

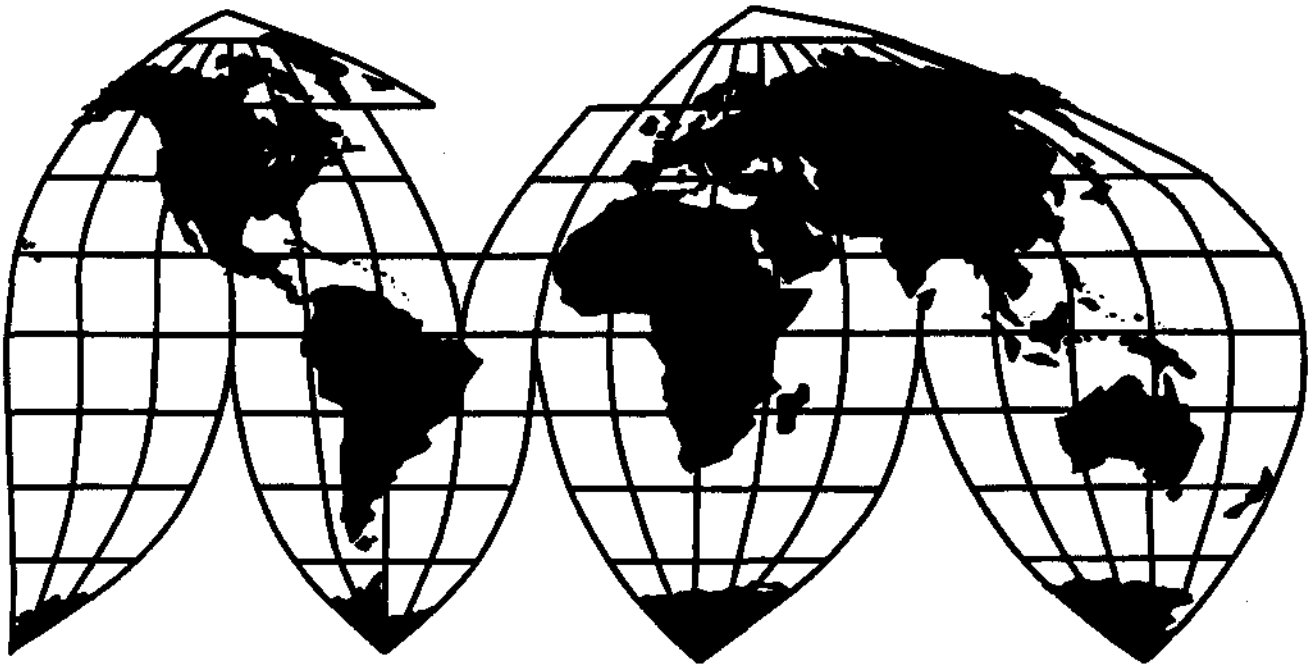
Saccharin From China

Investigation No. 731-TA-1013 (Final)

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U.S. International Trade Commission

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

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1013 (Final)

SACCHARIN FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of saccharin, provided for in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective July 11, 2002, following receipt of a petition filed with the Commission and Commerce by PMC Specialties Group, Inc., Cincinnati, OH. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of saccharin from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of January 14, 2003 (68 FR 1860).² The hearing was held in Washington, DC, on May 15, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² On February 11, 2003, Commerce published notice of postponement of its final determination (68 FR 6885) and extended the due date to May 12, 2003. Subsequently, the Commission published notice of a revised schedule for the final phase of its investigation (68 FR 8783, February 25, 2003).

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of imports of saccharin from China that are sold in the United States at less than fair value ("LTFV").

I. PAST INVESTIGATIONS

The Commission has conducted investigations of saccharin on two previous occasions. In the 1977 investigations,¹ conducted under the Antidumping Act of 1921, as amended, the Commission reached negative determinations. In the 1993-94 investigation,² the Commission also reached a negative determination.

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."³ Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."⁴ In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation"⁵

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.⁶ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁷ The Commission looks for clear dividing lines among possible like products and disregards minor variations.⁸

¹ Saccharin from Japan and the Republic of Korea, Inv. Nos. AA1921-174 & 175, USITC Pub. 846 (Dec. 1977).

² Saccharin from China, Inv. No. 731-TA-675 (Final), USITC Pub. 2842 (Dec. 1994). A concurrent petition was filed regarding saccharin from Korea (Inv. No. 731-TA-676) and the Department of Commerce made a negative determination as to Korea. 59 Fed. Reg. 58826 (Nov. 15, 1994).

³ 19 U.S.C. § 1677(4)(A).

⁴ Id.

⁵ 19 U.S.C. § 1677(10).

⁶ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

⁷ See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

⁸ Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the domestic like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and

Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.⁹

B. Product Description

Commerce’s final determination defines the imported merchandise within the scope of this investigation as:

saccharin. Saccharin is a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) sodium saccharin (American Chemical Society Chemical Abstract Service (“CAS”) Registry #128-44-9); (2) calcium saccharin (CAS Registry #6485-34-3); (3) acid (or insoluble) saccharin (CAS Registry #81-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC [People’s Republic of China] are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms.

The merchandise subject to this investigation is classifiable under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS) and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades.¹⁰

Saccharin is a chemical additive, made from petroleum-based organic chemicals, that is used primarily as a sweetener. Saccharin was first synthesized in 1879 and has been used in the United States as a sugar substitute since 1885. It has been used primarily in foods and beverages (either commercially added prior to consumption or personally added at the time of consumption) and in personal care products such as toothpaste and mouthwash. By weight, it is about 350 times sweeter than sugar. It also is used as an additive in adhesives and in metalworking fluids to facilitate electroplating. End users for the food and beverage markets are mostly soft drink manufacturers and manufacturers of table top sweetener packets for restaurants, airlines and other firms serving beverages to the public. The auto and auto parts industries use saccharin in electroplating chrome bumpers and accessories. Saccharin also is used in pharmaceuticals, animal feed, tobacco, and food mixes.¹¹

Three chemical variations of saccharin generally are available: (1) sodium saccharin, which accounts for the bulk of U.S. consumption and which is available in granular, powder, spray-dried powder, or liquid form; (2) calcium saccharin, which is available in spray-dried form; and (3) acid (or insoluble) saccharin, which is primarily available in spray-dried form.¹² Like the saccharin produced in the United States, most of the subject merchandise from China is sodium saccharin.

article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

⁹ *Hosiden Corp. v. Advanced Display Mfrs.*, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); *Torrington*, 747 F. Supp. at 748-52 (affirming Commission’s determination of six domestic like products in investigations where Commerce found five classes or kinds).

¹⁰ 68 Fed. Reg. 27530 (May 20, 2003).

¹¹ Confidential Report (“CR”) at I-2 - I-3, Public Report (“PR”) at I-2.

¹² A fourth variation of saccharin known as research grade saccharin, which does not have a CAS Registry number, was listed in the petition and is included in the scope of this investigation. However, no sales of research grade saccharin were reported during the period examined. CR at I-3 n.10, PR at I-2 n.10.

Before purchasing, most users either require a certificate of analysis or conduct their own tests for purity and for adherence to Food and Drug Administration (“FDA”) specifications outlined in the Food Chemical Codex and the United States Pharmacopeia. Saccharin that meets these standards is known in the market as “food grade,” which classification is required for virtually all uses other than adhesive production and electroplating. Both the U.S. and Chinese products are marketed as “food grade.”¹³

C. Domestic Like Product

In the preliminary phase of this investigation, the Commission found that there was one domestic like product consisting of all forms of saccharin. The Commission made this finding based on the similarity in physical characteristics and uses, general interchangeability, common channels of distribution, common manufacturing facilities and production process, and general similarity in price. In the final phase of the investigation, no party has argued that the Commission should revisit its like product finding.^{14 15} Nor have any facts arisen in the investigation that would otherwise indicate that the Commission should do so. Accordingly, we again find that there is one domestic like product consisting of all forms of saccharin.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

The domestic industry is defined as “the producers as a [w]hole of a domestic like product whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹⁶ In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.¹⁷ Based on our domestic like product finding, we determine that the domestic industry consists of the sole producer of saccharin: PMC Specialties Group Inc. (“PMC”).¹⁸

¹³ CR at I-3, PR at I-3.

¹⁴ The scope of the investigation pertains solely to saccharin. No party argued that the Commission should find that the domestic like product includes alternative sweeteners, such as aspartame. While we may define the like product to be broader than the scope if the facts so warrant, see, e.g., Certain Pasta from Italy and Turkey, Inv. Nos. 701-TA-365 and 366 and 731-TA-734 and 735 (Final), USITC Pub. 2977 at 8-12 (July 1996), the record does not indicate that a broader like product is appropriate here.

¹⁵ In its prehearing brief, the Pro Trade Group’s U.S. Sweetener Users Coalition stated that the Commission should consider whether sodium saccharin and calcium saccharin are separate domestic like products, and stated further that it would discuss this matter further at the hearing. Coalition’s Prehearing Brief at 1. At the hearing, however, the Coalition explained that it was not seeking a finding of two domestic like products, but wished to point out the differences in the forms of saccharin in the context of conditions of competition. Tr. at 181 (Mr. Aitken).

¹⁶ 19 U.S.C. § 1677(4)(A).

¹⁷ See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int’l Trade 1994), aff’d, 96 F. 3d 1352 (Fed. Cir. 1996).

¹⁸ Because PMC imported *** pounds of *** saccharin from *** Chinese producers in 2001, CR at IV-2, PR at IV-1, it is a related party. Respondents do not argue that PMC should be excluded from the domestic industry as a related party under 19 U.S.C. § 1677(4)(B). PMC produced *** pounds of saccharin in 2001, CR/PR at Table III-1, and its imports were equivalent to only *** percent of its production in that year. CR at IV-2, PR at IV-1. ***. It is clear that PMC’s interests lie primarily in production and not in importation. CR/PR at III-1. Accordingly, we find that appropriate circumstances do not exist to exclude PMC from the domestic industry as a related party.

IV. MATERIAL INJURY BY REASON OF LTFV IMPORTS¹⁹

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.²⁰ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.²¹ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”²² In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.²³ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”²⁴

For the reasons discussed below, we determine that the domestic industry is materially injured by reason of imports of saccharin from China found to be sold in the United States at less than fair value.

A. Conditions of Competition

The following conditions of competition for saccharin are pertinent to our analysis in this investigation.

Pursuant to a study that found saccharin to be a cancer-causing agent in rats, the FDA banned the use of saccharin in food and beverages in 1977. Shortly thereafter, Congress imposed a moratorium on the ban, but subjected the sale of saccharin to certain requirements. In particular, the Saccharin Study and Labeling Act, renewed through May 1997, mandated that health warning labels be placed prominently on all products containing saccharin. After further study, evidence strongly supported the conclusion that saccharin does not cause cancer in humans, and thereafter the FDA approved saccharin for general use. On December 21, 2000, President Clinton signed the SWEETEST Act,²⁵ which removed the warning label on all products containing saccharin.²⁶

The large packaged-soft-drink manufacturers, such as Coca Cola and Pepsi, switched from saccharin to aspartame in their products that were bottled for retail sale in 1983, six years after the Saccharin Study and Labeling Act of 1977 requiring a warning label on products containing saccharin took effect. However, because of the limited shelf life of aspartame, the large packaged-soft-drink manufacturers continued to use saccharin in beverages placed in dispensers,²⁷ which did not require a warning label.

In addition to being used in table top sweeteners and fountain beverages, commercially sold sodium saccharin is used as a sweetener in animal feeds, tobacco, personal care products such as

¹⁹ Negligibility is not an issue in this investigation because imports of saccharin from China constituted more than one-half of total imports in 2001 and 2002. See 19 U.S.C. § 1677(24); CR/PR at Table IV-1.

²⁰ 19 U.S.C. § 1673d(b).

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

²² 19 U.S.C. § 1677(7)(A).

²³ 19 U.S.C. § 1677(7)(C)(iii).

²⁴ 19 U.S.C. § 1677(7)(C)(iii).

²⁵ “SWEETEST” is an acronym for “Saccharin Warning Elimination via Environmental Testing Employing Science and Technology.”

²⁶ CR at I-4, PR at I-3.

²⁷ CR at I-5, PR at I-4.

mouthwash and toothpaste, pharmaceuticals, and in scented candles. Some sodium saccharin is also used in industrial products such as adhesives and metalworking fluids.²⁸ Calcium saccharin is used in table top sweeteners, foods, soft drinks (primarily canned or bottled), and chewing gum.²⁹ Approximately *** percent of acid (insoluble) saccharin is used as an intermediate in herbicide and pesticide production. It is also used as a sweetener in beverages, mouthwash, chewing gum, lip balm, pharmaceuticals, denture cream, and toothpaste, and is used in adhesives.³⁰

Because saccharin is an intermediate product that is used in various consumer products and agricultural and industrial applications, overall U.S. demand for saccharin is derived from the demand for the products that use it as an input. The overall demand for saccharin as measured by apparent consumption increased from *** pounds in 2000 to *** pounds in 2001 and to *** pounds in 2002.³¹ There is little seasonality in the demand for saccharin in most uses. One exception is with respect to diet soft drinks. As sales of diet soft drinks increase during summer months, the demand for the saccharin used in these beverages also increases.³²

PMC is the only domestic saccharin producer. PMC's capacity for producing saccharin *** throughout the period of investigation at *** pounds.³³ However, its production fell throughout the period of investigation.³⁴

In addition to aspartame, other sweeteners may be substituted for saccharin. These include sugar, acesulfame-K, tagatose, alitame, and sucralose. Because these sweeteners are much more expensive than saccharin, their substitution is often not considered economically or technically feasible in many applications. However, saccharin is often blended with other sweeteners in soft drinks, which reduces the overall cost of the sweeteners.³⁵ The record indicates that altering a blend of sweeteners for a given end product can require a substantial amount of effort, time and expense.³⁶

During the 1993-94 antidumping investigation, there were questions concerning the quality of the Chinese product.³⁷ Today, however, evidence in the record indicates that Chinese producers have corrected any quality problems that may have existed and can now meet the qualification requirements of U.S. customers.³⁸ In fact, PMC and most importers now view domestic and Chinese saccharin as interchangeable,³⁹ as do a majority of purchasers.⁴⁰

Nonsubject imports accounted for *** percent of apparent consumption in 2000, *** percent in 2001 and *** percent in 2002.⁴¹

²⁸ CR at I-8 n.30, PR at I-6 n.30

²⁹ CR at I-9 n.32, PR at I-6 n.32.

³⁰ CR at I-9 n.31, PR at I-6 n.31.

³¹ CR/PR at Table IV-4. Even after adjusting for changes in inventories and export shipments of imported saccharin, apparent consumption increased at a similar rate, from *** pounds in 2000 to *** pounds in 2001 and *** pounds in 2002. CR/PR at Table IV-4; see also CR/PR at Table VII-3, CR at IV-4 n.7, PR at IV-3 n.7.

³² CR/PR at II-1.

³³ CR/PR at Table III-1.

³⁴ Domestic production was *** pounds in 2000, *** pounds in 2001 and *** pounds in 2002. CR/PR at Table III-1. As a result of the decline in production, capacity utilization fell from *** percent in 2000 to *** percent in 2002. CR/PR at Table III-1.

³⁵ CR at II-4, PR at II-3.

³⁶ Tr. at 198-99 (Mr. Ritell).

³⁷ See USITC Pub. 2842 at I-15 - I-16, I-18 n.96.

³⁸ CR at II-8, PR at II-5.

³⁹ CR at II-8, PR at II-5.

⁴⁰ CR at II-9 - II-10, PR at II-6.

⁴¹ CR/PR at Table IV-4.

B. Volume of the Subject Imports

Section 771(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁴²

The quantity of subject imports more than doubled during the period of investigation⁴³ and the value of these shipments followed a similar pattern.⁴⁴ In terms of market share, subject imports made substantial gains between 2000 and 2002 with respect to both volume and value. In 2000, subject imports accounted for *** percent of apparent U.S. consumption as measured by quantity, *** percent in 2001, and *** percent in 2002. As measured by value, subject imports accounted for *** percent of apparent consumption in 2000, *** percent in 2001, and *** percent in 2002.⁴⁵

At the same time, the domestic industry lost substantial market share. From 2000 to 2002, the domestic producer’s share of apparent U.S. consumption fell ***, from *** percent in 2000 to *** percent in 2001 and *** percent in 2002.⁴⁶ As measured by value, domestic market share also decreased substantially between 2000 and 2002.⁴⁷ Nearly all of the domestic industry’s loss of market share was gained by subject imports,⁴⁸ as nonsubject imports’ market share increased by only *** over the period examined, from *** percent in 2000 to *** percent in 2002.⁴⁹

In light of the above, we find the volume and increase in volume of subject imports, both in absolute terms and relative to apparent consumption in the United States, to be significant.

C. Price Effects of the Subject Imports

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

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

⁴² 19 U.S.C. § 1677(7)(C)(i).

⁴³ Subject imports increased from 1.4 million pounds in 2000 to 2.6 million pounds in 2001, and to 3.5 million pounds in 2002. CR/PR at Table IV-1.

⁴⁴ The value of subject imports increased from \$2.4 million in 2000 to \$4.0 million in 2001, and to \$5.6 million in 2002. CR/PR at Table IV-1.

⁴⁵ CR/PR at Table IV-4.

⁴⁶ CR/PR at Table IV-4. Respondents argued that the domestic industry is unable to service the market. See Chinese Producers’ and Exporters’ Prehearing Brief at 10-11; Chinese Producers’ and Exporters’ Posthearing Brief at 3. However, the domestic industry’s production capacity was *** apparent consumption throughout the period examined. Compare CR/PR at Table III-1 with CR/PR at Table IV-4.

⁴⁷ The domestic industry’s share of apparent U.S. consumption as measured by value was *** percent in 2000, falling to *** percent in 2001 and then to *** percent in 2002. CR/PR at Table IV-4.

⁴⁸ We note that PMC sells *** to end users and the majority of U.S. shipments of the subject imports are to end users as well. CR at I-6, PR at I-4. Thus, contrary to respondents’ arguments, we find that the products do compete in the same market. See Chinese Producers’ and Exporters’ Prehearing Brief at 10.

⁴⁹ CR/PR at Table IV-4. Given the disparity between subject import and nonsubject import market shares and trends in those market shares, we reject respondents’ argument that Korean and Japanese saccharin imports play a more important role in the marketplace than subject imports. See Chinese Producers’ and Exporters’ Prehearing Brief at 11; Chinese Producers’ and Exporters’ Posthearing Brief at 7-8.

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁵⁰

Evidence on the record indicates that saccharin is interchangeable (although producers must meet certain qualifications).⁵¹ The record also indicates that price is an important factor in purchasing decisions;⁵² 18 of the 23 responding purchasers chose price as one of the top three factors in making their purchasing decisions.⁵³

Subject imports undersold the domestic product in all quarters and for all five product categories for which price comparisons were available. The margins of underselling ranged from 6.1 percent to 59.6 percent.⁵⁴ We find this underselling to be significant.

We find that there is significant price suppression by reason of subject imports. PMC's cost of goods sold relative to net sales increased steadily over the period examined.⁵⁵ We find that the domestic producer's inability to increase prices to meet rising costs was due to a significant degree to the increased volume of low-priced subject LTFV imports.⁵⁶ There is also some evidence of price depression on the record. Domestic prices for products 4-5 fell over the period of investigation, while the quantity of LTFV subject imports rose.⁵⁷ We also note that lost sales allegations totaling approximately \$*** were confirmed.⁵⁸

In light of the large and increasing volumes of subject imports over the period, persistent underselling, significant margins of underselling, evidence of price suppression and depression, and confirmed lost sales allegations, we find that subject imports had significant adverse price effects.

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵⁹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."^{60 61}

⁵⁰ 19 U.S.C. § 1677(7)(C)(ii).

⁵¹ CR at I-3, II-5 - II-7, PR at I-3, II-3 - II-4.

⁵² See CR/PR at Table II-1.

⁵³ CR at II-7, PR at II-4.

⁵⁴ CR at V-5, PR at V-4; INV-AA-067 at V-5 (June 5, 2003).

⁵⁵ CR/PR at Table VI-1.

⁵⁶ See also *** (low-cost imports from China serve to hold down prices).

⁵⁷ CR at IV-2, V-4, PR at IV-1, V-3. There were no clear price trends for pricing products 1-3 over the period examined. However, there is evidence on the record that prices for these products had ***, and therefore PMC could not lower prices much further. PMC's Posthearing Brief, Exh. 1 at 2; PMC's Final Comments at 2.

⁵⁸ CR/PR at Table V-7.

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

⁶⁰ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812 to 813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

⁶¹ The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping duty proceeding as part of its consideration of the impact of imports. See 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination, Commerce found the following dumping margins: 291.57 percent for Suzhou Fine Chemical

Apparent U.S. consumption grew steadily over the period examined.⁶² During this time, subject imports more than doubled their share of this expanding market.⁶³ This increase in market share occurred at the expense of the domestic industry, as the domestic producers experienced a steady and substantial decrease in market share between 2000 and 2002.⁶⁴ Nonsubject import market share grew, but only slightly.⁶⁵

The record indicates that this significant volume of subject imports, and the significant price effects of these imports, materially injured the domestic industry. Domestic production fell steadily and significantly over the period⁶⁶ as capacity ***.⁶⁷ As a result, capacity utilization declined ***.⁶⁸ PMC's U.S. shipments followed the same downward trend.⁶⁹ Inventories rose from 2000 to 2002⁷⁰ and net sales declined.⁷¹ The domestic industry experienced increasing financial losses over the period of investigation.⁷² The industry experienced a cost-price squeeze as evidenced by the steadily rising cost of goods sold relative to net sales.⁷³

Group Co., Ltd.; 249.39 percent for Shanghai Fortune Chemical Co., Ltd.; 281.97 percent for Kaifeng Xinhua Fine Chemical Factory; and a corrected PRC-wide rate of 329.94 percent. 68 Fed. Reg. at 27533; 68 Fed. Reg. at 35383.

⁶² As measured by quantity, apparent U.S. consumption increased by *** percent between 2000 and 2002. CR/PR at Table IV-4. Even after adjusting for changes in inventories and export shipments of imported saccharin, apparent consumption increased at a similar rate, from *** pounds in 2000 to *** pounds in 2001 and *** pounds in 2002. CR at IV-4 n.7, PR at IV-3 n.7.

⁶³ Subject import market share, as measured by quantity, grew *** percentage points between 2000 and 2002. CR/PR at Table IV-4.

⁶⁴ Domestic producers' market share, as measured by quantity, fell by *** percentage points between 2000 and 2002. CR/PR at Table IV-4.

⁶⁵ Nonsubject import market share, as measured by quantity, increased by *** percentage points between 2000 and 2002. CR/PR at Table IV-4.

⁶⁶ Domestic production of saccharin was *** pounds in 2000, falling to *** pounds in 2001 and to *** pounds in 2002. CR/PR at Table III-1.

⁶⁷ Domestic capacity was *** pounds between 2000-02. CR/PR at Table III-1.

⁶⁸ Capacity utilization was *** percent in 2000, *** percent in 2001, and *** percent in 2002. CR/PR at Table III-1.

⁶⁹ By quantity, U.S. shipments totaled *** pounds in 2000, *** pounds in 2001, and *** pounds in 2002. By value, U.S. shipments totaled \$*** in 2000, \$*** in 2001, and \$*** in 2002. CR/PR at Table III-2.

⁷⁰ Inventories fell from *** pounds in 2000 to *** pounds in 2001, then increased to *** pounds in 2002. CR/PR at Table III-4.

⁷¹ Net sales, as measured by quantity, fell from *** pounds in 2000 to *** pounds in 2001, and to *** pounds in 2002. As measured by value, net sales declined from \$*** in 2000 to \$*** in 2001, and to \$*** in 2002. CR/PR at Table VI-1.

⁷² Operating losses were \$*** in 2000, \$*** in 2001 and \$*** in 2002. CR/PR at Table VI-1. The ratio of operating income to net sales fell *** from *** percent in 2000 to *** percent in 2001, and to *** percent in 2002. CR/PR at Table VI-1.

⁷³ The cost of goods sold as a ratio to net sales increased from *** percent in 2000 to *** percent in 2001, then to *** percent in 2002. CR/PR at Table VI-1. Between 2000-02, raw materials accounted for *** of total cost of goods sold, while other factory costs accounted for ***. CR at VI-4, PR at VI-2. These factory costs were increasingly spread over lower volumes of production and sales due to the domestic industry's significant loss of market share to subject imports.

We note that the average unit value of net sales increased over the period. It was \$*** per pound in 2000, rising to \$*** per pound in 2001 and then to \$*** per pound in 2002. CR/PR at Table VI-1. However, evidence on the record indicates that this increase was due to a change in PMC's product mix – as it lost a large volume of sales of high-volume, lower-priced sodium saccharin, its sales shifted toward the higher-valued calcium and acid saccharin. PMC's Prehearing Brief at 16.

The number of PMC's production and related workers decreased steadily over the period,⁷⁴ as did their hours worked⁷⁵ and wages paid.⁷⁶ PMC was shut down for approximately 16 weeks in 2000, 12 weeks of which was due to reduced sales, although the record indicates that it continued to produce saccharin.⁷⁷

Capital expenditures declined between 2000 and 2002 ***.⁷⁸ Research and development expenses declined as well, although ***.⁷⁹

Respondents argued that any problems faced by the sole domestic producer, PMC, are due to factors other than subject imports. Respondents alleged that PMC has quality and delivery problems, and that it cannot compete effectively in the global marketplace. However, the evidence does not support respondents' assertions that any of these alleged problems are of such a magnitude as to explain the industry's substantial injury.

There is some evidence in the record that the domestic product has had isolated quality problems.⁸⁰ The most significant issue appears to be reports of grape odor, but any such problem appears to be confined to shipments made to one purchaser, ***, at one of three plants⁸¹ and the record indicates that PMC has never lost a customer due to quality concerns.⁸² In fact, the purchaser complaining of the grape odor recently ***,⁸³ Purchasers generally view domestic and Chinese saccharin to be comparable in terms of quality.⁸⁴ While Chinese producers and exporters claim that their product is superior in quality to PMC's,⁸⁵ they were unable to explain why, if this were true, Chinese saccharin does not

⁷⁴ The number of production and related workers declined from *** in 2000 to *** in 2001, then fell to *** in 2002. CR/PR at Table III-5.

⁷⁵ Hours worked decreased from *** in 2000 to *** in 2001, and to *** in 2002. CR/PR at Table III-5.

⁷⁶ Wages paid fell from \$*** in 2000, to \$*** in 2001, and to \$*** in 2002. CR/PR at Table III-5.

⁷⁷ Four weeks of the shutdown was due to scheduled equipment maintenance. Tr. at 30, 44-45 (Mr. Hudgens). A labor dispute at PMC resulted in a work stoppage between November 18, 2002 and January 2, 2003. However, PMC stated that it continued to operate the plant with professional staff and that all orders were supplied during this period. Moreover, three of the weeks during which the plant was shut comprised part of the normal shutdown period for maintenance. PMC's Posthearing Brief at 13-14; Tr. at 30-31, 44-45 (Mr. Hudgens).

⁷⁸ Capital expenditures were \$*** in 2000, \$*** in 2001, and \$*** in 2002. CR/PR at Table VI-4.

⁷⁹ Research and development expenses were \$*** in 2000, \$*** in 2001, and \$*** in 2002. CR/PR at Table VI-4.

⁸⁰ Chinese Producers and Exporters argue that PMC's quality problems have been ongoing for years. Chinese Producers' and Exporters' Posthearing Brief, App. 1 at 1. However, some of the supporting documentation, *i.e.* call reports, predate the period of investigation and relate to the alleged grape odor problem discussed below. Chinese Producers' and Exporters' Posthearing Brief, Att. 6. As for the other documentation that is dated within the period of investigation, *** submitted Purchaser Questionnaire responses, so it is unknown to what extent, if any, their complaints affected their purchases from PMC. See Chinese Producers' and Exporters' Posthearing Brief, Atts. 5, 6. Chinese Producers and Exporters provided no written comments on draft questionnaires and did not request the Commission to collect 2003 data. See 61 Fed. Reg. 37818, 37826 (July 22, 1996) ("parties should make data collection requests in their questionnaire comments rather than later in the investigation").

⁸¹ PMC's Posthearing Brief at 9; Tr. at 56-57 (Mr. Reinwald), 80-81 (Ms. Thomas). There is evidence on the record that the existence of the grape odor has not been proven. PMC's Posthearing Brief at 9; Tr. at 207 (Mr. Hartquist). Petitioner has also explained that there have been some other minor complaints. Tr. at 57 (Mr. McCullough).

⁸² Tr. at 207 (Mr. Hartquist).

⁸³ PMC's Posthearing Brief at 10 & Exh. 4. *** also recently stated to PMC that "PMC has done a good job of supplying our saccharin needs." PMC's Posthearing Brief, Exh. 3. ***. PMC's Posthearing Brief at 11; PMC's Final Comments at 9.

⁸⁴ CR/PR at Table II-2.

⁸⁵ Chinese Producers' and Exporters' Brief at 31; Tr. at 117-18 (Mr. Ritell).

command a premium price instead of consistently underselling the domestic like product.⁸⁶ The significant value of the confirmed lost sales due solely to price also undermines respondents' arguments.⁸⁷

Respondents allege that PMC experiences problems with its deliveries.⁸⁸ However, the record indicates that any such problems occurred in 2003 – outside the period of investigation⁸⁹ and during a time when evidence on the record indicates that PMC was increasing production in order to satisfy increased orders.⁹⁰ We note that the purchaser involved in the one instance cited by respondents had substantially increased its purchases from PMC: from ***.⁹¹

Respondents argued that producers must be able to compete in the global marketplace, as the large multinational customers bid for “massive” quantities of saccharin for all of their plants worldwide and demand large quantity discounts. Respondents further argue that PMC is too small to compete effectively in this marketplace.⁹² However, PMC does sell its product to large global purchasers such as Procter & Gamble and Colgate-Palmolive,⁹³ which appear to purchase on a regional basis insofar as they are not purchasing all of their needs from one producer. *** from PMC in 2003.⁹⁴ Moreover, at least one Chinese producer, Suzhou, sells its product on a regional basis.⁹⁵

In sum, the record indicates that, by gaining significant market share in a growing U.S. market at the expense of PMC, low-priced subject imports have had a significant adverse impact on the domestic industry, as reflected in the declining levels of shipments, production, sales, and employment, combined with increasing inventories and a lack of profitability. Evidence in the record indicates that any problems PMC has with delivery and quality issues are limited in scope and do not detract from the significant adverse impact of the subject imports on the domestic industry.⁹⁶

CONCLUSION

For the reasons stated above, we determine that the domestic industry producing saccharin is materially injured by reason of imports from China that are sold in the United States at less than fair value.

⁸⁶ Tr. at 145-49 (Messrs. Perry, Ritell and Wechsler), 177-79 (Mr. Ritell).

⁸⁷ CR/PR at Table V-7.

⁸⁸ Coalition's Prehearing Brief at 7-8; Coalition's Posthearing Brief at 9; Chinese Producers' and Exporters' Posthearing Brief at 3, 12; Tr. at 118, 120 (Mr. Ritell), 213 (Ms. Coffield).

⁸⁹ As explained above, respondents did not ask the Commission to collect data for 2003.

⁹⁰ PMC's Posthearing Brief at 10. PMC admits there were delivery delays of a few days to its customers during this time, but indicates that it worked with the customers so that none experienced a production shutdown. Tr. at 80 (Ms. Thomas).

⁹¹ PMC's Posthearing Brief at 11.

⁹² Chinese Producers' and Exporters' Prehearing Brief at 3, 11-12; Chinese Producers' and Exporters' Posthearing Brief at 5.

⁹³ Tr. at 26 (Mr. Reinwald), 35 (Mr. Hudgens); PMC's Final Comments at 11. PMC also sells its product to other large customers such as Coca-Cola and Pepsico. Tr. at 26 (Mr. Reinwald), 35 (Mr. Hudgens). *** purchases on a regional as well as a global basis. *** Purchaser Questionnaire Response.

⁹⁴ PMC's Posthearing Brief at 10-11.

⁹⁵ Tr. at 176 (Ms. Ni) (Suzhou markets its product from the United States to North America, with the exception of Mexico).

⁹⁶ We also note that projections pertaining to the demand for saccharin in the future are irrelevant to a present injury determination. See, e.g., Coalition's Final Comments at 9-11; ***.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by counsel for PMC Specialties Group Inc. (PMC), Cincinnati, Ohio, on July 11, 2002, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of saccharin¹ from China. Information relating to the background of the investigation is provided below.²

<i>Date</i>	<i>Action</i>
July 11, 2002	Petition filed with Commerce and the Commission; institution of Commission investigation
August 8	Commerce's notice of initiation
August 26	Commission's preliminary determination
December 27	Commerce's preliminary determination (67 FR 79049); scheduling of final phase of Commission investigation (68 FR 1860, January 14, 2003) ³
May 20, 2003	Commerce's final determination (67 FR 27530) ⁴
May 15	Commission's hearing ⁵
June 12	Commission's vote
June 25	Commission determination sent to Commerce

SUMMARY DATA

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

¹ For purposes of this investigation, saccharin is a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feed. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) sodium saccharin (American Chemical Society Chemical Abstract Services ("CAS") Registry #128-44-9); (2) calcium saccharin (CAS Registry #6485-34-3); (3) acid (or insoluble) saccharin (CAS Registry #81-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from China are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms. Saccharin is provided for in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTS) with a normal trade relations tariff rate of 6.5 percent *ad valorem*, applicable to imports from China.

² The Commission's notice of scheduling, the Commission's notice of revised scheduling, Commerce's notice of final determination, and Commerce's notice of amended final determination, as published in the *Federal Register*, are presented in app. A.

³ On February 11, 2003, Commerce published notice of postponement of its final determination (68 FR 6885) and extended the due date to May 12, 2003. Subsequently, the Commission published notice of a revised schedule for the final phase of its investigation (68 FR 8783, February 25, 2003).

⁴ Commerce calculated final LTFV margins to be as follows: Suzhou Fine Chemical Group Co., Ltd. (291.57 percent); Shanghai Fortune Chemical Co., Ltd. (249.39 percent); Kaifeng Xinhua Fine Chemical Factory (281.97 percent); and PRC-Wide (329.33 percent). Commerce treated China as a non-market economy and selected India as a surrogate country. Commerce subsequently amended the PRC-Wide margin to 329.94 percent (68 FR 35383, June 13, 2003).

⁵ A list of witnesses appearing at the hearing is presented in app. B.

percent of U.S. production of saccharin from 2000 to 2002, the period for which data were collected in this investigation. U.S. imports presented in this report are based on official Commerce statistics.⁶

PREVIOUS INVESTIGATIONS

Saccharin was the subject of previous Commission antidumping investigations in 1977 and 1993-94. In the 1977 investigations, the Commission determined that an industry in the United States was not injured or likely to be injured by reason of LTFV imports from Japan and Korea.⁷ In the 1993-94 investigations involving China and Korea, Commerce determined that there were no sales at LTFV of saccharin from Korea and the Commission determined that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of LTFV imports of saccharin from China.⁸ The scope of the current investigation remains exactly the same as it was in the 1993-94 investigations.

THE PRODUCT

Physical Characteristics and Uses

Made from petroleum-based organic chemicals, saccharin is a chemical additive that is used primarily as a sweetener. First synthesized in 1879, it has been used in the United States as a sugar substitute since 1885,⁹ primarily in foods and beverages (either commercially added prior to consumption or personally added at the time of consumption) and in personal care products such as toothpaste and mouthwash. By weight, it is about 350 times sweeter than sugar. It is also used as an additive in adhesives and in metalworking fluids to facilitate electroplating. End users for the foods and beverages markets are mostly soft-drink manufacturers and manufacturers of table-top sweetener packets for restaurants, airlines, and other firms serving beverages to the public. The auto and auto parts industries consume saccharin in electroplating chrome bumpers and accessories. Saccharin is also used in pharmaceuticals, animal feed, tobacco, and food mixes.

Three chemical variations of saccharin are generally available:¹⁰ (1) sodium saccharin, which accounts for the bulk of U.S. consumption and which is available in granular, powder, spray-dried

⁶ Both petitioner and respondents stated that they were not aware of any products other than saccharin imported under HTS subheading 2925.11.00. Conference transcript, pp. 33 and 82.

⁷ *Saccharin from Japan and the Republic of Korea*, Investigations Nos. AA1921-174 and 175, USITC Pub. 846, December 1977. Sherwin-Williams Co. (whose saccharin production unit was subsequently purchased by PMC) filed the complaint which led to these investigations. *Ibid.*, p. A-1.

⁸ *Saccharin from China*, Investigation No. 731-TA-675 (Final), USITC Pub. 2824, December 1994. PMC was the petitioner in these investigations. *Ibid.*, p. II-3.

⁹ Saccharin's use as a sweetener increased dramatically during World War I when most sugar was rationed and sent to the troops. See "The History, Synthesis, Metabolism and Uses of Artificial Sweeteners," Greg Hodgkin, obtained online at http://wcv.emory.edu/ECIT/chem_ram/synth/Hodgin.htm on August 13, 2002.

¹⁰ A fourth variation of saccharin known as research grade saccharin was listed in the petition and is included in the scope of this investigation. However, no sales of research grade saccharin were reported by PMC, U.S. importers, and Chinese exporters during the period examined. At the public conference, there was testimony that Sherwin-Williams Chemicals (prior to PMC's purchase of its saccharin production facilities) quarantined a regular-production batch of sodium saccharin, which was then completely analytically tested to ensure that it was not an abnormal batch. This material was called research grade saccharin and was used by the University of Nebraska and other institutions that studied the health impact of saccharin. (See conference transcript, pp. 56-57.)

powder, or liquid form, (2) calcium saccharin which is available in spray-dried form, and (3) acid (or insoluble) saccharin which is primarily available in spray-dried form. Like that produced in the United States, most of the material imported from China is sodium saccharin. The U.S. and Chinese producers, or at least those that export to the United States, appear to produce reasonably comparable products. Before purchasing, most users either require a certificate of analysis or conduct their own tests for purity and for adherence to Food and Drug Administration (FDA) specifications outlined in the Food Chemical Codex (FCC) and the United States Pharmacopeia (USP). Saccharin that meets these standards is known in the market as "food grade" and is required for virtually all uses other than adhesive production and electroplating. Both the U.S.- and Chinese-produced products are marketed as "food grade."

Pursuant to a study that found saccharin to be a cancer-causing agent in rats, the FDA banned the use of saccharin in food and beverages in 1977. Shortly thereafter, Congress imposed a moratorium on the ban, but subjected the sale of saccharin to certain requirements. The Saccharin Study and Labeling Act, renewed through May 1997, mandated that health warning labels be placed prominently on all products containing saccharin. According to the petitioner, saccharin's association with cancer and the warnings pertaining thereto had a negative impact in some market sectors in the late 1980s, particularly the packaged (non-fountain) soft drink market, and was a factor in helping the only other major artificial sweetener, aspartame,^{11 12} to displace sales. However, after further study, including tests involving mice and monkeys, evidence strongly supported the conclusion that saccharin does not cause cancer in humans and the FDA delisted saccharin and on December 21, 2000, President Clinton signed the SWEETEST Act, which removed the warning label on all products using saccharin.¹³

¹¹ Aspartame is produced by a completely different chemical process and, other than being synthesized from organic compounds, bears no chemical relationship to saccharin. It is about 200 times sweeter than sugar and, unlike saccharin, has nutritive value with a caloric-count-to-weight ratio comparable to that of sugar. Aspartame's major advantage over saccharin in the marketplace, other than not having the stigma of a carcinogen that saccharin had until recently with the warning label requirement, is that it is closer to natural sweeteners in taste; on the other hand, it is 10 to 15 times more expensive than saccharin (on a sugar equivalency basis). Hearing transcript, p. 24. Aspartame is used in two of saccharin's major markets—packaged (non-fountain) soft drinks and table-top sweeteners, but is not used in some saccharin end applications such as electroplating, adhesives, and chemical intermediaries.

¹² Questions concerning the safety of aspartame, particularly the linkage between aspartame consumption by children and certain brain disorders including tumor development and epilepsy, also continue despite repeated examinations. As recently as May 2002, a study published by the French Food Safety Agency (Agence Française de Sécurité Sanitaire des Aliments (AFSSA)) concluded that

{n}one of the carcinogenicity tests that have been conducted on rodents indicated a relationship between treatment with aspartame and the appearance of brain tumors. The epidemiological study by Olney et al. (Olney JW, Farber NB, Spitznagel E, Robins LN. "Increasing brain tumour rates: is there a link to aspartame?," *J. Neuropathol. Exp. Neurol.*, 1996, 55(11), pp. 1115-1123) which suggested a link between the placing on the market of aspartame and a possible increase in the frequency of brain cancers in humans did not provide any scientific evidence to justify or demonstrate a basis for this suggestion; to date it has not been confirmed. Analysis of the scientific literature has demonstrated a lack of evidence based on the current state of knowledge which would enable a causal link to be established between the consumption of aspartame and the occurrence of epileptic seizures or anomalies on an electroencephalogram.

Assessment Report, AFSSA, May 7, 2002, p. 12.

¹³ Conference transcript, p. 20. The SWEETEST Act is an acronym for the Saccharin Warning Elimination via Environmental Testing Employing Science and Technology Act. See "Congress Gives Saccharin a Clean Bill of Health" press release of the Calorie Control Council obtained on line at <http://www.caloriecontrol.org/pr12-22-00.html> dated December 22, 2000.

The large packaged-soft-drink manufacturers, such as Coca Cola and Pepsi, switched from saccharin to aspartame in their products that were bottled for retail sale in 1983, 6 years after the Saccharin Study and Labeling Act of 1977 requiring a warning label on products containing saccharin took effect. However, because of the limited shelf life of aspartame, the large packaged-soft-drink manufacturers continued to use saccharin in their products for use in beverage dispensing equipment. With the lifting of the warning label and the growing use of blends, petitioner states that food formulators have used saccharin with other sweeteners to create cost-effective taste profiles in products prepared for retail sale.¹⁴ Adding saccharin to blends reduces the total cost of the sweetener product since most sweeteners are more expensive than saccharin.¹⁵ The amount of saccharin used in the blends varies from product to product depending on the desired food taste requirements. PMC stated that roughly 20 percent of its total sales of saccharin is used in products that contain blends.¹⁶

Manufacturing Processes

Two production processes are currently in use worldwide: the Maumee process,¹⁷ a continuous-production method which was developed in the United States and is the only process used domestically, and the older Remsen-Fahlberg process, a batch-production method using different starting materials,¹⁸ that is the predominant method used worldwide. Both processes are used in China.

Channels of Distribution

*** domestically produced saccharin is sold to end users. Although the majority of U.S. shipments of the imported Chinese product is to end users, import shipments to distributors continually increased from 23.1 percent in 2000 to 45.3 percent in 2002.

Price

Further information on prices of saccharin obtained in this investigation is presented in Part V entitled "Pricing and Related Information." In all available average quarterly price comparisons between U.S. and Chinese sodium, calcium, and acid saccharin sold to end users, the Chinese product was priced below the domestic product.

DOMESTIC LIKE PRODUCT ISSUES

In the 1993-94 investigations, the Commission determined that there was a single like product including all grades and forms of saccharin; the Commission declined to include aspartame, an

¹⁴ Conference transcript, pp. 35-38.

¹⁵ Ibid., pp. 36 and 40.

¹⁶ Ibid., p. 51.

¹⁷ Starting with methyl anthranilate and using a modified Maumee process, the first saccharin product produced by PMC is ammonia saccharin. The next step in the process is a transformation to a crude insoluble saccharin, and then to a soluble sodium saccharin, which can be purified to a grade acceptable for use by any customer. The purified sodium saccharin can be sold for use in that form, or further modified to pure insoluble acid saccharin, which can likewise be sold for use in that form or further modified to produce pure calcium saccharin. Phone interview with ***, August 15, 2002; conference transcript, pp. 21-22; petition, p. 4.

¹⁸ Ortho-toluene sulfonamide is the starting material for the Remsen-Fahlberg process. Conference transcript, p. 21; petition, p. 4.

alternative artificial sweetener, in the domestic like product.¹⁹ In this investigation, no party argued that the domestic like product should include any nonsubject product.^{20 21}

Although respondents stated during the preliminary phase of the investigation that sodium and calcium saccharin should be considered one like product, they questioned whether insoluble saccharin should perhaps be considered a separate like product, arguing that insoluble saccharin, unlike sodium and calcium saccharin, is not water soluble and not sold as a sweetener to the food industry, but is instead sold as a chemical intermediate to industries producing pesticides and herbicides.²² Respondents also claimed that transforming insoluble saccharin into sodium or calcium saccharin is very expensive and that insoluble saccharin is a high-end niche product which is sold at a much higher price than sodium saccharin and at a higher price than calcium saccharin.²³ However, during the final phase of the investigation, respondents stated that although there are differences in saccharin which have a bearing in the context of conditions of competition, they do not argue with the Commission's like product definition, per se.²⁴

PMC stated that all grades of saccharin begin with the same raw materials, involve the same production workers, and undergo essentially the same production processing steps. PMC further stated that "there have been no significant changes in the nature of the product, the production process, or the marketing for these products since the time of the prior investigation{s}." PMC produces all types of saccharin for inventory and then sells them to end users as ordered. PMC stated that the channels of distribution are "essentially the same" for all types of saccharin and although there are some price differences between the various saccharin forms, they are all sold within a similar price range.²⁵

¹⁹ USITC Pub. 2824, p. I-6.

²⁰ Respondents state that they do not argue that non-nutritive sweeteners other than saccharin, including aspartame and acesulfame K, should be included in the domestic like product, but state that they are conditions in the marketplace because they take sales away from saccharin. Respondents' postconference brief, p. 3. Hearing transcript, pp. 181-182.

²¹ PMC fully supports the Commission's previous like product determination. Conference transcript, p. 32. PMC states that it produces no other high-intensity sweeteners except saccharin, and no domestic producers of other high-intensity sweeteners also produce saccharin, so there is no overlap of production facilities or employees. PMC also states that the chemical structure and physical characteristics of each high-intensity sweetener is unique and the raw material processing used to produce saccharin is different than those used to produce the other sweeteners. Also, whereas use of other high-intensity sweeteners is usually restricted to food and beverages, saccharin is used in a variety of other end uses, and is consistently priced lower than all other high-intensity sweeteners. Petitioner's postconference brief, p. 4. Petitioner's prehearing brief, p. 2.

²² Respondents' postconference brief, pp. 4-5 and 7.

²³ *Ibid.*, p. 6. It appears that respondents confused the crude insoluble form of saccharin which is produced early in the production process and not typically sold commercially with the acid (insoluble) saccharin which is produced from sodium saccharin and either sold (largely to produce herbicides and pesticides) or consumed to produce calcium saccharin. ***. Throughout this report, unless otherwise specified, all references to acid and/or insoluble saccharin refer to the "finished" product which is marketed commercially and not to the crude insoluble form of saccharin produced early in the production process. Acid (insoluble) saccharin is sold at a higher price than sodium saccharin, and calcium saccharin is usually the highest priced saccharin. See tables III-3 and IV-2; conference transcript, pp. 21-22; and phone interview with ***, August 15, 2002. ***. Phone interview with ***, April 24, 2003. PMC states that it has ***, but to produce acid (insoluble) saccharin from sodium saccharin, and to produce calcium saccharin from acid saccharin involves only "a few additional steps that add a small portion of value to the product." Phone interview with ***, August 15, 2002; petitioner's postconference brief, p. 5.

²⁴ Hearing transcript, p. 182.

²⁵ Petitioner's postconference brief, p. 3.

Semi-Finished Product Analysis

Crude insoluble saccharin²⁶ is transformed into sodium saccharin, which can be sold in that form, or modified into acid (insoluble) saccharin. The acid (insoluble) saccharin can be sold in that form or further modified into calcium saccharin. According to PMC, the molecular structures of all forms of saccharin are the same and begin with the same raw materials and undergo the same processing steps. PMC states that the few additional steps that acid (insoluble) saccharin and calcium saccharin go through at the end of the production process are “not significant,” although they do “add a small portion of value to the products.”²⁷ PMC further states that the channels of distribution²⁸ are also similar and all of its saccharin is produced for inventory and then sold and shipped when an order is received.²⁹ *** of PMC’s sodium saccharin is sold to end users³⁰ and the rest is further processed into acid (insoluble) saccharin. In 2002, approximately *** percent of PMC’s acid (insoluble) saccharin was sold to end users³¹ and the remaining portion was further processed into calcium saccharin, which was in turn *** sold to end users.³²

Respondents state that insoluble saccharin is sold to the chemical industry to produce such products as pesticides and herbicides. Respondents state that insoluble saccharin is produced in the production process before sodium saccharin.³³ They also state that to transform insoluble saccharin into sodium and calcium saccharin is “very expensive” and that sodium and calcium saccharin are sold to food industries, whereas insoluble saccharin is sold as a chemical intermediate to industries producing pesticides and herbicides.³⁴

²⁶ ***. Phone interview with ***, August 15, 2002.

²⁷ Petitioner’s postconference brief, p. 5.

²⁸ *** of PMC’s sales are to end users and *** are to distributors.

²⁹ Petitioner’s postconference brief, p. 5.

³⁰ Commercially sold sodium saccharin is primarily used as a sweetener in such diverse applications as table top sweeteners and fountain beverages, animal feeds, tobacco, personal care products such as mouthwash and toothpaste, pharmaceuticals, and in scented candles; some sodium saccharin is also used in such industrial products as adhesives and metal working fluids. Phone interview with ***, August 16, 2002, and hearing transcript, p. 24.

³¹ *** percent of commercially sold acid (insoluble) saccharin is used as an intermediate in herbicide and pesticide production. Other end uses include use as a sweetener in beverages, mouthwash, chewing gum, lip balm, pharmaceuticals, denture cream, and toothpaste as well as being used in adhesives. Phone interview with ***, August 16, 2002, and hearing transcript, p. 25.

³² Calcium saccharin is used in tabletop sweeteners, foods, soft drinks (primarily canned or bottled), and chewing gum. Phone interview with ***, August 16, 2002, and hearing transcript, p. 25.

³³ ***. Phone interview with respondents’ counsel, August 16, 2002. As previously mentioned, PMC, in its production process, produces sodium saccharin before acid (insoluble) saccharin.

³⁴ Respondents’ postconference brief, pp. 6-8.

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

The saccharin marketed in the United States by PMC and by importers is used in a variety of consumer products as well as industrial and agricultural applications. PMC's end uses are detailed in the following tabulation.^{1 2}

<u>End use</u>	<u>Percent of total sales</u>
Animal feed	***
Candy, gum, mints	***
Flavor and fragrance	***
Personal care (toothpaste and mouthwash)	***
Pharmaceuticals	***
Soft drinks	***
Tabletop sweeteners	***
Tobacco	***
<hr/> Total	100

For the most part, there is little seasonality in the demand for saccharin in most uses. One exception is diet soft drinks. As sales of soft drinks increase during summer months the demand for the saccharin used in these beverages also increases.³

*** sales in the United States by PMC went to end users and *** to distributors during 2000-2002; sales by importers of Chinese-produced saccharin were divided between end users and distributors during this period, with the majority going to end users. Sales of Chinese imports to end users accounted for 77 percent of their total sales in the United States in 2000, 75 percent in 2001, and 55 percent in 2002.

Lead times for delivery of saccharin vary widely. PMC reported that they range from *** to ***. Importers reported that the lead time ranges from one to five days if saccharin is in stock in the United States. However, if it has to be ordered, two to three months may be required.

PMC sells saccharin throughout the continental United States, while market areas for Chinese imports vary. Four of the eleven responding importers said that they sell saccharin throughout the United States. A fifth firm also considers the entire United States to be its market area, but most of its sales are in the Midwest. The other six firms sell principally in the Northeast or Midwest, with one firm also listing Georgia and California as markets.

Inland shipping distances for U.S.-produced saccharin were compared with those for imports from China. PMC reported that *** percent of its U.S. sales occur within 100 miles of its production facility, *** percent are within distances of 101 to 1,000 miles, and *** percent occur at distances of

¹ PMC's posthearing brief, Exh. 1.

² Break-outs of end use markets for imports from China are not available. However, the *** purchasers of saccharin during 2000-2002 that provided questionnaires, ***. In addition, *** importer of acid saccharin, ***, imported substantial quantities from China that *** during this three year period. During 2002, the value of these imports by *** were *** of the total value of U.S. apparent consumption of saccharin.

³ Conference transcript, p. 41.

over 1,000 miles from its facility. For Chinese imports, an average of 63 percent of sales occur within 100 miles of importers' storage facilities or ports of entry, 34 percent are within 101 to 1,000 miles, and 3 percent involve distances of over 1,000 miles.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

The sensitivity of the domestic supply to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced saccharin, inventory levels, and PMC's ability to shift to the manufacture of other products. The overall evidence indicates that PMC could easily expand output and U.S. shipments in response to an increase in price.

PMC had *** excess capacity during 2000-2002, and had *** ratios of both exports and inventories in relation to U.S. shipments during this period. Capacity utilization rates ranged from a high of *** percent in 2000 to a low of *** percent in 2002. The ratio of exports to U.S. shipments ranged between *** and *** percent during these years, and the ratio of end-of-period inventories to U.S. shipments ranged between *** and *** percent. In addition, PMC reported that it can ***.

U.S. Demand

Since saccharin is an intermediate product used in various consumer products and agricultural and industrial applications, the overall U.S. demand for saccharin depends upon the demand for the products that use it as an input. Saccharin is an input in many products including soft drinks, table top sweeteners, certain foods, toothpaste, mouthwash, pharmaceuticals, animal feed, herbicides, and metal-working fluids. The overall demand for saccharin as measured by apparent consumption increased from *** pounds in 2000 to *** pounds in 2001 and to *** pounds in 2002.⁴

PMC and the importers were asked whether the demand for saccharin had increased or decreased since the beginning of 2000, and were also asked to discuss the principal factors that affected demand. PMC said that demand had increased due to legislation signed on December 21, 2000, that resulted in the removal of the warning label requirement on products using saccharin.⁵ Most importers stated that they did not know whether overall demand had increased or decreased during the specified period. Of the two that responded, one said that sales of saccharin had decreased due to increased demand for other sweeteners, and one said that there were no major changes in demand. End user purchasers were also asked whether the demand for their end use products that incorporate saccharin has changed since the beginning of 2000. The majority of purchasers reported that no change had occurred. However, one purchaser said that the demand for its table top sweetener had increased slightly during this period. It said that the increase was due to normal factors, and possibly to the removal of the warning label on saccharin. One firm said that the overall demand for its toothpaste has increased significantly over the period, and that this has resulted in an increased demand for saccharin.

⁴ The results of a study by *** included in the U.S. Sweetener Users Coalition posthearing brief indicates that the overall demand for saccharin has been declining, and is likely to continue to decline due to a bitter aftertaste and lingering health concerns (see U.S. Sweetener Users Coalition posthearing brief, app. 3, p. 6 ; see also the U.S. Sweetener Coalition submission of May 23, 2003, containing the entire study by ***).

⁵ Conference transcript, p. 10.

Substitute Products

When asked what other products could be used as substitutes for saccharin, PMC and eight importers listed a number of products. The substitutes included sugar and other artificial sweeteners including aspartame, acesulfame-K, and sucralose. All of these other artificial sweeteners are far more expensive than saccharin.⁶ The substitution of other sweeteners for saccharin is often not considered economically or technically feasible in many important applications including toothpaste,⁷ animal feed, pharmaceuticals and electroplating. PMC estimated that saccharin has no substitutes in *** percent of its uses. However, saccharin does face competition from aspartame in table top sweeteners. In addition, saccharin is often blended with aspartame and other sweeteners in soft drinks. In these applications, PMC considers these sweeteners to be complementary with saccharin rather than substitutes.⁸

Cost Share

The cost of saccharin is generally a small share of the final cost of the major end-use products where it is used. *** reported that saccharin accounts for about 5 percent of the cost of table top sweeteners, approximately 2 percent of the cost of animal feed and electroplating applications, and more than 1 percent of the cost of soft drinks, personal care products, and pharmaceuticals. *** estimated that saccharin accounts for about 5 percent of the cost of table top sweeteners. *** estimated that the cost of saccharin accounts for about 10 percent of the final product price in food grade applications, about 5 percent in beverages, about 2 percent in dental products, and about 3 percent in electroplating applications. No other importers provided estimates of cost shares. Estimates by purchasers indicated that saccharin typically accounts for about 10 percent of the total cost in certain food applications, between 7 and 26 percent of the cost of table top sweeteners, and less than 1 percent of the cost of toothpaste, mouth wash and cough/cold medicines.

SUBSTITUTABILITY ISSUES

The extent of substitutability between domestic products and subject imports, between domestic products and nonsubject imports, and between subject and nonsubject imports is examined in this section. Much of the discussion is based on information obtained from purchaser questionnaires.

A total of 24 purchasers submitted questionnaires. They included fifteen distributors and nine end users. The end users reported that they used saccharin in toothpaste, table top sweeteners, oral care products, and medicine. Eighteen purchasers reported buying saccharin from China during the 2000-2002 period, while just ten reported any purchases of U.S.-produced saccharin during this period. Two purchasers bought saccharin exclusively from Japan and one bought exclusively from Korea. The combined value of the reported purchases by the 24 firms amounted to \$6.3 million in 2000, \$8.1 million in 2001 and \$7.2 million in 2002. Purchases of imports from China accounted for 20 percent of total purchases by these firms in 2000, 32 percent in 2001, and 41 percent in 2002.

Purchasers were asked to report whether their relative shares of purchases from different country sources had changed in the last three years, and the reason for any change. The majority said that no change had occurred. Six firms reported a change in the relative purchases of U.S.-produced and

⁶ Purchasers were also asked to list substitute products, but most were not familiar with any substitutes. ***.

⁷ ***.

⁸ The information presented in this paragraph was obtained from the conference transcript, pp. 24-25 and 34-43, questionnaire responses, and in telephone conversations with ***.

Chinese-produced saccharin with four reporting an increase in the Chinese share and two reporting a decrease.

Reasons cited for the changes in shares varied. ***, an end user customer, said that it has increased its purchases from China and reduced its purchases from PMC because of the lower price for the imports. ***, a distributor that buys small amounts of saccharin, said that it has increased its purchases of the Chinese product while reducing purchases from PMC because of customer requirements. ***, a major end user, stated that it had increased its purchases of imports from China to ensure supply and product availability.⁹ ***. It does not believe that PMC is capable of meeting its U.S. needs, much less its global demand, as a reliable supplier. *** said that PMC recently experienced labor difficulties that ***. *** said that it is known in the industry that PMC has been experiencing quality problems (odor), which would have an adverse effect on its toothpaste and result in a foul taste.¹⁰ *** said that it has increased its purchases of Chinese imports while reducing purchases from PMC because of the better quality of the Chinese product (higher purity, no contaminants), a willingness and ability to service its global demand, an interest in meeting its business needs, and a lower cost of the product.¹¹ *** said that it reduced its purchase from PMC because of material quality issues including a persistent odor as well as contaminants in the product when received from the producer, and a lack of responsiveness on the part of the producer to addressing the quality issues. *** said that the cost of PMC's saccharin is higher than the cost of imports from China.

Of the two firms that reported a shift in purchases from China to PMC, one firm, ***, reported that it has increased purchases from PMC and reduced purchases from China because of price considerations. The other firm, *** reported that it has shifted its purchases from China to PMC for varied reasons.

Factors Affecting Purchasing Decisions

Purchasers reported that a variety of factors are considered important in purchases of saccharin. When asked to rank the three most important factors considered in purchasing decisions, price ranked highest with 7 of the 23 purchasers that responded to the question choosing this as their number one factor, and 18 purchasers choosing price as one of their top three factors (table II-1). Quality and availability were the next most important factors in purchasing decisions. Other factors mentioned by purchasers included traditional supplier, customer approval, and service.

In order to obtain more information on purchasing decisions, firms were asked whether these decisions are based mainly on price. Purchasers were instructed to answer always, usually, sometimes,

⁹ *** reported in its purchaser questionnaire that the total value of its saccharin purchases amounted to \$*** in 2000, \$*** in 2001, and \$*** in 2002. All purchases consisted of U.S.-produced and Chinese-produced products during these years. *** purchases of the Chinese product increased from *** percent in 2000 to *** percent in 2001, and to *** percent in 2002.

¹⁰ While *** was one of three purchasers that ranked the quality of saccharin from PMC inferior to the quality of imports from China, (see table II-2), it did not detail any specific problems that it has had with the PMC product in its purchaser questionnaire. Similarly, in the posthearing brief from the U.S. Sweetener Users Coalition, *** indicated that PMC's saccharin has quality problems but did not discuss those problems in detail (see U.S. Sweetener Users Coalition posthearing brief, app. 4, p. 3).

¹¹ *** reported in its purchaser questionnaire that the total value of its saccharin purchases amounted to \$*** in 2000, \$*** in 2001, and \$*** in 2002. All purchases consisted of U.S.-produced and Chinese-produced products during these years. ***'s purchases of the Chinese product increased from *** percent in 2000 to *** percent in 2001, and to *** percent in 2002.

Table II-1
Saccharin: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor ¹
Availability	4	4	3
Price	7	6	5
Quality	5	5	5
Other ²	7	8	9

¹ One firm ranked two rather than three factors.
² Other factors include traditional supplier, customer approval, and service.

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

or never. Among the 23 responding purchasers that answered the question, one selected always, nine selected usually, seven selected sometimes, and six selected never.

Comparisons of Domestic Products and Subject Imports

While PMC and importers of saccharin from China offer competing products that are often sold to the same customers, some factors other than price limit the extent of competition. These factors are discussed below. When asked whether U.S.-produced saccharin and imported saccharin from China can be used interchangeably, PMC¹² and the majority of importers answered yes. Of the eleven importers of saccharin from China that responded, eight firms said that they are interchangeable and three reported that they did not know. Among firms answering yes, *** qualified its answer by stating that in some instances uniformity in particle size favors imports from China.¹³ Of the three firms that import from sources other than China, one said that the U.S. and Chinese products are probably interchangeable, while the other two did not respond to the question.

PMC and the importers were also asked whether differences in product characteristics or sales conditions between U.S.-produced saccharin and imports from China have a significant effect on sales of the products. PMC stated that the Chinese product is very similar to its own product and interchangeable in use,¹⁴ but commented that imports from China have ***. Two importers of saccharin from China answered no to the question, but responses from other importers were varied. *** stated that size consistency and non-clumping favor the Chinese imports. *** also said that the products differ in taste. Another importer, ***, said that customers may demand fast delivery which only a domestic producer can deliver. A third importer, ***, said that the U.S.-produced saccharin is usually higher priced. A fourth importer, ***, said that the products differ slightly in quality, purity, color, and granulation. The other five importers of Chinese material did not respond to the question. Similarly, none of the importers of saccharin from sources other than China responded to the question.

In addition to these questions for producers and importers, purchasers that are familiar with both U.S.-produced and imported saccharin from China were asked whether the products are used in the same

¹² See conference transcript, pp. 15, 23-24, and 26-27.

¹³ The respondents' posthearing brief for Suzhou Fine Chemicals Group Co. Ltd., Shanghai Fortune, Helm Chemical Co., Suzhou-Chem U.S.A., and Rit-Chem discusses quality complaints by certain purchasers concerning PMC's saccharin that were obtained from call reports and letters (see appendices to that brief).

¹⁴ See conference transcript pp. 15, 23-24, and 26-27.

applications. Of the 14 purchasers that specifically compared saccharin from the two countries, 12 answered yes and two answered no.¹⁵

Purchasers were also asked to compare U.S.-produced saccharin with imported saccharin from China in selected characteristics, noting whether the domestic product was superior, comparable, or inferior to the imports. The characteristics chosen were availability, delivery terms, delivery time, discounts offered, minimum quantity requirements, packaging, product consistency, product quality, product range, reliability of supply, technical support/service, transportation network, U.S. transportation costs, and price (table II-2). Ten purchasers provided comparisons in these categories. The results show that a majority of purchasers ranked the U.S.-produced saccharin and imported saccharin from China comparable in most categories. The only exceptions were price and delivery time. For price, a majority of purchasers ranked U.S. saccharin inferior to the Chinese product. For delivery time, a majority of purchasers ranked the U.S. product either superior to or comparable with imports from China.

Comparisons of Domestic Products and Nonsubject Imports

PMC and the importers were asked whether U.S.-produced saccharin and imports from nonsubject sources are interchangeable in use, and whether differences in product characteristics or sales conditions have a significant effect on sales of the products. *** nine importers stated that the products are interchangeable, while five other importers reported that they did not know. With respect to product characteristics and sales condition, *** five importers answered no, one answered yes, and eight importers indicated that they did not know. The firm that answered yes reported that PMC's saccharin and imports from nonsubject countries differ slightly in quality, purity, color, and granulation.

Most purchasers did not provide comparisons between U.S.-produced saccharin and imports from nonsubject sources. Two firms said that the U.S. product and imports from Korea can be used in the same applications. Another firm compared the U.S. product with imports from Japan in the 14 characteristics described earlier. It ranked the products comparable in all characteristics. A third firm compared the U.S. product with imports from Japan and Korea in the fourteen characteristics. It ranked imports from both sources comparable to the U.S. product in all characteristics except delivery time, technical support, and U.S. transportation costs. It ranked the U.S. product superior to imports from both countries in delivery time and technical support, but inferior in U.S. transportation costs. A fourth firm that compared the U.S. product with imports from Korea in the 14 characteristics, ranked the U.S. product superior in delivery time, reliability of supply, technical support and transportation, but inferior in discounts offered and price. It ranked the products of the two countries comparable in the other eight characteristics.

Comparisons of Subject Imports and Nonsubject Imports

PMC and the importers were asked whether imports from China and from nonsubject sources are interchangeable in use, and whether differences in product characteristics or sales conditions have a significant effect on sales of the products. *** seven importers stated that the products are interchangeable, one said that they are not, and seven reported that they did not know. With respect to product characteristics and sales condition, *** four importers answered no, three answered yes, and six

¹⁵ *** stated that it uses only domestically produced saccharin for cough medicine, *** uses both U.S.-produced and imported saccharin from China in toothpaste. *** said that it has historically used both U.S.-produced and imported Chinese saccharin in its mouthwash products.

Table II-2
Saccharin: Comparisons between U.S.-produced and Chinese products as reported by U.S. purchasers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. Inferior
Availability	0	8	2
Delivery terms	1	8	1
Delivery time	4	4	2
Discounts offered	0	6	4
Lowest price ^{1 2}	0	4	5
Minimum quantity requirements	1	7	2
Packaging	0	7	3
Product consistency	0	7	3
Product quality	0	7	3
Product range	0	10	0
Reliability of supply	1	6	3
Technical support/service	4	6	0
Transportation network	3	7	0
U.S. transportation costs ²	2	6	1

¹ A rating of superior means that the price is generally lower. For example, if a firm reports U.S. superior, this means that it rates the U.S. price generally lower than the Chinese price.

² One firm did not compare the United States and China in transportation costs and one firm did not compare these countries in price.

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

reported that they did not know. Of the three importers that answered yes, one said that the quality of imports from Japan is superior to that of imports from China; another stated that imports from China are superior to nonsubject imports in taste and uniformity, and the third answered that Japan and Korea produce saccharin that is equivalent in specifications to that produced by PMC.

Most purchasers did not provide comparisons between imports from China and from nonsubject sources. Two firms said that imports from China and Korea can be used in the same applications. One of these firms compared imports from China and Korea in the 14 characteristics described earlier. It ranked Chinese product lower in price, but comparable in all other characteristics.

ELASTICITY ESTIMATES

U.S. Supply Elasticity¹⁶

The domestic supply elasticity for saccharin measures the sensitivity of the quantity supplied by the U.S. producer to changes in the U.S. market price of saccharin. This elasticity depends upon several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced saccharin, inventory levels, and the producer's ability to shift to the manufacture of other products. The earlier analysis of these factors indicates that the U.S. industry should have considerable flexibility in adjusting supply in response to price change. Therefore, this elasticity is likely to be near the high end of the 5 to 10 range.

U.S. Demand Elasticity

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

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported saccharin from China.¹⁷ Product differentiation, in turn, depends upon such factors as quality and conditions of sale (availability, delivery, etc.). Based on available information indicating that the domestic and imported products from China can generally be used interchangeably, the elasticity of substitution between U.S.-produced saccharin and imported saccharin is likely to be in the range of 3 to 5.

¹⁶ A supply function is not defined in the case of a non-competitive market.

¹⁷ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like product to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject imports (or vice versa) when prices change.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire response¹ of one firm that accounted for 100 percent of U.S. production of saccharin during the period examined.

U.S. PRODUCER

Petitioner PMC is the only producer of saccharin in the United States. PMC is wholly owned by PMC, Inc., Sun Valley, CA, which purchased the saccharin-producing operations of Sherwin-Williams Co. in 1985. Sherwin-Williams began producing saccharin in 1966 when it purchased the Cincinnati, OH, saccharin plant of Maumee Chemical Co. Numerous other firms, including Monsanto Co., St. Louis, MO; Lakeway Chemical Co., Muskegon, MI; and Pillsbury Co., Minneapolis, MN, previously produced saccharin in the United States. All of these other firms ceased production of the subject product by 1972.

PMC imported *** saccharin from China in 2001,² but ***. PMC is not related to any firm, either domestic or foreign, engaged in producing saccharin, importing saccharin from China into the United States, or exporting saccharin from China to the United States.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on PMC's capacity, production, and capacity utilization are presented in table III-1. Its reported capacity is *** than the U.S. market according to data collected in this investigation.

Table III-1
Saccharin: U.S. producer's capacity, production, and capacity utilization, 2000-2002

* * * * *

PMC's production of saccharin continually decreased from 2000 to 2002 while apparent consumption continually increased during that period. PMC's production declined by *** percent from 2000 to 2002 while apparent consumption increased by *** percent. PMC normally shuts down its saccharin unit for up to 4 weeks a year for maintenance.³ ***.

¹ PMC's questionnaire responses include data on saccharin in liquid form; these data were reported on a dry basis. Conference transcript, p. 47. Hearing transcript, pp. 104-105 and 206.

² See conference transcript, p. 110. See Part IV for further details on PMC's imports.

³ Conference transcript, pp. 16-17. For 2002, PMC stated at the public conference in the preliminary phase of the investigation that it expected to be closed for 16 weeks because of reduced sales. Ibid.

U.S. PRODUCER'S DOMESTIC SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

PMC's shipments of saccharin are shown in table III-2. The volume and value of its U.S. shipments of saccharin declined from 2000 to 2002 by *** and *** percent, respectively. However, the average unit value of its U.S. shipments rose by *** percent during the same period. *** of its U.S. shipments were made to end users.

Table III-2
Saccharin: U.S. producer's shipments, by type, 2000-2002

* * * * *

PMC reported *** internal consumption/company transfers of its domestically produced saccharin.⁴ Its export shipments, which accounted for ***, ***, and *** percent of the value of its total shipments in 2000, 2001, and 2002, respectively, were principally made to ***.

PMC's U.S. shipments of saccharin by type are shown in table III-3. ***.

Table III-3
Saccharin: U.S. producer's U.S. shipments, by type of saccharin, 2000-2002

* * * * *

U.S. PRODUCER'S INVENTORIES

As shown in table III-4, PMC's end-of-period inventories of saccharin and inventories as ratios to production, U.S. shipments, and total shipments decreased from 2000 to 2001 and then increased to period highs in 2002.

Table III-4
Saccharin: U.S. producer's end-of-period inventories, 2000-2002

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by PMC on the number of production and related workers (PRWs) engaged in the production of saccharin, the total hours worked by such workers, and wages paid to such PRWs during 2000-2002 are presented in table III-5. ***.⁵

⁴ ***, PMC further processes some of its sodium saccharin to produce acid (insoluble) saccharin, some of which it in turn further processes into calcium saccharin. See Part IV for details on PMC's *** of its imported saccharin.

⁵ Petitioner's posthearing brief, pp. 13-14.

Table III-5
Saccharin: Average number of production and related workers producing saccharin, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2000-2002

* * * * *

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

U.S. IMPORTERS

The Commission sent questionnaires to 29 firms believed to be importers of saccharin. Questionnaire responses with usable data were received from 15 firms, 12 of which reported that they imported the subject product.¹ With the exception of ***, it is believed that all the major importers of saccharin from China responded to the Commission's questionnaire. In comparison with official statistics of the U.S. Department of Commerce, questionnaire data of the responding firms accounted for approximately 93, 88, and 88 percent of the volume of imports from China in 2000, 2001, and 2002, respectively. Official statistics are used in this report due to incomplete questionnaire coverage of subject imports and the fact that both petitioner and respondents stated that they are not aware of any product other than saccharin which is imported under HTS subheading 2925.11.00.²

Suzhou-Chem USA is the only importer known to be related to a producer of saccharin in China. It is ***-owned by Suzhou Fine Chemicals Group Co., Ltd. (Suzhou). ***.

PMC imported *** pounds of saccharin from China in 2001.³ Its imports were equal to *** percent of its production in that year. PMC ***.

Questionnaire respondents were primarily located in New York (4), New Jersey (3), California, (2), and Massachusetts (2).⁴ Four firms reported imports of saccharin from Japan or Korea during the 2000-2002 period examined. *** U.S. importers imported saccharin under the temporary importation under bond (TIB) program and *** entered the subject product into or withdrew it from foreign trade zones or bonded warehouses.

U.S. IMPORTS

Table IV-1 shows that the quantity and value of U.S. imports of saccharin from all sources increased from 2000 to 2002 by 92 and 71 percent, respectively, while average unit values decreased by 11 percent during the same period. Most of the increase in total imports from 2000 to 2002 is attributable to imports from China, which rose from 2000 to 2002 by 152 percent. Imports from all other sources combined also increased by 30 percent during the same period. About 64 and 32 percent of the import quantities from all other sources combined in 2002 were from Korea and Japan, respectively.⁵

¹ The following importers reported imports from China: Suzhou-Chem USA, Inc.; Rit-Chem Co., Inc. (Rit-Chem); Helm New York Inc.; PMC Specialties Group, Inc.; ***. The following importers reported imports from countries other than China: ***.

On March 10, 2003, Colgate Palmolive, ***, imported *** pounds of Chinese-origin saccharin produced by ***. Telephone interview with counsel for Colgate Palmolive, April 29, 2003. See also letter from Colgate Palmolive's counsel, March 31, 2003, stating that Colgate Palmolive had imported Chinese saccharin.

² Conference transcript, pp. 33 and 82.

³ See testimony of Ms. Joan Ni of Suzhou-Chem USA that PMC "bought ten tons of insoluble saccharin from us [in November 2001]" (conference transcript, p. 110). ***. E-mail transmission by Brad Hudgens, August 7, 2002. Respondents describe PMC's joint venture discussions as "sham negotiations" and "attempts to get data to file a dumping case." Conference transcript, p. 62. See letter from Shirley Coffield of Aitken Irvin Berlin & Vrooman, LLP, March 31, 2003. See also hearing transcript, pp. 94-95.

⁴ Importers of the subject product were located in ***.

⁵ Imports from Korea and Japan increased by 12 and 90 percent, respectively, from 2000 to 2002.

Table IV-1
Saccharin: U.S. imports, by sources, 2000-2002

Source	Calendar year		
	2000	2001	2002
Quantity (1,000 pounds)			
China	1,409	2,598	3,546
All others	1,363	1,490	1,767
Total	2,772	4,088	5,313
Value (\$1,000)¹			
China	2,353	4,011	5,574
All others	2,963	3,195	3,497
Total	5,316	7,206	9,071
Unit value (per pound)			
China	\$1.67	\$1.54	\$1.57
All others	2.17	2.14	1.98
Average	1.92	1.76	1.71
Share of quantity (percent)			
China	50.8	63.6	66.7
All others	49.2	36.4	33.3
Total	100.0	100.0	100.0
Share of value (percent)			
China	44.3	55.7	61.4
All others	55.7	44.3	38.6
Total	100.0	100.0	100.0
¹ Landed, duty-paid. Note.—Unit values and shares are calculated from the unrounded figures. Source: Compiled from official statistics of the U.S. Department of Commerce.			

U.S. SHIPMENTS OF U.S. IMPORTS BY TYPE

Table IV-2 shows U.S. shipments of U.S. imports from China by type of saccharin. Responding importers reported most shipments during the reporting period were sodium saccharin, followed by calcium saccharin and then acid (insoluble) saccharin.⁶ ***.

Table IV-2

Saccharin: U.S. importers' U.S. shipments of Chinese product, by type of saccharin, 2000-2002

* * * * *

APPARENT U.S. CONSUMPTION

As presented in table IV-3, the volume of apparent U.S. consumption increased by *** percent⁷ while the value fell by *** percent from 2000 to 2002.

U.S. MARKET SHARES

PMC's share of consumption decreased by *** from 2000 to 2002 and China's share of consumption increased by *** during the same period (table IV-4).

⁶ As previously mentioned, most nonsubject saccharin imports are either from Korea or Japan. According to petitioner, about 90 percent of the Korean product is sodium saccharin and the remaining 10 percent is predominantly calcium saccharin, whereas virtually all the Japanese product is calcium saccharin. Petitioner's postconference brief, p. 10, n. 1.

⁷ The increase in apparent U.S. consumption presented in this report is probably overstated because it is based on official Commerce import statistics instead of importers' U.S. shipments, and thus does not take into account changes in inventories or exports of the imported product. However, the amount by which it is overstated appears to be only *** between 2000 and 2002. As shown in table VII-3, reported inventories of saccharin from all sources increased from *** pounds at the beginning of 2000 to *** pounds at yearend 2000 to 490,000 pounds at yearend 2001 and 587,000 pounds at yearend 2002. Reported export shipments of imported saccharin, all of which was from China, increased from *** pounds in 2000 to *** pounds in 2001 and then decreased to *** pounds in 2002. Apparent U.S. consumption revised to account for changes in inventory and export shipments of imported saccharin from all sources increased from *** pounds in 2000 to *** pounds in 2001 and *** pounds in 2002, or by *** percent between 2000 and 2002.

Table IV-3

Saccharin: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 2000-2002

Item	Calendar year		
	2000	2001	2002
Quantity (1,000 pounds)			
U.S. producers' shipments	***	***	***
U.S. imports from—			
China	1,409	2,598	3,546
All other sources	1,363	1,490	1,767
Total imports	2,772	4,088	5,313
Apparent U.S. consumption	***	***	***
Value (\$1,000)			
U.S. producers' shipments	***	***	***
U.S. imports from—			
China	2,353	4,011	5,574
All other sources	2,963	3,195	3,497
Total imports	5,316	7,206	9,071
Apparent U.S. consumption	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.			

Table IV-4

Saccharin: Apparent U.S. consumption and market shares, 2000-2002

* * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

PMC's raw material costs accounted for *** percent of the cost of goods sold in 2000, *** percent in 2001, and *** percent in 2002. Isatoic anhydride and methyl anthranilate are the starting materials in PMC's production of saccharin.

Transportation Costs to the U.S. Market

Ocean transportation costs for saccharin shipped from China to the United States averaged 5.4 percent of the customs value of these imports during 2002. These estimates are derived from official import data and represent the transportation and other charges on imports.¹

U.S. Inland Transportation Costs

U.S. inland transportation costs generally account for a small share of the delivered price of saccharin. PMC reported that these costs accounted for about *** percent of the total delivered cost. Estimates by importers ranged from 1 to 10 percent, with the majority reporting shares of 5 percent or less.

Exchange Rates

Nominal exchange rates are not presented since the Chinese currency, the yuan, has consistently been pegged to the U.S. dollar since January 1, 1994. Therefore, the U.S. and Chinese currencies were virtually constant in relation to each other throughout 2000-2002.² Real exchange rates cannot be calculated since no producer price index for China is available.

PRICING PRACTICES

Questionnaire responses show that prices of saccharin are determined in a variety of ways. PMC reported that it ***. *** stated that it negotiates prices on a transaction-by-transaction basis taking into account its own costs and general market conditions. *** said that the price for *** generally remains in effect for one year. *** said that prices are related to transaction volumes, tending to decrease as the transaction quantity increases. Other importers frequently cited transaction-by-transaction negotiations as the principle method for arriving at prices. One firm also stated that it uses price lists along with these negotiations. Another firm said that it sets prices to maximize its profits, and still another said that it attempts to obtain the highest price that the market will bear.

PMC said that it ***.³ Most importers reported that they don't have a discounting policy. *** reported the use of a standard schedule of quantity discounts. *** reported that it provides discounts based upon volume in some cases. Neither of *** have a discount policy, although *** said that prices

¹ The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2002 and then dividing by the customs value.

² International Monetary Fund, *International Financial Statistics*, April 2003.

³ ***.

are likely to be lower in the case of large sales. *** also stated that most large volumes are subject to bid competition. Neither *** nor *** offer discounts for the early payment of accounts.

Saccharin prices are commonly quoted on either an f.o.b. or delivered basis by both PMC and importers. PMC reported that it quotes prices ***. Among importers, *** quotes prices on an f.o.b. dock, f.o.b. warehouse, or delivered basis, and *** quotes prices on a delivered basis. Among the other importers of the Chinese product, prices are quoted on an f.o.b. or delivered basis, or on a c.i.f. basis from points of shipment in the United States.

Saccharin is commonly sold on either a spot or contract basis. PMC reported that approximately *** percent of its sales are contract, and *** percent are spot. Among importers, Suzhou-Chem said that *** percent of its sales are contract and *** percent are spot, and Rit-Chem reported that its sales are ***. Among the other eight importers of the Chinese product that answered the question, five reported that all sales are spot, one reported that all are contract, one reported that 95 percent are contract and 5 percent are spot. The remaining firm said that 40 percent of its sales are contract and 60 percent are spot.

Contract terms tend to be similar for PMC and for those importers that account for most of the contract sales of imports from China. PMC's contracts are ***. ***. Most importer contracts are for one year with prices and quantities usually fixed during the year. They are generally renegotiated annually. Most do not have meet or release provisions. Policies concerning standard quantity requirements vary widely, ranging from no requirements to as much as 300,000 pounds annually. Similarly, policies concerning price premiums for sub-minimum shipments also vary. In some cases there are no extra charges, and in others the charges can range as high as 20 percent of the value of the shipment.

PRICE DATA

The Commission asked U.S. producers and importers of saccharin to provide quarterly quantity and value data for specified products that were shipped to unrelated customers in the U.S. market during 2000-2002. Pricing data were requested on the following products:

Product 1.—Sodium saccharin, granular, sized or unsized, FCC, 10-17 percent water.

Product 2.—Sodium saccharin, powder, FCC, 3-6 percent water.

Product 3.—Acid or insoluble saccharin, spray-dried powder, FCC.

Product 4.—Calcium saccharin, granular, spray-dried powder, FCC.

Product 5.—Sodium saccharin, granular, sized or unsized, non-food grade, 10-17 percent water.

The U.S. producer and 11 importers of saccharin from China reported varying amounts of price information. PMC's price data accounted for *** percent of its U.S. shipments in 2000, *** percent in 2001, and *** percent in 2002. *** of PMC's reported sales were to end users. Shipments by importers accounted for *** percent of U.S. imports from China in 2000, *** percent in 2001, and *** percent in 2002.

Price Trends

Weighted-average quarterly f.o.b. prices of the U.S. producer and importers on sales to end users are shown in tables V-1 through V-5 and figures V-1 through V-5, and weighted-average prices by importers on sales to distributors are shown in table V-6.⁴ PMC's prices on products 1, 2, and 3 exhibited no clear trend during the 2000-2002 period. However, prices for products 4 and 5 moved downward during this period. For Chinese importer sales to end users, the prices of products 3 were *** during the period. Prices of products 1, 4 and 5 sold to end users generally decreased over the three years. Importer prices on sales of product 2 to end users were only reported in one quarter during the period. While importer prices on sales of products 1, 2, and 4 to distributors were *** or fluctuated during most of the period, the prices of all three products increased during the fourth quarter of 2002.

Table V-1

Saccharin: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to end users and margins of underselling/(overselling), by quarters, 2000-2002

* * * * *

Table V-2

Saccharin: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 sold to end users and margins of underselling/(overselling), by quarters, 2000-2002

* * * * *

Table V-3

Saccharin: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to end users and margins of underselling/(overselling), by quarters, 2000-2002

* * * * *

Table V-4

Saccharin: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 sold to end users and margins of underselling/(overselling), by quarters, 2000-2002

* * * * *

Table V-5

Saccharin: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 sold to end users and margins of underselling/(overselling), by quarters, 2000-2002

* * * * *

Table V-6

Saccharin: Weighted-average f.o.b. prices and quantities of imported Chinese product 1, 2 and 4 sold to distributors, by quarters, 2000-2002

* * * * *

⁴ In some cases, f.o.b. prices were estimated in consultation with importers by subtracting U.S. inland delivery costs from reported delivered prices.

Figure V-1
Saccharin: Weighted-average f.o.b. prices of domestic and imported product 1 sold to end users, by quarters, 2000-2002

* * * * *

Figure V-2
Saccharin: Weighted-average f.o.b. prices of domestic and imported product 2 sold to end users, by quarters, 2000-2002

* * * * *

Figure V-3
Saccharin: Weighted-average f.o.b. prices of domestic and imported product 3 sold to end users, by quarters, 2000-2002

* * * * *

Figure V-4
Saccharin: Weighted-average f.o.b. prices of domestic and imported product 4 sold to end users, by quarters, 2000-2002

* * * * *

Figure V-5
Saccharin: Weighted-average f.o.b. prices of domestic and imported product 5 sold to end users, by quarters, 2000-2002

* * * * *

Price Comparisons

Prices of imported saccharin from China were consistently lower than PMC's prices on sales to end users for all five product categories. Margins of underselling for the 45 quarterly comparisons ranged between 6.1 percent and 59.6 percent.

Effects of Price Differences on Purchases

Purchasers that bought imported saccharin from China or other import sources during 2002 were asked to estimate how much higher the import price would had to have been before they would have bought U.S.-produced saccharin instead. Six of 18 purchasers responded to this question. In all cases their discussions concerned Chinese imports. Four of the firms provided numerical estimates ranging between 1 percent and 42 percent. Of the other two purchasers that responded, one said that it would have bought the U.S.-produced saccharin if its price had been lower than the Chinese saccharin, and the other said it would have bought the domestic product if the price had been the same as or lower than the Chinese imports.

LOST SALES AND LOST REVENUES

In its petition and during the preliminary phase of this investigation, PMC provided *** usable lost sales allegations involving *** pounds of saccharin valued at \$*** and *** lost revenue allegations valued at \$*** involving *** pounds. *** allegations were provided by PMC in the final phase of the investigation. The Commission contacted the purchasers to investigate the allegations. The comments by

purchasers that responded to the allegations are discussed below and are also summarized in tables V-7 and V-8.⁵

Table V-7
Saccharin: Lost sales allegations

* * * * *

Table V-8
Saccharin: Lost revenue allegations

* * * * *

PMC alleged that it lost a sale of *** pounds of saccharin to ***. The company agreed with the allegation. It said that the bidder that it selected for this purchase offered the Chinese-produced saccharin at a lower price than the other bidders. It said that it found no significant differences in the quality or level of service between the bidders.

PMC alleged that it lost a sale of *** pounds of ***,⁶ *** disagreed with ***. ***, *** said that it did not buy this item from any source.

PMC alleged that it lost revenue on a sale of *** pounds of saccharin to *** in ***. *** reported that ***.

PMC alleged that it lost revenue on a sale of *** pounds of saccharin to *** due to competition from imports from China. *** disagreed with the allegation. It said that it ***.

PMC alleged that it lost a sale of *** pounds of saccharin to ***. The company agreed with the allegation. It said that four companies, including PMC submitted bids. The business went to a supplier of saccharin from China.

PMC alleged that it lost a sale of *** pounds of saccharin to ***. *** agreed with the allegation.

PMC alleged that it lost a sale of *** pounds of saccharin to ***. *** disagreed with the allegation. It also reported that it ***.

PMC alleged that it lost a sale of *** pounds of saccharin to ***. *** disagreed with the allegation. It said that it had long supported the U.S. supplier, but that it finally switched suppliers after repeated quality non-conformance problems with the U.S. producer's saccharin. It said that the switch was not due to the lower price of the Chinese-produced saccharin.

PMC alleged that it lost revenue on a sale of *** pounds of saccharin to ***. *** agreed with the allegation, saying that it did buy the specified quantity of the U.S. product at a price of \$*** per pound in order to keep its business with the U.S. producer. The price of the imported saccharin from China was \$*** per pound.

PMC alleged that it lost a sale of *** pounds of saccharin to ***. *** disagreed with the allegation. It said that it did make an inquiry with PMC for *** and received a quote of \$*** per pound. The saccharin was to be used for ***. However, *** did not get the *** business it expected, and therefore, it did not buy any saccharin. Imported saccharin from China was never considered.⁷

⁵ *** did not comment on PMC's allegations, despite attempts by the Commission staff to obtain a response in both the preliminary and final phases of the investigation.

⁶ ***.

⁷ ***.

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

BACKGROUND

PMC, the only U.S. producer of saccharin during the period examined, supplied financial data on its saccharin operations. PMC's fiscal year ends on ***.

SACCHARIN OPERATIONS

Income-and-loss data of PMC on its operations producing saccharin are presented in table VI-1; PMC's components of cost of goods sold are shown in table VI-2, and the average prices of its major raw material inputs to produce saccharin are shown in table VI-3.

Table VI-1
Results of operations of PMC in the production of saccharin, 2000-2002

* * * * *

Table VI-2
PMC's components of cost of goods sold in the production of saccharin, 2000-2002

* * * * *

Table VI-3
Average unit costs for PMC's major raw material inputs in the production of saccharin, 2000-2002

* * * * *

PMC¹ reported operating *** losses throughout the period.² The operating loss margin increased from *** percent of net sales in 2000 to *** percent in 2001 and *** percent in 2002. ***.

Average cost of goods sold per pound increased in each period due to an increase in the raw materials cost per pound from 2000 to 2001 and due to an increase in direct labor and other factory costs per pound from 2001 to 2002,³ resulting in ***. Selling, general, and administrative (SG&A) expenses, in absolute dollars, declined in each period.

The net sales volume declined by *** percent from 2000 to 2001 and further fell by *** percent from 2001 to 2002. Average selling price per pound increased *** from \$*** in 2000 to \$*** in 2001, and to \$*** in 2002. PMC sells three different grades of saccharin: sodium, calcium, and acid (or

¹ Saccharin is produced in the Cincinnati, OH, plant of PMC Specialties Group Inc. "****." (From letters of PMC dated May 19, 2003 and May 21, 2003.) The parent company (PMC, Inc.), which owns many businesses, is very healthy, with a net worth of over \$100 million. (See hearing transcript, p. 204.)

² See conference transcript, p. 28, and petitioner's postconference brief, p. 17.

³ Conference transcript, p. 29. Mr. Brad Hudgens testified at the conference that "Respondents may argue today that PMC's financial injury was not a result of declining prices, but rather high production cost and manufacturing inefficiencies. However, PMC is the most efficient producer of saccharin in the world. PMC uses a continuous process that is more efficient than the batch process that is used by Chinese producers. As Mr. McCullough testified earlier, PMC has implemented several measures to make the plant more efficient. As a result, PMC's other factory unit costs declined during 1999 to 2001. The increase in other factory unit costs in interim 2002 was a result of the prolonged shutdowns that PMC was forced to endure because of reduced sales."

insoluble) saccharin. The majority of net sales were of sodium grade, the prices of which are lower than the other two grades. The raw materials accounted for *** of total cost of goods sold whereas the other factory costs accounted for *** during 2000-2002.

With respect to operating losses in all periods, PMC stated that ***.

With respect to the fluctuation in average unit raw materials cost during 2000-2002, PMC indicated that ***.

With respect to an increase in average unit direct labor and other factory costs from 2001 to 2002, PMC indicated that ***.

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

PMC's capital expenditures, research and development (R&D) expenses, and the value of its property, plant, and equipment used in the production of saccharin are shown in table VI-4.

Table VI-4
Value of assets, capital expenditures, and R&D expenses of PMC, 2000-2002

* * * * *

CAPITAL AND INVESTMENT

The Commission requested comments from PMC regarding the significance of imports of saccharin from China in terms of the actual or potential negative effects on PMC's return on investment or on its growth, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or scale of capital investments. PMC's response is shown below:

Actual negative effects.—“***.”

Anticipated negative effects.—“***.”

PART VII: THREAT CONSIDERATIONS

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

THE INDUSTRY IN CHINA

The 1993-94 investigations cited 14 producers of saccharin in China. Respondents stated that nine of them have "closed for a number of different reasons, including bad economic operation due to poor management and pollution problems, which led to closure by the government."¹ Five producers of saccharin in China were listed in the petition and the respondents have confirmed that there are currently only five producers of saccharin in China.² The Commission received questionnaire responses from three producers of saccharin in China that are believed to account for the vast majority of exports of the subject product to the United States in 2002,³ and about 68 percent of Chinese capacity.⁴ The following are each firm's estimated shares of total exports of saccharin to the United States in 2002: Suzhou (***) percent); Shanghai Fortune (***) percent); and Kaifeng (***) percent). The following are each firm's estimated shares of total production of saccharin in China in 2002: Suzhou (***) percent); Shanghai Fortune (***) percent); and Kaifeng (***) percent).

Table VII-1 presents aggregated data on the three responding Chinese producers' production and shipments of saccharin. Capacity for these three firms increased only slightly during the period examined.⁵ Respondents reported that the production capacities of Tianjin North Food and Tianjin Changjie, the two Chinese producers that did not respond to the Commission's questionnaires, are 4,000 metric tons (8.8 million pounds) and 5,000 metric tons (11.0 million pounds), respectively.⁶

¹ Respondents' postconference brief, p. 32. The following are the nine producers in China that have closed and the years in which they closed: Tianjing Jingwu in 2002; Shanghai Wangxing in 2001; Shanghai No. 6 Medicine Factory in 2000; Xiamen Electric Chemicals Factory in 2000; Shen Qin in 2000; Anhui Benbu in 2000; Shanghai Puda in 1999; Liao Yuan Hua Gong in 1997; and Liaoning Benxi in 1996. Ibid.

² Conference transcript, p. 76 and respondents' postconference brief, p. 32.

³ The Commission faxed and mailed the questionnaires to the five producers of saccharin in China that were listed in the petition. Of those five, Suzhou, Shanghai Fortune, and Kaifeng Xinghua Fine Chemical Factory (also known as Kaifeng No. 3 Chemical Plant (Kaifeng)) responded to the Commission's questionnaires. Tianjin North Food and Tianjin Changjie Chemical Co., Ltd. (Tianjin Changjie) did not respond to the Commission's questionnaires. Respondents stated that Suzhou, Shanghai Fortune, and Kaifeng represent the vast majority of U.S. imports of saccharin from China. Conference transcript, p. 77. Rit-Chem stated that it does not import saccharin produced by Tianjin Changjie due to quality concerns. Ibid.

⁴ Total Chinese capacity is based on responses to the Commission's questionnaires and the respondents' estimates of the capacities of Tianjin North Food and Tianjin Changjie (respondents' postconference brief, p. 33).

⁵ PMC stated that the largest Chinese producer, Suzhou, and the second largest producer, Kaifeng, had recently (since the 1993-94 investigations) added substantial capacity. Conference transcript, p. 31 and petition, p. 37. Respondents reported that Suzhou's capacity grew from a pre-1996 level of *** to *** in 1996 and to *** in 1998. Respondents' postconference brief, p. 32.

⁶ Respondents' postconference brief, p. 33.

Table VII-1

Saccharin: China's production capacity, production, shipments, and inventories, 2000-2002 and projected 2003-04

Item	Actual experience			Projections	
	2000	2001	2002	2003	2004
Quantity (1,000 pounds)					
Capacity	41,466	41,687	41,688	41,688	41,688
Production	***	***	***	***	***
End-of-period inventories	***	***	***	***	***
Shipments:					
Internal consumption	***	***	***	***	***
Home market	***	***	***	***	***
Exports to-- The United States	***	***	***	***	***
All other markets	***	***	***	***	***
Total exports	***	***	***	***	***
Total shipments	***	***	***	***	***
Ratios and shares (percent)					
Capacity utilization	***	***	***	***	***
Inventories to production	***	***	***	***	***
Inventories to total shipments	***	***	***	***	***
Shares of total shipments:					
Internal consumption	***	***	***	***	***
Home market	***	***	***	***	***
Exports to-- The United States	***	***	***	***	***
All other markets	***	***	***	***	***
Total exports	***	***	***	***	***
<p>Note.--Nonreconciliation of production, inventories, and shipments by *** pounds in 2002 is the result of unreconciled data reported by ***.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>					

None of the responding producers of saccharin in China produce products other than saccharin on the same equipment and machinery used in the production of saccharin. The percentages of total firm sales in the most recent fiscal year represented by sales of saccharin range from *** to *** percent. In 2002, *** percent of the total shipments made by the responding producers of saccharin in China were made to the United States and approximately *** of the total shipments were exports. Other principal export markets reported were ***.⁷ Exports to the United States increased by *** percent from 2000 to 2002 and such exports as a share of total shipments also increased while shipments to the home market as a share of total shipments fluctuated *** and exports to all other markets as a share of total shipments decreased.

Table VII-2 presents exports of saccharin from China to the United States by type of saccharin. Responding exporters reported no shipments of types of saccharin other than sodium, calcium, and acid (insoluble) saccharin.

Table VII-2
Saccharin: China's exports to the United States, by type of saccharin, 2000-2002

* * * * *

U.S. IMPORTERS' INVENTORIES OF PRODUCT FROM CHINA

Reported inventories of imported saccharin held by U.S. importers are shown in table VII-3. Thirteen U.S. importers reported end-of-period inventories.

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO JANUARY 1, 2003

The Commission requested importers to indicate whether they imported or arranged for the importation of saccharin from China after January 1, 2003. ***. No other importers indicated that they imported or arranged for the importation of saccharin from China for delivery after January 1, 2003.

DUMPING IN THIRD-COUNTRY MARKETS

Questionnaire respondents reported no knowledge of import relief investigations regarding the subject product in any country other than the United States.

⁷ According to the World Trade Atlas data, total Chinese exports of saccharin were 32.9 million pounds (\$36.3 million) in 1999; 32.7 million pounds (\$36.4 million) in 2000; 38.1 million pounds (\$40.7 million) in 2001; and 41.5 million pounds (\$43.0 million) in 2002. The largest export markets were Japan, India, Brazil, Spain, Indonesia, Germany, the United States, the United Kingdom, Korea, Taiwan, and Belgium.

Table VII-3

Saccharin: U.S. importers' end-of-period inventories of imports, by source, 2000-2002

Source	Calendar year		
	2000	2001	2002
Imports from China:			
Inventories (1,000 pounds)	183	412	521
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Imports from all other sources:			
Inventories (1,000 pounds)	***	78	65
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Imports from all sources:			
Inventories (1,000 pounds)	***	490	587
Ratio to imports (percent)	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

APPENDIX A
FEDERAL REGISTER NOTICES

**UNITED STATES INTERNATIONAL
TRADE COMMISSION****[Investigation No. 731-TA-1013 (Final)]****Saccharin From China****AGENCY:** International Trade
Commission.**ACTION:** Scheduling of the final phase of
an antidumping investigation.

SUMMARY: The Commission hereby gives
notice of the scheduling of the final
phase of antidumping investigation No.
731-TA-1013 (Final) under section
735(b) of the Tariff Act of 1930 (19
U.S.C. 1673d(b)) (the Act) to determine
whether an industry in the United
States is materially injured or
threatened with material injury, or the
establishment of an industry in the
United States is materially retarded, by
reason of less-than-fair-value imports
from China of saccharin, provided for in
subheading 2925.11.00 of the
Harmonized Tariff Schedule of the
United States.¹

For further information concerning
the conduct of this phase of the
investigation, hearing procedures, and
rules of general application, consult the
Commission's rules of practice and
procedure, part 201, subparts A through
E (19 CFR part 201), and part 207,
subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 27, 2002.**FOR FURTHER INFORMATION CONTACT:** D.J.
Na (202-708-4727), Office of
Investigations, U.S. International Trade
Commission, 500 E Street, SW.,
Washington, DC 20436. Hearing-
impaired persons can obtain
information on this matter by contacting
the Commission's TDD terminal on 202-
205-1810. Persons with mobility
impairments who will need special

¹ For purposes of this investigation, the
Department of Commerce has defined the subject
merchandise as "a non-nutritive sweetener used in
beverages and foods, personal care products such as
toothpaste, table top sweeteners, and animal feeds.
It is also used in metalworking fluids. There are
four primary chemical compositions of saccharin:
(1) Sodium saccharin (American Chemical Society
Chemical Abstract Service (CAS) Registry #128-44-
9); (2) calcium saccharin (CAS Registry #6485-34-
3); (3) acid (or insoluble) saccharin (CAS Registry
#81-07-2); and (4) research grade saccharin. Most
of the U.S.-produced and imported grades of
saccharin from the PRC are sodium and calcium
saccharin, which are available in granular, powder,
spray-dried powder, and liquid forms."

assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of saccharin from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 11, 2002, by PMC Specialties Group Inc., Cincinnati, OH.

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

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on February 27, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on March 13, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 7, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 10, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 6, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 20, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 20, 2003. On April 10, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 14, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section

201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means except to the extent provided by section 201.8 of the Commission's rules.

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

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 8, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03-684 Filed 1-13-03; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731-TA-1013 (Final)]

Saccharin From China

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: February 13, 2003.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202-708-4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: Effective December 27, 2002, the Commission established a schedule for the conduct of the final phase of the subject investigation (68 FR 1860, January 14, 2003). Subsequently, the Department of Commerce extended the date for its final determination in the investigation to

May 12 (68 FR 6885, February 11, 2003). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than May 8; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 12, 2003; the prehearing staff report will be placed in the nonpublic record on May 1, 2003; the deadline for filing prehearing briefs is May 8, 2003; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 15, 2003; the deadline for filing posthearing briefs is May 22, 2003; the Commission will make its final release of information on June 8, 2003; and final party comments are due on June 10, 2003.

For further information concerning this investigation see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: February 14, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03-4314 Filed 2-24-03; 8:45 am]

CALLING CODE 7020-02-P

Final Determination

We determine that saccharin from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Background

The preliminary determination in this investigation was published on December 27, 2002. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 67 FR 79049 (December 27, 2002) (*Preliminary Determination*). Since the issuance of the preliminary determination, the following events have occurred.

On January 8, 2003, petitioner, PMC Specialities Group Inc., requested a hearing. On January 8, 2003, the Department received a timely factor value submission from Shanghai Fortune Chemical Co. (Shanghai Fortune) and Suzhou Fine Chemicals Group Co., Ltd. (Suzhou) (collectively, "respondents") and Kaifeng Xinghua Fine Chemical Factory (Kaifeng). On February 11, 2003, the Department extended the due date for the final determination of this investigation (68 FR 6885). On February 21, 2003, the Department received timely factor value submissions from petitioner, respondents and Kaifeng, and Procter & Gamble Co. On March 3, 2003, the Department received a supplemental factor value submission from petitioner. On April 10, 2003, the Department received timely written case briefs from petitioner, respondents, Procter & Gamble Co., and Colgate Palmolive Co. On April 15, 2003, the Department received timely rebuttal comments from petitioner and respondents. On April 22, 2003, a public hearing was held in this proceeding. We have now completed this investigation in accordance with section 735 of the Act.

Scope of the Investigation

The product covered by this investigation is saccharin. Saccharin is defined as a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) sodium saccharin (American Chemical Society Chemical Abstract Service (CAS) Registry 1128-44-9); (2) calcium saccharin (CAS Registry 16485-34-3); (3) acid (or

insoluble) saccharin (CAS Registry 181-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms.

The merchandise subject to this investigation is classifiable under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS) and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades. Although the HTSUS subheading is provided for convenience and Customs (as of March 1, 2003, renamed the U.S. Bureau of Customs and Border Protection) purposes, the Department's written description of the scope of this investigation remains dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 2002 through June 30, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (*i.e.*, July 2002), and is in accordance with our regulations. See 19 CFR 351.204(b)(1).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Saccharin from the People's Republic of China*, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, dated May 12, 2003 (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are addressed in the *Decision Memorandum*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Non-Market Economy Country Status

The Department has treated the PRC as a non-market economy (NME) country in all past antidumping

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-878]

Notice of Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China

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

EFFECTIVE DATE: May 20, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley (Suzhou Fine Chemicals Group Co., Ltd.) at (202) 482-3148, Javier Barrientos or Jessica Burdick (Shanghai Fortune Chemical Co., Ltd.) at (202) 482-2243 or (202) 482-0666, or Sally C. Gannon at (202) 482-0162; Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

SUPPLEMENTARY INFORMATION:

investigations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Ferrovandium from the People's Republic of China*, 67 FR 71137 (November 29, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Cold-Rolled Carbon Steel Flat Products from the People's Republic of China*, 67 FR 62107 (October 3, 2002). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). The respondents in this investigation have not requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as an NME in this investigation. For further details, see the *Preliminary Determination*.

Separate Rates

In the *Preliminary Determination*, the Department found that respondents and Kaifeng met the criteria for the application of separate, company-specific antidumping duty rates. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rates determination with respect to respondents and Kaifeng. For a complete discussion of the Department's determination that the respondents and Kaifeng are eligible for a separate rate, see the *Preliminary Determination*.

The PRC-Wide Rate

In the *Preliminary Determination*, we found that the use of adverse facts available for the PRC-wide rate was appropriate for other exporters in the PRC based on our presumption that those companies who failed to demonstrate that they met the requirements for a separate rate constitute a single enterprise under common control by the Chinese government. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from the respondents and Kaifeng.

When analyzing the petition for purposes of the initiation, the Department reviewed all of the data upon which the petitioner relied in calculating the estimated dumping margin and determined that the margin in the petition was appropriately calculated and supported by adequate evidence in accordance with the statutory requirements for initiation. In order to corroborate the petition margin for purposes of using it as adverse facts available, we examined the price and cost information provided in the petition in the context of our preliminary determination. For further details, see *Preliminary Determination*

of *Saccharin from the People's Republic of China: Analysis and Corroboration of Adverse Facts Available Rate*, Memorandum from Mark Hoadley, through Sally Gannon, to the File (December 18, 2002). We received no comments concerning the Department's calculation of the PRC-wide rate; therefore, the Department finds that, for the final determination, the rate contained in the petition, recalculated as described below, has probative value.

Since the *Preliminary Determination*, we have revised several of the surrogate values based on Indian import data. In order to take into account these values, we have recalculated the petition margin using, where possible, the revised surrogate values. As a result of this recalculation, the PRC-wide rate, for the final determination, is 329.33 percent. These revised surrogate values are based on updated versions of the same source documentation used in the preliminary determination. Therefore, additional corroboration analysis is not necessary. See *Final Determination of Saccharin from the People's Republic of China: Analysis of Adverse Facts Available Rate*, Memorandum from Mark Hoadley to the File (May 12, 2003).

Margins for Cooperative Exporters Not Selected

The exporter who responded to Section A of the Department's antidumping questionnaire but was not selected as a respondent in this investigation, Kaifeng, has applied for a separate rate and provided information for the Department to make this determination. Although it is not practicable for the Department to calculate a separate rate for Kaifeng in addition to Suzhou and Shanghai Fortune (see *Respondent Selection Memorandum*, explaining the Department's decision to limit the investigation to two exporters), the company did cooperate in providing all information that the Department requested. We received no comments concerning the preliminary margin applied to Kaifeng; therefore, for the final determination, we have continued to apply to Kaifeng a separate rate based on the weighted-average of the rates calculated for those exporters that were selected to participate in this investigation, excluding any rates that are zero, de minimis, or based entirely on adverse facts available. See *Notice of Final Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 68 FR 50608, 50609 (October 4, 2001).

Surrogate Country

For purposes of the final determination, we continue to find that India remains the appropriate surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection for the PRC, see the *Preliminary Determination*.

Verification

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

Date of Sale

In the *Preliminary Determination*, the Department determined that invoice date was the most appropriate date of sale for respondents. Normally, the Department presumes that invoice date is the date of sale; however, "[i]f the Department is presented with satisfactory evidence that the material terms of sale are finally established on a date other than the date of invoice, the Department will use that alternative date as the date of sale." *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27349 (May 19, 1997) (*Preamble*). See also 19 CFR 351.401(i). After examining Shanghai Fortune's sales documentation at verification, we determine that because there were no material changes to the essential terms of sale (quantity and price) between the purchase order date and the invoice date, purchase order date is the most appropriate date of sale for Shanghai Fortune. See *Decision Memorandum and Memorandum to the File from Javier Barrientos and Jessica Burdick, Case Analysts, through Sally Gannon, Program Manager; Antidumping Duty Investigation of Saccharin from the People's Republic of China (PRC) (A-570-878): PRC Sales Verification Report for Shanghai Fortune Chemical Co.*, at 5-6 (March 26, 2003) (*Shanghai Fortune Verification Report*).

After examining Suzhou's sales documentation at verification, we determine that, for the final determination, invoice date continues to be the most appropriate date of sale for Suzhou. Suzhou reported purchase order dates and invoice dates as dates of sale. For those sales for which it reported invoice date, it did so because material sales terms were not set until this date. Given that the Department must choose one date of sale for all sales

in a particular market by a single respondent, we, therefore, are choosing invoice date as the date of sale for Suzhou. This choice is consistent with our regulatory presumption in favor of invoice date, and with the fact that material sales terms sometimes are not set until invoice date for this particular exporter.

Fair Value Comparisons

To determine whether sales of saccharin to the United States by Suzhou and Shanghai Fortune were made at LTFV, we compared the export price (EP), for Shanghai Fortune, and the constructed export price (CEP), for Suzhou, to normal value (NV), as discussed in the *Decision Memorandum, Final Determination in the Antidumping Duty Investigation of Saccharin from the People's Republic of China: Analysis of Suzhou Fine Chemicals Group Co., Ltd.*, from Mark Hoadley, through Sally Gannon, to the File (May 12, 2003) (*Suzhou Analysis Memorandum*), *Final Determination in the Antidumping Duty Investigation of Saccharin from the People's Republic of China: Analysis of Shanghai Fortune Chemical Co., Ltd.*, from Javier Barrientos, through Sally Gannon, to the File (May 12, 2003) (*Shanghai Fortune Analysis Memorandum*), and *Antidumping Duty Investigation of Saccharin from the People's Republic of China: Factor Valuation*, Memorandum from Sebastian Wright, Case Analyst, through Mark Hoadley, Senior Analyst, Office VII, to the File (May 12, 2003) (*Factor Valuation Memorandum*). In accordance with section 777A(d)(1)(A)(i) of the Act, for Shanghai Fortune, we calculated a weighted-average margin based on EP. See also "Use of Facts Otherwise Available" section of this notice. With regard to Suzhou, in accordance with section 777A(d)(1)(A)(ii) of the Act, we calculated a weighted-average margin based on CEP.

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e), the Department shall not decline to consider such information if all of the following requirements are

met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

As discussed above, section 776(a)(2)(A) of the Act requires the Department to use facts available when a party withholds information which has been requested by the Department. On September 10, 2002 and again on November 4, 2002, the Department requested that Shanghai Fortune report all sales of saccharin to the United States during the POI. The Department requested that Shanghai Fortune provide this sales information, whether the date of sale was based on purchase order/contract date or invoice date. On October 25, 2002 and November 25, 2002, Shanghai Fortune submitted to the Department what it reported to be all sales of saccharin sold to the United States during the POI, based upon both purchase order/contract date, as well as invoice date. After the preliminary determination, but prior to verification, Shanghai Fortune had additional opportunities to provide the Department with all sales information. At Shanghai Fortune's verification, the Department discovered an unreported sale of saccharin to the United States during the POI. Therefore, application of facts available is appropriate pursuant to 776(a)(2)(A), because Shanghai Fortune withheld information the Department requested, namely, one of its sales.

Once the Department determines that the use of facts available is warranted, section 776(b) of the Act further permits the Department to apply an adverse inference if it makes the additional finding that "an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." The Department finds that Shanghai Fortune's failure to report this sale constitutes a failure to cooperate to the best of its ability and that the use of adverse facts available is appropriate under section 776(b) for the following reasons. The Department requested on two occasions that Shanghai Fortune report all of its sales during the POI (first, on the basis of what Shanghai Fortune believed to be the date of sale, and, second, on the basis of both purchase order/contract date and invoice date). In filing its second supplemental, Shanghai Fortune certified that it had reported all sales on both a purchase order/contract date

basis and an invoice date basis. Shanghai Fortune explained at verification that it inadvertently failed to report this sale. See *Shanghai Fortune Verification Report* at 10 and 16. For this reason, and because it failed to report only this one sale, the Department finds that the application of partial, rather than total, adverse facts available for the missing POI sale is appropriate in this case. Section 776(b) of the Act states that adverse facts available may include information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. As adverse facts available, and in accordance with section 776(b), the Department is applying the highest rate from the petition for an export price sale to the quantity of Shanghai Fortune's missing sale for the final determination. See *Shanghai Fortune Analysis Memorandum*. As discussed in "The PRC-Wide Rate" section of this notice, the Department has adjusted the petition rate, and the petition rate has been corroborated. Moreover, we determine that the highest rate from the petition is relevant to Shanghai Fortune, given that it represents a sale of a product also sold by Shanghai Fortune, made on the same sales basis (export price) as Shanghai Fortune.

Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made adjustments to the calculation methodologies used in the preliminary determination. In particular, we have made changes involving the following issues: surrogate valuation, concentration strength of inputs, byproduct offset, normal value financial ratios, Suzhou USA's indirect selling expenses, and date of sale, as well as several miscellaneous calculation issues. These changes are discussed in detail in the *Decision Memorandum, Suzhou Analysis Memorandum*, and *Shanghai Fortune Analysis Memorandum*. In addition to the *Decision Memorandum*, public versions of the *Suzhou Analysis Memorandum* and *Shanghai Fortune Analysis Memorandum* are on file in the Central Records Unit, Room B-099, of the main Commerce Building.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Bureau of Customs and Border Protection (BCBP) to continue to suspend liquidation of all entries of

saccharin from the PRC that are entered, or withdrawn from warehouse, for consumption, on or after December 27, 2003 (the date of publication of the Preliminary Determination in the Federal Register). BCBP shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. The suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Margin (percent)
Suzhou Fine Chemical Group Co., Ltd.	291.57%
Shanghai Fortune Chemical Co., Ltd. ..	249.39%
Kaifeng Xinhua Fine Chemical Factory	281.97%
PRC-Wide	329.33%

International Trade Commission Notification

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

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: May 12, 2003.

Jeffrey May,
Acting Assistant Secretary for Import Administration.

Appendix

Issues in Decision Memorandum

Comment 1: Surrogate Values: Most Appropriate Source for Surrogate Values
Comment 2: Surrogate Values: Adjustments to Surrogate Values for Concentration Strengths
Comment 3: Surrogate Values: Choice of Surrogate Values for Byproducts
Comment 4: Application of "Sigma" Rule
Comment 5: Market Economy Inputs: Valuation of Phthalic Anhydride
Comment 6: Byproduct Offset
Comment 7: Packing Expenses
Comment 8: Suzhou's Self-Produced Inputs
Comment 9: Normal Value Financial Ratios
Comment 10: Suzhou USA's Indirect Selling Expenses
Comment 11: Calculation of Suzhou USA's CEP Profit
Comment 12: Date of Sale
Comment 13: Calculation Issue: Freight
Comment 14: Calculation Issue: Conversion Error/Ice, Water, and Steam
Comment 15: Calculation Issue: Conversion Error/Labor
Comment 16: Calculation Issue: Discrepancy Between Prelim Factor Values Memo and Calculations
 [FR Doc. 03-12636 Filed 5-19-03; 8:45 am]
 BILLING CODE 3510-DS-8

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Saccharin from China
Inv. No.: 731-TA-1013 (Final)
Date and Time: May 15, 2003 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, SW, Washington, DC.

OPENING REMARKS

Petitioners (**David A. Hartquist**, Collier Shannon Scott, PLLC)
Respondents (**Bruce Aitken**, Aitken Irvin Berlin & Vrooman, LLP)

In Support of the Imposition of Antidumping Duties:

Collier Shannon Scott, PLLC
Washington, DC
on behalf of

PMC Specialties Group, Inc.

Gordon McCullough, Executive Vice President, PMC
Specialties Group, Inc.

Bruce N. Reinwald, Market Manager, Food/Feed, PMC
Specialties Group, Inc.

Judy Thomas, Customer Service Manager, PMC Specialties
Group, Inc.

Cory J. Davids, Marketing Specialist, PMC Specialties
Group, Inc.

**In Support of the Imposition
of Antidumping Duties (continued):**

John M. Gloninger, Economic Consultant, Georgetown
Economic Services

Brad Hudgens, Economic Consultant, Georgetown
Economic Services

David A. Hartquist)
) – OF COUNSEL
Mary T. Staley)

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

Aitken Irvin Berlin & Vrooman, LLP
Washington, DC
on behalf of

Pro Trade Group's U.S. Sweetener Users Coalition

Chris Torske, General Manager, HELM US Corp.

Wayne Ritell, Vice President, Sales, Rit-Chem Co., Inc.

Andrew Wechsler, Principal and Senior Economist,
LECG

Bruce Aitken)
) – OF COUNSEL
Shirley A. Coffield)

APPENDIX C
SUMMARY TABLE

Table C-1
Saccharin: Summary data concerning the U.S. market, 2000-02

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

Item	Reported data			Period changes		
	2000	2001	2002	2000-02	2000-01	2001-02
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. imports from:						
China:						
Quantity	1,409	2,598	3,546	151.7	84.4	36.5
Value	2,353	4,011	5,574	136.9	70.5	39.0
Unit value	\$1.67	\$1.54	\$1.57	-5.9	-7.5	1.8
Ending inventory quantity	183	412	521	185.5	125.8	28.4
Other sources:						
Quantity	1,363	1,490	1,767	29.6	9.3	18.6
Value	2,963	3,195	3,497	18.0	7.6	9.5
Unit value	\$2.17	\$2.14	\$1.96	-8.9	-1.3	-7.7
Ending inventory quantity	***	78	65	***	***	-15.7
All sources:						
Quantity	2,772	4,088	5,313	91.7	47.4	30.0
Value	5,316	7,206	9,071	70.6	35.6	25.9
Unit value	\$1.92	\$1.76	\$1.71	-11.0	-8.1	-3.2
Ending inventory quantity	***	490	587	***	***	19.8
U.S. producers':						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (pounds per hour)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

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

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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