in 1979. 1/ Capacity subsequently declined approximately * * * pounds following the closure of two plants during 1980-82. 2/ Those plants are not expected to reopen. 3/ The Chinese producers have not provided data on production, capacity, shipments, or exports for the period under investigation.

East Germany.--The producer of potassium permanganate in East Germany is VEB Chemie-Kombinat Bitterfeld. East Germany's capacity to produce potassium permanganate was reported to be 8 million pounds a year in 1979. 4/ According to the petitioner, the East German producer operated * * * in 1984, producing an estimated * * * pounds of potassium permanganate.

Czechoslovakia.--The only known producer of potassium permanganate in Czechoslovakia is Spolek pro Chimickou a Hutni Vyrobu Usti n.L. Czechoslovakia's estimated capacity to produce potassium permanganate was 6 million pounds in 1979. 5/ According to the petitioner's estimates, Czechoslovakia produced * * * pounds of potassium permanganate * * * in 1984.

U.S.S.R.--The U.S.S.R., a net importer of potassium permanganate, produces the product through the Ministry of the Chemical Industry and was reported to operate three plants in 1979 with an estimated annual capacity of 11 million pounds. 6/ According to Carus, the U.S.S.R. operated * * * in 1984, producing an estimated * * * pounds of potassium permanganate.

India and Japan.--Idle manufacturing capacity may also exist in India and Japan, although these countries are currently * * * in the world market. In 1982, the Japanese producer of potassium permanganate, Nippon Chemical Industrial Co., with an estimated annual capacity of 6 million pounds, 7/ ceased production. Potassium permanganate was also produced in India by Swadeshi Chemicals Private, Ltd., with a reported annual capacity of 2.4 million pounds of potassium permanganate. 8/ The petitioner estimated India's capacity to produce the product at * * * pounds in 1984.

1/ Kirk-Othmer: Encyclopedia of Chemical Technology, pp. 872-873.
2/ Investigation No. 731-TA-125, prehearing brief of ICC Industries, Inc., ICD Group, Inc., Wego Chemical & Mineral Corp., and China National Chemicals Import & Export Corp., exhibit III (Statement of Zhang Furong).
3/ Investigation No. 731-TA-125, counsel's postconference brief of Mar. 22, 1983, p. 4.
4/ Kirk-Othmer: Encyclopedia of Chemical Technology, pp. 872-873.
5/ Ibid.
6/ Ibid.
7/ Ibid.
8/ Ibid.

Other countries.--Former manufacturers that ceased production during 1980-82 include The Boots Co., Ltd., of the United Kingdom and Rhone Poulenc of France. The Boots Co. is now a distributor of the Carus product in Europe.

Importers' inventories

Importers' yearend inventories of imports of potassium permanganate, as reported in response to the Commission's questionnaires, trended downward between 1980 and 1984. The only exception to this trend was from 1982 to 1983, when yearend inventories of potassium permanganate increased by * * * percent as a result of the sharp increase in imports. This increase was followed by declines in imports and yearend inventories of potassium permanganate from 1983 to 1984. Importers' yearend inventories of imported potassium permanganate declined steadily as a share of imports, from * * * percent in 1980 to * * * percent in 1984, as shown in the following tabulation:

Year	Importers' yearend inventories (1,000 pounds)	Importers' yearend inventories as a share of imports (percent)
1980	***	***
1981	***	***
1982	***	***
1983	***	***
1984	***	***

The Question of Imports as a Substantial Cause of Serious Injury or the Threat Thereof

Market penetration

The ratio of domestic shipments of imported potassium permanganate to U.S. consumption has trended upward during the 5-year period of investigation. Imports' share of U.S. consumption, including purchases by Chemagro, rose from * * * percent in 1980 to * * * percent in 1981. Excluding Chemagro, market penetration of imports increased from * * * percent in 1980 to * * * percent in 1981. In 1982, domestic shipments of imports held a * * * percent share of the U.S. market; they continued to rise, accounting for * * * percent of domestic consumption, in 1983. In 1984, the ratio of imports to U.S. consumption decreased, dropping to * * * percent, as a result of the continuing increase in the U.S. producer's domestic shipments of potassium

permanganate and the slight decline in domestic shipments of imports (table 2). The ratio of domestic shipments of imported potassium permanganate to U.S. consumption is shown in the following tabulation (in percent):

Year	Ratio of domestic shipments of imports to U.S. consumption (including Chemagro)	Ratio of domestic shipments of imports to U.S. consumption (excluding Chemagro)
1980	***	***
1981	***	***
1982	***	***
1983	***	***
1984	***	***

Prices

Potassium permanganate is sold mainly to two classes of buyers--distributors and end users. Carus sells about * * * percent of its shipments to distributors and * * * percent directly to end users. Most importers sell exclusively to distributors, although some function as distributors themselves, selling directly to end users. End users include local governments and industrial consumers. Of the potassium permanganate sold directly to end users, local governments account for the largest share of U.S.-produced and Spanish potassium permanganate. By contrast, industrial customers account for most sales of the Chinese product.

Carus maintains list prices and a discount schedule providing reductions in price for * * *. * * *. Importers that responded to the Commission's questionnaires indicated that they sold potassium permanganate only in 50-kg drums. Importers' prices were generally lower when sales were of large quantities.

Local governments, which use potassium permanganate for water purification and wastewater treatment, generally solicit sealed bids from suppliers. Carus and its distributors compete with one another, as well as with distributors of the imported product, for municipal contracts. The selected supplier typically receives a contract to provide potassium permanganate for periods of up to 1 year. Industrial consumers most frequently buy the product on a spot basis rather than on a long-term contract, although some may solicit bids when the quantities under consideration warrant that procedure. Prices to industrial consumers are usually quoted f.o.b. point of shipment; terms of payment are 30 days net.

Figure 1 shows an index of weighted-average prices received by Carus for sales of free-flowing grade potassium permanganate 1/ and producer price indexes (PPI's) for industrial chemicals and basic inorganic chemicals. Producers' prices of basic inorganic chemicals increased from 1980 through mid-1982 by more than 40 percent but declined late in that year and became relatively stable through 1984. Industrial chemical prices, which include those of the basic inorganics, peaked in mid-1981 and declined slowly through 1982, but remained relatively flat in 1983-84. By comparison, Carus' prices changed very little from 1980 to mid-1983 with the exception of 1981. However, the * * * percent price increase in late 1983 pushed Carus' prices above those of industrial chemicals. 2/

Also shown in figure 1 is the PPI for chlorine. Chlorine is used to produce a wide variety of chemical products in addition to any direct uses in water treatment, and its trends reflect conditions in many markets. Chlorine is also the chemical from which one oxidizer, chlorine dioxide, is derived. Chlorine dioxide is a direct substitute for potassium permanganate in some uses and is produced at the location where it is to be used by the end user. Between 1980 and mid-1983 the PPI for chlorine fluctuated considerably but showed a flat or slowly declining trend. In late 1983, however, chlorine prices apparently began to increase rapidly, climbing by nearly 30 percent in about 18 months.

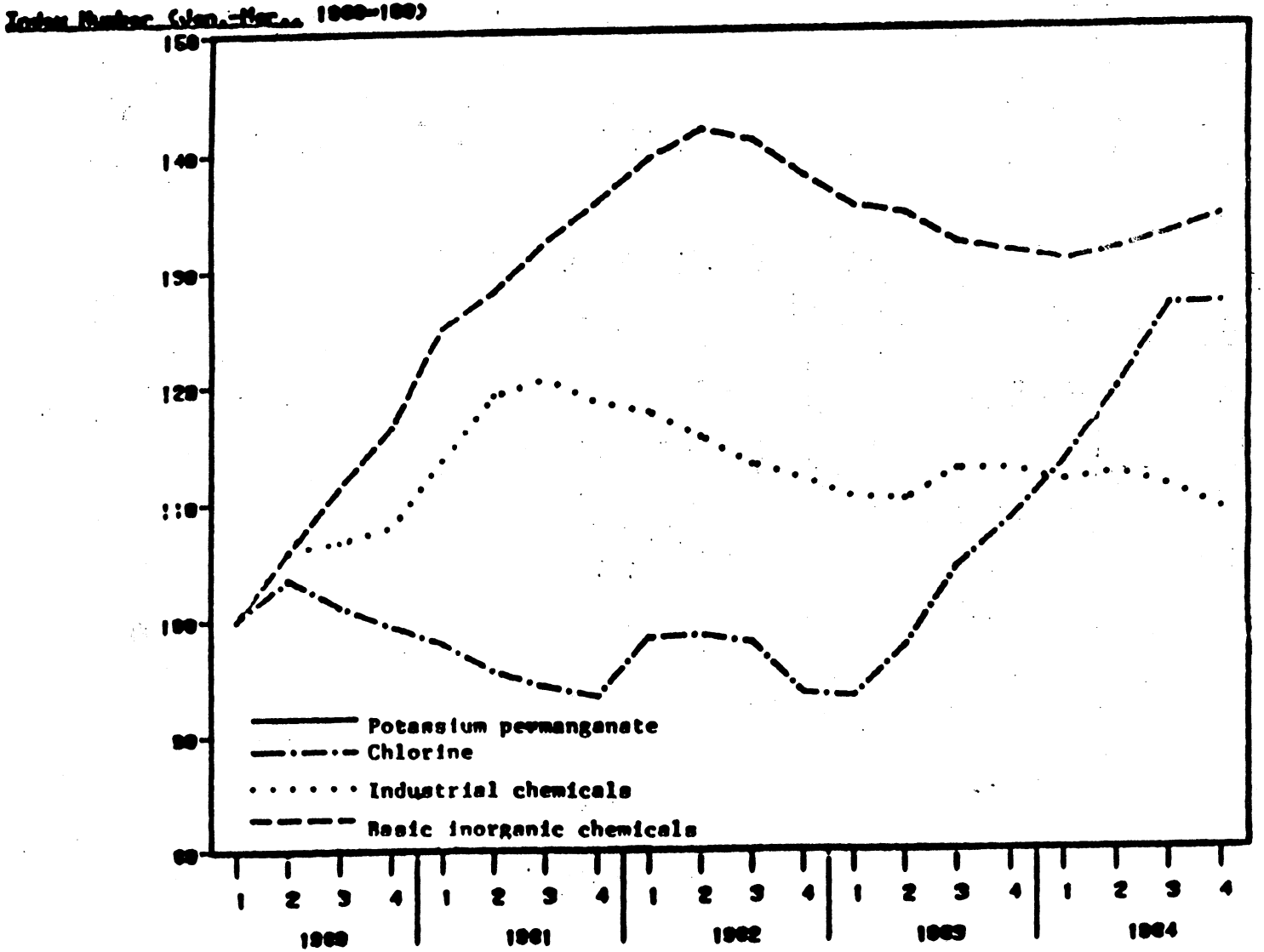
Price comparisons.--Carus and the importers were requested to supply weighted-averages of f.o.b. prices received for sales to their largest distributors of the technical and free-flowing grades of potassium permanganate for 1980-84. In addition, these firms were requested to provide transportation charges relating to delivery of the product. Carus provided f.o.b. prices for the entire period but was unable to provide costs of delivery of the product to its customers. Carus stated that * * *. Carus observed that shipping costs are * * * of total costs of the product, and * * *. 3/ Four importers provided the Commission with usable price data on their sales of imported potassium permanganate for 1981-84 as well as information on freight costs. In all cases these imports were from Spain or China. No importer provided price data for 1980.

1/ Carus' prices of technical grade potassium permanganate * * * as the free-flowing grade after * * *. Free-flowing grade represented * * * percent of Carus' total sales in 1984.

2/ In November 1984, Carus announced an additional * * * increase in its list price, effective Jan. 1, 1985.

3/ See Transportation factors, which follows in the "Other Factors Affecting Supply and Demand in the U.S. Market" section of this report.

Figure 1.--Producer price indexes for potassium permanganate, chlorine, industrial chemicals, and basic inorganic chemicals, by quarters, 1980-84.



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

Prices of the technical grade.--The technical grade of potassium permanganate accounted for * * * percent of Carus' domestic shipments in 1984 and for * * * percent of total imports in 1980, * * * percent in 1981, * * * percent in 1982, * * * percent in 1983, and * * * percent in 1984.

Carus' weighted-average f.o.b. price of the technical grade remained stable at * * * per pound in 1980 but increased to about * * * through the first 9 months of 1981 (table 22). The average price then fell back to the * * * level from October 1981 through June 1983. At that time, Carus increased its price by * * * percent to * * * per pound. The average price remained stable through 1984.

Table 22.--Domestic producer's and importers' weighted-average f.o.b. point-of-shipment prices to distributors of technical grade and free-flowing grade potassium permanganate, by quarters, 1980-84

Period	Technical grade		Free-flowing grade	
	Carus	Imported	Carus	Imported
	Price per pound			
1980:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***
1981:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***
1982:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***
1983:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***
1984:				
January-March	***	***	***	***
April-June	***	***	***	***
July-September	***	***	***	***
October-December	***	***	***	***

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

No importer reported prices for 1980. The weighted-average price of imports of technical grade potassium permanganate from Spain and China declined from * * * per pound in early 1981 to * * * in January-March 1982. The average price then increased to * * * per pound by early 1983, * * * percent above the average price of the Carus product at that time. Import prices then declined again, by * * * percent, to * * * and remained stable through the remainder of 1983, in spite of the change in Carus' prices in the third quarter of that year. Prices in 1984 fluctuated between about * * * per pound and * * * per pound.

Prices of the free-flowing grade.--Free-flowing potassium permanganate accounted for * * * percent of Carus' domestic shipments in 1984 and for * * * percent of total imports in 1980, * * * percent in 1981, * * * percent in 1982, * * * percent in 1983, and * * * percent in 1984. Comparative prices of the free-flowing grade of potassium permanganate are also presented in table 22.

Carus' weighted-average f.o.b. price of free-flowing potassium permanganate paralleled its price for technical grade in nearly every quarter for which data are available. 1/ With the exception of three periods, the prices of free-flowing and technical grades were within * * * per pound of each other. Carus' price increased from * * * per pound to * * * in early 1980, but remained stable for the remainder of that year. After climbing to * * * per pound in January-June 1981, the average price declined again to the * * * level and remained stable through June 1983. Carus increased its price in the third quarter of 1983 to the * * * level, where it remained through 1984.

Importers' weighted-average prices for free-flowing potassium permanganate were considerably more stable than they were for the technical grade. 2/ From April 1981 through June 1983, these prices fluctuated between * * * per pound and * * * per pound, * * *. As in the case of Carus, importers increased prices for free-flowing potassium permanganate in July-September 1983. Prices then remained relatively steady again at about * * * per pound, * * * Carus' price.

Other Factors Affecting Supply and Demand in the U.S. Market

Loss of Chemagro

The 1981 loss of Chemagro created a significant loss of demand in the U.S. potassium permanganate industry. 3/ In 1980 and 1981, Carus devoted * * * and * * * percent, respectively, of its production to sales to Chemagro, which accounted for * * * percent of U.S. consumption of potassium permanganate in 1980 and * * * percent in 1981. While Carus has acknowledged

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1/ Carus' price for its sales of the free-flowing grade to its largest customer, Chemagro, was * * * per pound in 1980 and * * * per pound in 1981.

2/ All imports of free-flowing grade potassium permanganate for which prices were reported were of Spanish origin.

3/ For data concerning Chemagro, refer to the section of this report entitled "The Question of Serious Injury."

that part of the alleged serious injury it suffered is attributable to the loss of its major customer, Carus has stated in the petition that "the U.S. industry lost Chemagro as a customer more than three years ago, and the effect of that loss is far less significant than the cumulative injury directly attributable to increased imports." 1/ Carus has sought to quantify and compare the relative injuries due to increased imports and the loss of demand associated with Chemagro. 2/ In response to the questionnaire sent by the Commission, Carus identified price suppression/depression, compounded by lost sales, as the most important reason that the company has suffered injury from imports.

Product substitution

There are no substitute products that compete with potassium permanganate in all of the applications in which it is used. The substitute products or processes that compete with potassium permanganate in its principal applications are:

1. Water treatment:
   a. Chlorine
   b. Sodium hypochlorite
   c. Chlorine dioxide
   d. Activated carbon
   e. Ozone

2. Wastewater treatment:
   a. Hydrogen peroxide
   b. Aeration
   c. Oxygen
   d. Ozone
   e. Chlorine
   f. Chlorine dioxide
   g. Sodium hypochlorite
   h. Lime
   i. Masking agents

3. Catfish farming:
   a. Aeration
   b. Copper sulfate

4. Chemical purification and organic synthesis:
   a. Hydrogen peroxide
   b. Chromic acid
   c. Sodium bichromate

1/ Petition on investigation No. TA-201-54, p. 20.

2/ See petition on investigation No. TA-201-54, p. 24, and the petitioner's posthearing brief, in which the petitioner analyzes the impact of the loss of Chemagro assuming Chemagro had never been a customer and assuming Chemagro had remained a customer throughout the period of investigation.

Carus has asserted that the injury suffered by the domestic industry has not been caused by sales lost to lower priced substitute oxidizers. Although the increase in Carus' domestic sales of potassium permanganate between 1982 and 1984 was primarily attributable to first-time users of oxidizers, domestic shipments of potassium permanganate to established users also increased during this period. In a study prepared by Carus, comparing the costs of using potassium permanganate, ozone, and chlorine dioxide in potable water treatment, Carus estimated that potassium permanganate is generally the most cost-effective oxidant. 1/ Carus has admitted that substitute chemicals have replaced potassium permanganate in some applications but contended that the reverse is more often the case. Between 1982 and 1984, 45 of Carus' current customers, with a total annual consumption of 1.7 million pounds of potassium permanganate, switched from a competitive product to potassium permanganate; whereas only 9 former customers, with a total annual consumption of 420,000 pounds of potassium permanganate, were lost to substitute products. 2/ The Commission staff contacted seven of these nine users; of these, five indicated that * * * was among the major reasons for switching from potassium permanganate to other oxidizers. Other factors for switching included * * *.

Carus has also argued that competition with substitute products is not responsible for holding prices down. Carus has claimed that its prices have been suppressed as a direct effect of low import prices and that the proper measure of that suppression is the amount by which the increases in Carus' prices have lagged behind the increases in the PPI for inorganic chemicals. Carus presented price data from trade publications for specific chemical products that may compete with potassium permanganate in some uses. These data also demonstrate increases exceeding those for the Carus product since 1980. According to Carus, this differential is conclusive evidence that any price suppression has not been caused by those low prices of competing chemicals, but rather by low prices of imported potassium permanganate. 3/

Respondents have criticized Carus' analysis because the data presented by Carus represent changes in list prices rather than actual transaction prices. Respondents provided import unit values of several chemical products that may be substitutes for potassium permanganate. Implicit in the respondents' argument is that these data show actual import values and, while not perfect surrogates for transaction prices, are a significantly better measure of market conditions than are list prices. These unit values generally showed little change through 1983, but several of the imported products showed increases during 1984. Respondents have argued that Carus' expansion into markets previously served by other oxidizers has forced Carus to compete on

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1/ Hearing statement of John Bortak, exhibit B.

2/ Hearing statement of John Bortak, exhibit E; petitioner's posthearing brief, exhibit S.

3/ Hearing statement of John Bortak, exhibit C; petitioner's posthearing brief, p. 22.

the basis of price with the possible substitutes. Because the transaction prices of those alternative chemicals did not actually rise during the recessionary periods of 1980-83, Carus could not increase its prices. When economic conditions improved in 1984, prices of some substitutes increased, and Carus was able to raise its own prices by about * * * percent. Respondents have concluded, therefore, that the competition from these other products, not from imported potassium permanganate, caused any price suppression that may have occurred. 1/

Exchange rates

Effects on the domestic market.-- Among possible causes for changes in the condition of the domestic industry are changes in the value of the U.S. dollar relative to the currencies of trading partners. As the value of the dollar rises relative to the value of foreign currencies, a domestic industry is faced with the possibility that its foreign competition will be able to reduce the price of articles sold in the United States without a deterioration in profit margins. Even if foreign production costs are also rising, exchange-rate adjustments may offset these inflationary effects on import prices. The effects of improved import competitiveness generally appear in the form of increasing imports.

Table 23 shows nominal exchange-rate indexes of the U.S. dollar relative to the Spanish peseta and the Chinese yuan, and real exchange-rate indexes of the dollar relative to the peseta (i.e., rates adjusted for inflation rate differentials). The peseta depreciated in nominal terms by about 50 percent relative to the dollar during the period January 1981-December 1984. Because the rate of inflation in Spain was higher than that in the United States, increasing Spanish production costs may have prevented the entire exchange-rate benefit from being passed on to U.S. customers. The adjusted (real) exchange-rate index provides an indication of the improved competitive position of the Spanish product in the United States. 2/ This index shows that the peseta depreciated in real terms, relative to the dollar, by about 23 percent from January 1981 to June 1984.

1/ Asturquimica's posthearing brief, attachment A; also refer to Prices in the section of this report entitled "The Question of Imports as a Substantial Cause of Serious Injury or the Threat Thereof."

2/ The real exchange rate was calculated by deflating the nominal exchange rate by the relative rates of inflation (Spain's index of industrial prices and the U.S. index of wholesale prices). Improved competitiveness of a specific imported article may deviate from this estimate because the general indexes used in this calculation may not be representative of production cost variations of a specific industry or producer.

Table 23.--Indexes of exchange rates for the U.S. dollar relative to the Spanish peseta and the Chinese yuan, by quarters, 1981-84

(January-March 1981 = 100.00)

Period	Spanish peseta		Chinese yuan--
	Nominal rate	Real rate	Nominal rate
1981:			
January-March	100.0	100.0	100.0
April-June	92.3	94.9	93.0
July-September	85.8	90.0	90.2
October-December	87.5	94.3	91.7
1982:			
January-March	83.1	92.0	88.3
April-June	79.3	90.0	86.9
July-September	75.0	86.0	82.4
October-December	70.1	82.0	80.9
1983:			
January-March	64.7	80.5	81.7
April-June	60.5	77.1	80.3
July-September	56.0	72.3	80.4
October-December	59.4	72.5	80.4
1984:			
January-March	54.5	74.8	77.7
April-June	55.0	77.0	73.8
July-September	50.9	1/	66.6
October-December	2/ 50.1	1/	2/ 60.0

1/ Not available.
2/ Estimated.

Source: Compiled from International Financial Statistics, International Monetary Fund.

The nominal value of the Chinese yuan declined in terms of the dollar by about 40 percent from January 1981 to December 1984. Because no estimates of inflation rates in China are available, it is not possible to estimate the real (adjusted) value of the yuan.

Effects on foreign-market position.-- In addition to the effects of exchange-rate fluctuations on the market for imports in the United States, an appreciating dollar may cause the price of the U.S. exports to increase when priced in the currencies of third-country markets. If alternative suppliers' currencies do not appreciate, U.S. exports are likely to decline because of loss of price competitiveness. The primary export markets for U.S.-produced

potassium permanganate are * * *. The nominal value of the U.S. dollar increased substantially relative to the currencies of each of these countries during 1981-84. 1/ * * *.

The quantity and unit value of Carus' exports are shown in the following tabulation. These exports accounted for more than * * * of Carus' sales in 1980 to customers other than to Chemagro, but after a decline of * * * percent by 1983 and a recovery in 1984, represented * * * percent of total shipments in 1984. 2/

Item	1980	1981	1982	1983	1984
Total exports-----1,000 pounds--	***	***	***	***	***
Unit value of exports---------per pound--	***	***	***	***	***

Carus' unit value of exports, which had been substantially below the unit value of its sales in the United States in earlier periods, increased by about * * * percent in 1983. Carus reports that this increase occurred because * * *. This substantial increase in unit value, along with the appreciation of the dollar against virtually all foreign currencies, contributed significantly to the decline in Carus' exports in 1983 and 1984 compared with exports in 1980-82.

Transportation factors

The cost of transporting a product from the producer's location to that of the customer can significantly affect sales of that product in competition with more advantageously located sources of supply. Imports often have a distinct advantage in this regard by virtue of the ease of reaching cities located on major waterways at relatively low costs. In spite of Carus' location in central Illinois, the firm reports that transportation costs, and changes in those costs since deregulation of common carriers, have not been a significant factor in their loss of customers to imports.

Both Carus and most importers ship potassium permanganate primarily in 50 kg drums. Carus reports that * * * shipments are made by truck but that in * * * the arrangements for transportation are made by the customer. Whereas some customers, such as large distributors, might provide their own trucks for this purpose, others rely primarily on common carriers.

Approximately * * * percent of Carus' shipments are made to States in the North Central and Northeast regions, whereas smaller shares are made to the

1/ From 1981 through 1984, the * * * declined in nominal value by almost * * * percent relative to the dollar, the * * * by * * * percent, and the * * * by * * * percent.

2/ See also tables 6 and 7.

central United States (* * * percent) and Southeast (* * * percent). Carus reports that about * * * percent of shipments were made to the Southwest and * * * percent to the West.

As noted, Carus reports that transportation is not generally a significant factor in the total cost of the product to the end user. Among the examples cited were shipments to the Atlanta and Philadelphia/New York market areas, where the cost of transportation was approximately * * * percent (* * * per hundredweight) of the final delivered cost. Shipments to New Orleans were * * * percent of the total cost. The most distant customers of Carus, those on the west coast, paid approximately * * * per hundredweight or * * * percent of total cost for freight charges.

Producer's Efforts to Compete with Imports

In response to the questionnaire sent by the Commission, Carus identified and categorized its efforts to compete with imports 1/ as (1) cost reductions, (2) new business development, and (3) new product development.

Cost reductions

Carus' efforts to reduce operating and maintenance costs over the 5-year period included * * *. * * *.

* * * * * * *

New business development

* * *, the development of new business is central to Carus' efforts to compete with imports. In mid-1981, Carus inaugurated the New Business Development Program, the nexus of this strategy, * * *. The company employs * * * district sales managers * * *, who work with Carus officials in La Salle

1/ During the 5-year period, Carus made competitive adjustments to respond to the company's financial condition, which has been the result of multiple factors. Only those actions ascribed by the petitioner as undertaken primarily to compete with sales of imported potassium permanganate are discussed in this section.

to generate and analyze sales leads. After a series of steps in which Carus assesses the lead, the company demonstrates the use of potassium permanganate with a plant trial, which generally lasts several days but can last up to a month. Of these prospects, more than * * * percent become Carus customers. The majority of the new business is currently in the area of wastewater treatment. Carus * * *.

Carus has also * * *.

New product development

In an effort to increase the company's sales volume, Carus has developed two new potassium permanganate products: CAIROX nuggets and CAIROX algicide grade. The CAIROX nugget, developed at a cost of * * *, is used to control odor in sewer collection systems and to relieve dissolved oxygen depletion in wastewater lagoons. CAIROX nuggets are manufactured as * * *. Developed at a cost of * * *, CAIROX algicide grade, available in a free-flowing form, is used in water treatment to control algae.

Carus has also diversified its product mix, developing a host of new products:

1. Carulite catalysts: Manganese dioxide catalysts, which are used in printing operations and in nuclear submarines to control ozone and carbon monoxide.

2. Carusorb: A formulation of potassium permanganate and alumina, which is used in the preservation of fruit, flowers, and vegetables; in energy conservation; in odor control; and in corrosion control in computer rooms.

3. Curing grade MnO_2: Oxidation products, including sodium permanganate used in the etching of printed circuit boards.

4. Cesium chemicals: Catalysts that have various uses, including biological applications and crystal growing in diagnostic equipment (not yet in production).

The cost to develop the Carulite catalysts was * * *; Carusorb, * * *; curing grade MnO_2, * * *; and, cesium chemicals, * * *.

* * * * * * *

Adjustments to be Made During Import Relief

In an attempt to judge whether a period of temporary import relief would enable the domestic producer to compete more effectively with imports, the Commission requested the following information in its questionnaire:

1) Specific adjustments in potassium permanganate operations that would be made by the firm and/or its workers during the period of import relief.

2) The anticipated expenditure of funds.

3) The specific competitive advantage to be gained by the adjustment.

A summary of Carus' response follows.

Cost reductions

Carus plans to reduce costs both by * * * and * * *. These changes, their anticipated expenses, and the estimated cost savings to be gained by their implementation are listed in the following tabulation (in thousands of dollars).

Adjustment	Expense	Annual cost reduction
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***
* * *----------	***	***

* * * * * * *

New business development

Carus plans to expand the potassium permanganate market by * * *. * * *.

If granted relief from imports, Carus intends to continue its efforts to expand the market for newly developed potassium permanganate products and to develop new applications for potassium permanganate. Areas of new applications that Carus believes to have the potential for substantial future growth include * * *.

New product development

* * * * * * *

APPENDIX A

THE COMMISSION'S FEDERAL REGISTER NOTICE

[Investigation No. TA-201-54]

Potassium Permanganate; Investigation and Hearing

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: Following receipt of a petition filed on November 30, 1984, on behalf of Carus Chemical Co., the United States International Trade Commission instituted investigation No. TA-201-54 under section 201 of the Trade Act of 1974 to determine whether potassium permanganate, provided for in item 420.28 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The Commission has established an administrative deadline of April 30, 1985, for reporting its determination to the President.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 206, subparts A and B (19 CFR Part 206), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: November 30, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter, Supervisory Investigator (202-523-0389), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

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

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

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on March 5, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 25, 1985. All persons desiring to appear at the hearing and make oral presentations, with the exception of public officials and persons not represented by counsel, should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on February 28, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 26, 1985. Posthearing briefs must be submitted not later than the close of business on March 12, 1985. Confidential material should be filed in accordance with the procedures described below.

Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b) (2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 12, 1985. A signed original and fourteen (14) copies of each submission must abe filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All Written submission except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6), as amended by 49 FR 32569, August 15, 1984.

Remedy.—In the event that the Commission makes an affirmative injury determination in this investigation, remedy briefs will be due to the Secretary no later than the close of business on April 8, 1985, and must conform with the requirements of § 201.6 of the Commission's rules.

Authority: This investigation is being conducted under authority of section 201 of the Trade Act of 1974. This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.3).

Issued: December 14, 1984.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-33029 Filed 12-18-84; 8:45 am]
BILLING CODE 7020-02-M

APPENDIX B

CALENDAR OF PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

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

Subject : Potassium Permanganate

Inv. No. : TA-201-54

Date and time : March 5, 1985 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W. in Washington.

Government appearance:

Federal Trade Commission, Bureau of Competition, Washington, D.C.

John Warden, Attorney

Fred Martin, Economist

Morris Morkre, Economist

In support of the petition:

Winston & Strawn--Counsel
Washington, D.C.
on behalf of

Carus Chemical Company, La Salle, Illinois

John Bortak, General Manager, Carus Chemical Company

Paul Bousquet)--OF COUNSEL
Kenneth Berlin)

- more -

In opposition to the petition:

Kaplan, Russin & Vecchi--Counsel
Washington, D.C.
on behalf of

Asturquimica, S.A. of Spain

Michael D. Schrage, President, American International Chemical, Inc., Nattick, Massachusetts

John G. Reilly, Principal, ICF Incorporated, Washington, D.C.

Dennis James, Jr.)
Kathleen Patterson) --OF COUNSEL