Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions From India

Investigation Nos. 701-TA-436 (Preliminary) and
731-TA-1042 (Preliminary)

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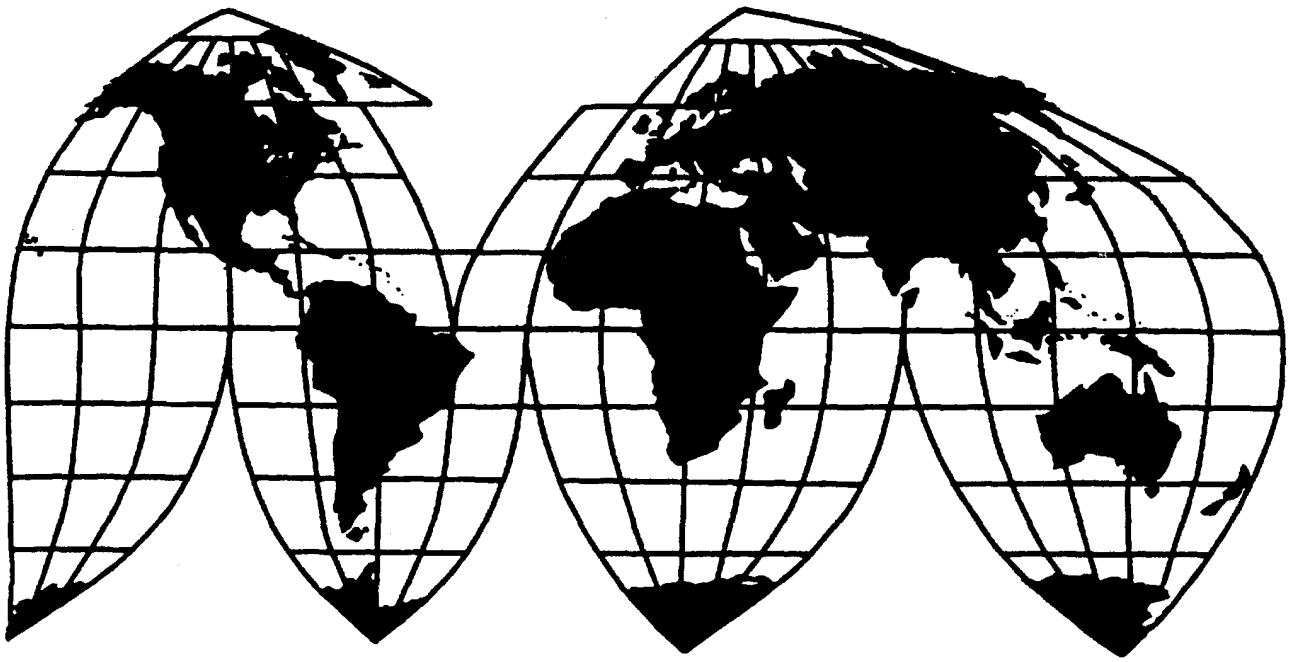
U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA- 436 (Preliminary) and 731-TA-1042 (Preliminary)

CERTAIN COLORED SYNTHETIC ORGANIC OLEORESINOUS PIGMENT DISPERSIONS FROM INDIA

DETERMINATION

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and 19 U.S.C. § 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from India of certain colored synthetic organic oleoresinous pigment dispersions[2] that are alleged to be subsidized by the Government of India and alleged to be sold in the United States at less than fair value (LTFV).

BACKGROUND

On June 5, 2003, a petition was filed with the Commission and Commerce by Apollo Colors, Inc., Rockdale, IL; General Press Colors, Ltd., Addison, IL; Magruder Color Company, Inc., Elizabeth, NJ; and Sun Chemical Corporation, Fort Lee, NJ, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of certain colored synthetic organic oleoresinous pigment dispersions from India. Accordingly, effective June 5, 2003, the Commission instituted countervailing duty investigation No. 701-TA-436 (Preliminary) and antidumping duty investigation No. 731-TA-1042 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference 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 June 11, 2003 (68 FR 35003). The conference was held in Washington, DC, on June 27, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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[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] Certain colored synthetic organic pigment dispersions subject to these investigations are classifiable under statistical reporting numbers 3204.17.6020 (Pigment Blue 15:4) and 3204.17.6085 (Pigments Red 48:1, Red 48:2, Red 48:3, and Yellow 174), 3204.17.9005 (Pigment Blue 15:3), 3204.17.9010 (Pigment Green 7), 3204.17.9015 (Pigment Green 36), 3204.17.9020 (Pigment Red 57:1), 3204.17.9045 (Pigment Yellow 12), 3204.17.9050 (Pigment Yellow 13), 3204.17.9055 (Pigment Yellow 74), and 3204.17.9086, which prior to July 2002 was 3204.17.9085 (Pigments Red 22, Red 48:4, Red 49:1, Red 49:2, Red 52:1, Red 53:1, Yellow 14, and Yellow 83) of the Harmonized Tariff Schedule of the United States.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of colored synthetic organic oleoresinous pigment dispersions from India that are alleged to be subsidized by the Government of India and alleged to be sold in the United States at less than fair value (LTFV).[1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the subject imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

The Court of Appeals for the Federal Circuit has stated that the purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations and that the "reasonable indication" standard requires more than a finding that there is a "possibility" of material injury.[4] It also has noted that, in a preliminary investigation, the "[t]he statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry."[5] Moreover, the Court of International Trade ("CIT") recently has reaffirmed that in applying the reasonable indication "standard for making a preliminary determination regarding material injury or threat of material injury, the Commission may weigh all evidence before it and resolve conflicts in the evidence."[6]

As we discuss below, we find that the record of these preliminary investigations contains clear and convincing evidence that the domestic industry producing pigment dispersions is neither materially injured nor threatened with material injury by reason of the subject imports. We note that staff has collected complete information with respect to domestic production, Indian production, and imports of subject product, and pricing data covering the vast majority of commercial shipments. Although we recognize that we might obtain additional evidence in any final phase investigations relating to the domestic industry's condition or other factors, given the generally robust condition of the industry and the limited presence of subject imports, especially in the merchant market, we see no likelihood that any evidence we obtain in any final investigations would change our findings that the domestic industry has not been materially injured or threatened with material injury by reason of subject imports from India.

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[1] Whether the establishment of an industry is materially retarded is not an issue in these investigations.

[2] 19 U.S.C. § § 1671(b)(a) and 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Found. v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int'l Trade 1999) ("Ranchers-Cattlemen").

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] American Lamb, 785 F.2d at 1004.

[5] Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[6] Ranchers-Cattlemen, 74 F. Supp.2d at 1368 (Ct. Int'l Trade 1999).

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether there is a reasonable indication that 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."[7] 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."[8] 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 . . . ."[9]

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.[10] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[11] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[12] 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 LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[13]

B. Product Description

In its notices of initiation Commerce defined the imported merchandise within the scope of these investigations as:

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[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(10).

[10] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 380, 383 (CIT, Dec. 15, 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (CIT 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 (CIT 1996).

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

[12] 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 like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[13] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

> [c]olored synthetic organic pigment dispersions classified in either Azo or Phthalocyanine chemical classes that have been dispersed in an oleoresinous organic varnish comprised of various combinations of solvents, oils, and resins. The subject pigment dispersions are commonly known as "flushed" or "flushed color," but the base form of the subject pigment dispersions is also included in the scope of these investigations. The subject pigment dispersions are a thick putty or paste that contain by weight typically 20 percent or more pigment dispersed in the varnish, and are used primarily for the manufacture of letterpress and lithographic printing inks. The presence of additives, such as surfactant, antioxidants, wetting agents, and driers, in the subject pigment dispersions does not exclude them form the scope.[14]

Pigment dispersions covered by this petition are synthetic organic pigments classified in either Azo or Phthalocyanine classes that have been dispersed (mixed) in an oleoreresinous organic vehicle (varnish), which is composed of various solvents, oils, or resins.[15] Pigment dispersions are an intermediate product, used exclusively in the production of paste inks, which in turn are used principally in lithographic printing and, to a lesser extent, letterpress printing.[16]

Generally, pigment dispersions consist of approximately 35 to 45 percent actual pigment material, but the pigment content may be either higher or lower in some speciality applications.[17] Pigment dispersions have no single formula and many are likely to be proprietary and customized to a particular customer's needs.[18]

C. Domestic Like Product Issues

Petitioners assert that there is only one domestic like product that is coextensive with the scope of the investigations.[19] Respondents do not dispute this issue.[20]

Questionnaire responses reveal that seven of nine U.S. producers and one of two importers indicate that there are no substitutes for pigment dispersions. The remaining two domestic producers and one importer, ***, state that dry pigments may be a substitute product.[21]

Domestic producers manufacture pigment dispersions with 36 to 42 percent pigment concentration, which are used either captively to produce inks or are sold to ink producers in the merchant market. Respondent and exporter of subject imports, Hindustan, produces two versions of pigment dispersions that are within the scope of the investigation. One version of pigment dispersion contains 22 to 28 percent pigment concentration, which Hindustan refers to as a customized flush.[22] Micro Inks ("Micro") imports this product from Hindustan, its parent company, for use in its U.S.

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[14] 68 Fed. Reg. 39513 (July 2, 2003). Dry powder pigments and pigment press cakes, as well as, water and flammable solvent based colored pigment dispersions, which typically are used in manufacturing liquid or fluid inks are excluded from the scope. Also excluded from the scope is Yellow 75, which is typically used to make the yellow paint to line roads. Id.

[15] Confidential Report ("CR") and Public Report ("PR") at I-4.

[16] CR at I-4, I-6, PR at I-3

[17] CR and PR at I-3.

[18] CR and PR at I- 3.

[19] Petitioners' Br. at 6.

[20] Tr. at 61.

[21] CR and PR at II-3.

[22] Tr. at 82.

production of ink.[23] The second version is a 36 percent flush which is imported from Hindustan in small quantities for sale in the U.S. merchant market.[24] Although domestic producers do not currently produce pigment dispersions in the 22 to 28 percent concentration, they state that any domestic producer can easily produce pigment dispersions in these lower concentrations.[25] Because there is no domestic production of 22 to 28 percent pigment dispersions, the "domestic like product" for those subject imports is the product "most similar in characteristics and uses"with them. In this instance, the product most similar to the subject pigment dispersions are domestic pigment dispersions in the higher concentrations.

Thus, we find one domestic like product consisting of pigment dispersions coextensive with the scope of the investigation.

D. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product . . ."[26] In defining the domestic industry, the Commission generally includes in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[27] Based on our definition of the domestic like product, we conclude that the domestic industry consists of all domestic producers of pigment dispersions.[28]

IV. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY SUBSIDIZED AND LTFV IMPORTS[29]

In the preliminary phase of antidumping and countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[30] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S.

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[23] Respondents' Br. at 1.

[24] Tr. at 96.

[25] Seven of nine U.S. producers and two of three responding importers believe that the domestic like product and the subject product are used interchangeably. CR II-4, PR at II-3. However, it is unclear whether these producers and importers are referring to the Indian producer's 36 percent pigment concentration or its 22-28 percent concentration pigment dispersions.

[26] 19 U.S.C. § 1677(4)(A).

[27] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[28] One *** vertically-integrated domestic producer, ***, appears to meet the criteria of a related party of 19 U.S.C. §1677(4)(B) because it imported subject product during the period of investigation. However, its producer questionnaire data were unusable, rendering the question of whether to exclude it moot. CR and PR at IV-1, n.2. No party has argued for the exclusion of any domestic producer under the related party provision of the statute.

[29] Subject imports from India made up over *** percent of all imports of pigment dispersions to the U.S. market over the twelve months prior to the filing of the petition. Therefore, the negligibility provision does not apply. See 19 U.S.C. §1677(24). Calculated from CR and PR at Table C-1.

[30] 19 U.S.C. §§ 1671b(a) and 1673b(a).

production operations.[31] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[32] 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.[33] 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."[34]

For the reasons discussed below, we determine that there is no reasonable indication that the domestic industry is materially injured by reason of subject imports of pigment dispersions from India that are allegedly subsidized and/or sold in the United States at less than fair value.

A. Captive Production[35]

The parties agree that, because a significant amount of domestic production of pigment dispersions is captively consumed, the threshold requirement is met.[36] They also agree that the captive consumption provision is not applicable because the third criterion is not met.[37]

While the domestic industry captively consumes a significant portion of its product in the manufacture of downstream products,[38] the record indicates that pigment dispersions sold in the merchant market are generally used in the production of the same downstream product for which pigment

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[31] 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).

[32] 19 U.S.C. § 1677(7)(A).

[33] 19 U.S.C. § 1677(7)(C)(iii).

[34] 19 U.S.C. § 1677(7)(C)(iii).

[35] The captive production provision, 19 U.S.C. § 1677(7)(C)(iv), which was added to the statute by the Uruguay Round Agreements Act (URAA), provides:

> (iv) CAPTIVE PRODUCTION -- If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that –
>
> (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
>
> (II) the domestic like product is the predominant material input in the production of that downstream article, and
>
> (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,
>
> then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product.

The Statement of Administrative Action (SAA) issued in conjunction with the URAA indicates that where a domestic like product is transferred internally for the production of another article coming within the definition of the domestic like product, such transfers do not constitute internal transfers for the production of a "downstream article" for purposes of the captive production provision. SAA, H.R. Rep.No. 103-316, vol. I at 853.

[36] Petitioners' Br. at 3; Flint Ink's Br. at 4 and Respondents' Br. at 5.

[37] Petitioners' Br. at 3; Flint Ink's Br. at 4 and Respondents' Br. at 5.

[38] CR and PR at Table III-2.

dispersions are internally consumed.[39] Accordingly, we find that third criterion of the captive production provision is not satisfied and that the captive production provision does not apply in this investigation. However, we exercise our discretion to consider as a significant condition of competition the fact that a large portion of both domestic production and subject imports are captively consumed.[40]

B. Other Conditions of Competition

When performing our analysis in these investigations, we took into account the following additional conditions of competition:

Demand for pigment dispersions is derived from the demand for finished printing inks, which in turn depends on demand for advertising and packaging.[41] The record indicates that as a result of the sluggish domestic economy, demand for ink has decreased along with demand for printed matter.[42] Apparent consumption of pigment dispersions in the United States reflects this trend.[43] U.S. apparent consumption of pigment dispersions decreased from *** pounds in 2000 to *** pounds in 2001, then increased slightly to *** pounds in 2002.[44] In the first quarter ("interim") 2003, demand was slightly higher at *** pounds, compared to *** pounds in interim 2002.[45]

Despite these demand trends, the domestic industry's capacity to produce pigment dispersions increased steadily, from 304.3 million pounds in 2000 to 320.6 million pounds in 2001 and 331.6 million pounds in 2002.[46] In interim 2003 domestic producers' capacity was 82.9 million pounds compared to 80.7 million pounds in interim 2002.[47] Domestic producers' capacity far exceeded U.S. apparent consumption throughout the period examined.[48]

The domestic industry is dominated by integrated producers *** and ***, who combined account for *** percent of U.S. production of pigment dispersions.[49] The remainder of the industry is composed of several small producers. The majority of U.S. producers' domestic shipments are for captive consumption, either through internal consumption or transfers to related firms.[50] In 2002, 73.9 percent of domestic producers' U.S. shipments were captively consumed; only 26.1 percent of domestic producers' U.S. shipments were sold in the merchant market.[51] The merchant market is the smaller part of the domestic market, it represented only *** percent of total U.S. apparent consumption in 2000, *** percent

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[39] CR and PR at Table C-1.

[40] See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan, Inv. Nos. 701-TA-415 (Final) and 731-TA-933-934 (Final), USITC Pub. 3518 (June 2002) at 11; Nonfrozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Final), USITC Pub. 3303 (May 2000) at 10; Certain Emulsion Styrene-Butadiene Rubber from Brazil, Korea, and Mexico, Inv. Nos. 731- TA-794-796 (Final), USITC Pub. 3190 (May 1999) at 14.

[41] CR at II-3, PR at II-2.

[42] CR at II-3, PR at II-2.

[43] CR at II-2, PR at II-2.

[44] CR and PR at Table IV-2.

[45] CR and PR at Table IV-2.

[46] CR and PR at Table III-2.

[47] CR and PR at Table III-2.

[48] CR and PR at Table C-1.

[49] CR and PR at Table III-1.

[50] CR and PR at Table III-2. The share of domestic producers' U.S. shipments sold in the merchant market was 31.0 percent in 2000, 31.6 percent in 2001, and 25.2 in 2002. Calculated from CR and PR at Table C-1.

[51] CR and PR at Table III-2.

in 2001, and *** percent in 2002; the share was *** percent in interim 2002 and *** percent in interim 2003.[52]

Subject imports did not begin to enter the U.S. market until 2000. Nearly all of the reported imports of subject product from India throughout the period were imported by Micro, a U.S. ink producer, which is wholly-owned by Hindustan, an Indian producer of the subject product. Subject imports accounted for only *** percent of total U.S. apparent consumption in 2000 and *** percent in 2001.[53] In 2002, the year that petitioners emphasize to support their allegations of material injury, while import market share increased above earlier levels, Micro internally consumed nearly 98 percent of its subject imports. The remaining small volume of subject imports from India was sold in the commercial market.[54] In 2002, *** million pounds of subject imports were captively consumed, while *** pounds were commercially shipped. Thus, only *** percent of subject imports entered the commercial market. Given that a large portion of the domestic like product and nearly all of the subject merchandise are captively consumed, there is limited direct competition between the domestic like product and subject imports.[55]

During the period examined, domestic producers held an overwhelming share of both the total U.S. market and the smaller U.S. merchant market. Domestic producers' share of total U.S. apparent consumption was *** percent in 2000, *** percent in 2001, *** percent in 2002, *** percent in interim 2002, and *** percent in interim 2003.[56] Domestic producers' share of the merchant market was even greater: *** percent in 2000, *** percent in 2001, *** percent in 2002, *** percent in interim 2002, and *** percent in interim 2003.[57]

Subject imports' share of total U.S. apparent consumption was *** percent in 2000, *** percent in 2001, and *** percent in 2003.[58] In interim 2002 and 2003, subject imports' market share of total U.S. apparent consumption was *** and *** percent, respectively. However, subject imports' share of the merchant market was only *** percent in 2000, *** percent in 2001, *** percent in 2002, *** percent in interim 2002, and *** percent in interim 2003.[59] [60]

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[52] Calculated from CR and PR at Table C-1.

[53] CR and PR at Table C-1.

[54] CR and PR at IV-2.

[55] In cases where the captive production provision does not apply but a significant portion of either the domestic like product or subject imports was captively consumed, the Commission has made similar findings of limited competition. See e.g., Pneumatic Directional Control Valves from Japan, Inv. No. 731-TA-988 (Preliminary), USITC Pub. 3491 (March 2002).

[56] CR and PR at Table C-1. We note that the industry's market share in interim 2002 is relatively high compared to full year 2002. CR at Table C-1.

[57] Calculated CR and PR at Tables III-2 and IV-2. The record indicates that all nonsubject imports were commercial shipments. See Importer Questionnaires.

[58] CR and PR at Table C-1.

[59] Calculated from CR and PR at Tables III-2 and IV-2.

[60] Nonsubject imports were also present in the U.S. market throughout the period of investigation in limited quantities. During the period examined, the volume of nonsubject imports was *** pounds in 2000, *** million pounds in 2001, and *** million in 2002, and in interim 2002 and 2003, *** pounds and *** pounds, respectively. Nonsubject imports' share was *** percent in 2000, *** percent in 2001, and *** percent in 2002, and *** percent in both interim 2002 and 2003. CR and PR at Table C-1.

Producers and importers generally perceive that there are no substitutes for pigment dispersions.[61] While pigment dispersions are customized to meet a particular customer's needs, the majority of producers and importers believe that the domestic like product and the subject imports are used interchangeably.[62] The degree of substitution between domestic and imported pigment dispersions depends upon such factors as relative prices, quality and conditions of sale.[63] We note that because almost all subject imports are captively consumed by the importer, there is little opportunity for actual substitution between subject imports and domestic product in the merchant market.

Domestic producers indicate that their commercial sales of pigment dispersions are typically sold under two types of contractual agreements whose duration is generally a year. The first type of agreement is a volume discount agreement. Under this agreement type, volume discounts or "allowances" are set that will apply to the customers' total dollar volume of purchases. While the prices of specific pigment dispersions are set under the agreement, the dollar volume of the customers' total purchases determines the volume rebate. The second type of agreement is a consignment contract. Under these agreements, a set volume of product is shipped to a consignment location, and the customer draws from that inventory. The consignment agreement sets not only prices but a holding time for consignment, typically 45 days. After the holding period has expired, the domestic producer charges the customer for the amount shipped.[64]

B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[65]

The absolute volume of subject imports of pigment dispersions from India increased from *** pounds in 2000 to *** pounds in 2001 and *** pounds in 2002. In interim 2002 and interim 2003, subject import volume was *** pounds and *** pounds, respectively.[66]

Subject imports' share of total apparent consumption increased from *** percent in 2000 to *** percent in 2001 and to *** percent in 2002.[67] In interim 2002 and 2003, subject imports' market share was *** percent and *** percent, respectively.[68] As a share of domestic production, the volume of subject imports was *** percent in 2000, *** percent in 2001, and *** percent in 2002; it was *** percent and *** percent in interim 2002 and 2003, respectively.[69]

Viewed in isolation, the increase in subject import volumes and market share could be considered significant. However, as discussed above in conditions of competition, the bulk of the domestic product and nearly all of the subject imports are captively consumed, thereby severely limiting direct competition between the domestic like product and the subject product. Only *** percent of subject imports entered the merchant market in 2002. Merchant market shipments of subject imports

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[61] CR and PR at II-3.

[62] CR at II-3, PR at II-3.

[63] CR at II-4, PR at II-3.

[64] Petitioners Br. at 23.

[65] 19 U.S.C. § 1677(7)(C)(i).

[66] CR and PR Table IV-1. The value of subject imports was $*** in 2000, $*** in 2001, $*** in 2002, $*** in interim 2002, and $*** in interim 2003. CR and PR at Table IV-1.

[67] CR and PR at Table IV-2.

[68] CR and PR at Table IV-2.

[69] CR and PR at Table IV-3.

were a tiny share of total U.S. apparent consumption -- *** percent in 2000, *** percent in 2001, *** percent in 2002, and *** percent and *** percent in interim 2002 and interim 2003, respectively.[70] Subject imports' share of the merchant market was also very small -- *** percent in 2000, *** percent in 2001, *** percent in 2002, and *** percent and *** percent in interim 2002 and 2003, respectively.[71]

Consequently, we find that given the very limited direct competition between the domestic like product and subject imports, the volume of subject imports, both in absolute terms and relative to domestic consumption or production, is not 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

(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.[72]

The record indicates that pigment dispersions cannot be considered generally to be a commodity product. Pigment dispersions have no single formula and many are likely to be proprietary.[73] Pigment dispersions are customized to meet a particular customer's needs and undergo certain qualification procedures. However, the majority of producers and importers believe that the domestic like product and the subject product of the same type can be used interchangeably.[74] The degree of substitution between domestic and imported pigment dispersions depends upon such factors as quality and conditions of sale as well as relative prices.[75]

We obtained quarterly price data for six types of pigment dispersions recommended by petitioners' counsel. In the 34 available quarterly price comparisons, subject imports undersold the domestic product in 32 instances.[76] We find that viewed in isolation this underselling is significant. However, given the very limited degree of competition between subject imports and the domestic like product due to the significant portions of each that are captively consumed, we do not find that subject imports have a significant price depressing or suppressing effect.

Domestic prices declined for all six products over the period examined. However, we do not find that any declining prices for the domestic like product can be attributed, to a significant degree, to the subject imports. First, as noted above, there is only very limited head-to-head price competition between subject imports and the domestic product as a significant portion of each is captively consumed. In the merchant market, where subject imports do compete directly with the domestic like product, subject imports never rose above *** percent of the total merchant market and that level was reached only in

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[70] CR and PR at Table IV-2.

[71] Calculated from CR and PR at Tables III-2 and IV-2.

[72] 19 U.S.C. § 1677(7)(C)(ii).

[73] CR and PR at I- 4.

[74] CR at II-4, PR at II-3.

[75] CR at II-4, PR at II-3.

[76] CR and PR Tables V-1-V-6.

interim 2003. We note that, in line with the very limited presence of subject imports in the merchant market, the volume of subject imports at issue in our price comparisons is very limited. On a quarterly basis, subject imports were only small percentages of the total volume reported for each product.[77] Thus, the pricing data confirm the very low degree of competition between subject imports and the domestic product. The extremely limited presence of subject imports in the merchant market restricts considerably their ability to significantly affect domestic prices. Second, domestic prices began declining during 2000 and 2001, when subject imports supplied only *** percent and *** percent of total apparent consumption.[78] Third, in 2002, despite an increase in subject imports' total market share, domestic prices for four of the six product groups generally rose despite falling prices for subject imports.[79] Finally, any decline in domestic prices in 2002 coincided with weak demand as U.S. apparent consumption fell.[80] Thus, in addition to limited direct competition between subject imports and the domestic like product, there is a lack of correlation between trends in the volume and prices of the subject imports and the volume and prices of the domestic like product.

We also find no significant price suppressing effects by the subject merchandise. The domestic industry's cost of goods sold relative to net sales fell throughout the period of examined. In 2002, when the volume of subject imports was at it highest, unit cost of goods sold ("COGS") were below the 2000 level when the subject imports were barely present in the market.[81] While the volume of domestically produced pigment dispersions declined during the period examined, the ratio of COGS to sales fell each year from 2000 to 2002, suggesting that prices were not suppressed relative to costs.[82]

Finally, the volume of confirmed lost sales was extremely low relative to U.S. production and there were no confirmed lost revenue allegations.[83] [84] [85]

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[77] For product 1, the highest volume product, subject imports peaked at 2.7 percent of total reported volumes in the first quarter of 2003. For product 2, the peak share was 4.4 percent in first quarter 2003; for product 3, it was 3.8 percent in first quarter 2003; for product 4, it was 5.0 percent in first quarter 2003; for product 5, it was 2.0 percent in fourth quarter 2002; and for product 6, it was 5.9 percent in first quarter 2003. Calculated from CR and PR at Tables V-1-V-6. We note that products 4 and 6 were the lowest volume products for U.S. producers.

[78] CR and PR at Table C-1.

[79] CR and PR at Tables V-1-V-6.

[80] While we recognize that domestic prices fell in interim 2003, as subject import volume increased, we do not find that this detracts from our finding of no price depression. Even in this quarter, there was very little competition between subject imports and domestic product, as subject imports accounted for a small share of the merchant market. CR and PR at Table C-1.

[81] CR and PR at Table VI-2.

[82] CR and PR at Table VI-2. Although the ratio rose slightly between interim periods, it ended at the full year 2001 level and below the full year 2000 level. CR and PR at Table VI-2.

[83] CR and PR at Table V-6.

[84] Flint Ink argues that Micro Inks' purchases of pigment dispersions from the subject producer, Hindustan, should be considered potential lost sales to the domestic industry. Flint Ink Br. at 10. Micro indicated that it has purchased a small amount of domestically produced pigment dispersions but found the domestic producer was not equipped to produce the customized flush required and ship the quanities required. Moreover, Micro stated that Hindustan's pigment dispersions are customized to meet Micro's needs and that Hindustan provides a product that is superior in consistency, stability, color strength and flow properties. Tr. at 83-84; Respondents' Br. at 18.

[85] Relying on Certain Carbon Steel Products from Spain, Inv. Nos. 701-TA-155, 157-160 and 162 (Final), USITC Pub. 1331 at 21 (Dec. 1982) and Electroluminescent Flat Panels Displays from Japan, Inv. No. 731-TA-469 (Review), USITC Pub. 3285 (March 2000), Flint Ink argues that in a price sensitive market the presence of *offers* to sell subsidized or dumped imports can ripple through the market, causing domestic producers to lower their prices.

(continued...)

In sum, we find that, despite evidence of underselling by subject imports, subject imports did not have a significant effect on prices due to their small share of the merchant market and the resulting very small extent of direct competition between subject imports and domestic product. Moreover, there is a lack of correlation between the volume and price of subject imports and domestic prices. Therefore, we find that subject imports have not had significant adverse effects on domestic prices during the period of investigation.

D. Impact of the Subject Imports.

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[86] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the industry."[87]

We find that the subject imports of pigment dispersions have not had a significant adverse impact on the condition of the domestic pigment dispersion industry. Most indicators of the industry's condition, particularly profitability, remained healthy over the period examined. While the volume and market share of subject imports increased over the period of investigation, most subject imports and domestic product are captively consumed, and therefore there is very little direct competition between the subject product and the domestic product. Where there were declines in the industry's indicators, in many cases the declines were more pronounced from 2000 to 2001, when subject imports were barely present in the market.

The domestic industry dominated the U.S. market throughout the period of investigation, with a market share of *** percent in 2000, *** percent in 2001, and *** percent in 2002.[88] The share was *** percent in interim 2003 compared to *** percent in interim 2002.[89] Although the domestic industry share of total U.S. apparent consumption decreased somewhat in 2002 and when comparing interim periods, this loss in market share can be attributed to subject imports that were captively consumed by Micro. In 2002, *** percent of subject imports were captively consumed. Thus, the domestic industry's share of the merchant market was *** percent in 2000, *** percent in 2001, and *** percent in interim 2002; it

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[85] (...continued)
Flint Ink's Br. at 11. However, the conditions of competition do not support a finding that this market is susceptible to such a ripple effect. First, most pigment dispersions are captively consumed. Second, purchases are made on the basis of quality and conditions of sale as well as relative prices. Finally, pigment dispersions are specifically modified to work with the various subsectors of lithography and are therefore not directly substitutable. CR and PR at I-4.

[86] 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).

[87] 19 U.S.C. § 1677(7)(C)(iii). The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. In its notice of initiation, Commerce estimated that dumping margins for imports of pigment dispersions from India ranged from 138 to 685 percent. 68 Fed. Reg. 39523 (July 2, 2003).

[88] CR and PR at Table C-1.

[89] CR and PR at Table C-1.

was *** percent in interim 2002 and *** percent in interim 2003.[90] Subject imports never accounted for more than *** percent of the merchant market, a level reached only in interim 2003.[91]

The domestic industry's production levels decreased from 253.4 million pounds in 2000 to 223.5 million pounds in 2001 and 206.5 million pounds in 2002; production was stable at 51.0 million pounds in both interim 2002 and interim 2003.[92] Thus, from 2000 to 2001, domestic production fell by 29.9 million pounds, while subject imports rose from only *** to *** pounds and merchant market shipments of subject imports rose from only *** pounds to ***.[93] In 2001 to 2002, domestic production decreased by 16.1 million pounds compared to 2001, while subject imports in the merchant market increased from only *** pounds in 2001 to *** pounds in 2002.[94] While the volume of subject imports that were captively consumed rose from *** pounds in 2001 to *** pounds in 2002, these subject imports were not directly competing with domestic product.[95]

Similarly, the domestic industry's capacity utilization fell from 83.3 percent in 2000 to 69.7 percent in 2001 and 62.3 percent in 2002; capacity utilization was 62.7 percent in interim 2002 and 61.4 percent in interim 2003. The greatest drop in capacity utilization rates occurred between 2000 and 2001. This pattern in capacity utilization corresponds to the industry's substantial increases in capacity in the face of flat or declining demand.[96]

The domestic industry's merchant market shipments decreased from 60.5 million pounds in 2000 to 54.1 million pounds in 2001 and 42.8 million pounds in 2002, largely mirroring reduced demand for its downstream product ink;[97] in both interim 2002 and 2003, the domestic industry's commercial shipments were roughly 11.0 million pounds.[98] As discussed above, subject import volumes in the merchant market were at much lower levels, and increased by only *** pounds between 2001 and 2002. At the same time, domestic producers' inventories fell from 2000 to 2002.[99] [100] While employment levels also decreased during the period of investigation, the greatest drop occurred from 2000 to 2001.[101]

The domestic industry's financial performance was generally robust. The domestic industry's operating income margin was 11.5 percent in 2000, 11.4 percent in 2001, 11.9 percent in 2001, 12.1 percent in interim 2002, and 10.6 percent in interim 2003.[102] While operating income decreased from

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[90] CR and PR at Table IV-2.

[91] Calculated from CR and PR at Table C-1.

[92] CR and PR at Table C-1.

[93] CR and PR at Table C-1.

[94] CR and PR at Table C-1.

[95] CR and PR at Table C-1.

[96] CR and PR at Table C-1. The domestic industry's capacity rose by 9.0 percent between 2000 and 2002, while apparent consumption fell by 9.7 percent over the same period. CR and PR at Table C-1.

[97] Respondents' Br. at Appendix 11.

[98] CR and PR at Table C-1.

[99] CR and PR at Table III-3. Domestic producers' inventories were higher in interim 2003 than in interim 2002. We place little weight on this single quarter of data on inventories, particularly in comparison to these full years of data. CR and PR at Table III-3.

[100] CR and PR at Table III-3.

[101] CR and PR at Table C-1.

[102] CR and PR at Table C-1.

$65.3 million in 2000 to $57.0 million in 2001 and to $52.6 million in 2002, the most substantial decline occurred between 2000 and 2001.[103]

Although the domestic industry's capital expenditures declined overall, the largest decline again occurred from 2000 to 2001.[104] While capital expenditures declined somewhat from 2001 to 2002, and between interim periods, capital expenditures remained at relatively strong levels throughout the period of investigation. At the same time, domestic producers' research and development expenses remained essentially unchanged during the period of investigation.[105]

In sum, the record indicates that subject imports of pigment dispersions did not have a significant adverse impact on the domestic industry. The domestic industry remained essentially healthy, and declines in indicators of the industry's condition do not correlate with the volumes of subject imports, most of which were not sold in the merchant market.

Domestic producers argue that the Commission should look at downstream competition in the ink market in analyzing material injury to the domestic pigment dispersions industry. According to domestic producers, "unfair" competition in the ink market threatens their captive consumption as well as their merchant sales. They argue that integrated producers will lose printing ink sales to Micro's printing ink, which is produced from subject imports, and that integrated producers therefore would be forced to buy cheaper sources of pigment dispersions rather than produce their own (the so-called "make or buy" dilemma). They also argue that, because of Micro's cost advantage, the non-integrated pigment dispersions producers (who do not themselves make ink) will lose sales or be forced to lower their prices to their ink-producing purchasers, who must compete with Micro's ink products.[106]

In essence, the domestic producers' theory is that injury to the domestic industry is transmitted indirectly to the pigment dispersions producers through downstream competition between two products manufactured in the United States, namely Micro's ink products and all other U.S. produced inks. Pursuant to 19 U.S.C. § 1673b(a)(1), we must determine whether there is a reasonable indication that an industry is materially injured or threatened with material injury by reason of the imports of the subject merchandise. In turn, the statute defines the term "industry" as "the producers as a whole of a domestic like product."[107] The domestic like product here is pigment dispersions, not the downstream product, ink Furthermore, the subject merchandise, as defined by Commerce, is pigment dispersions from India, not some other U.S. product manufactured from subject imports. Thus, the inquiry here is whether the domestic pigment dispersions industry was materially injured or threatened with material injury by reason of the subject pigment dispersions.[108]

Nevertheless, domestic producers maintain that injury by reason of subject imports can be shown through the effects of downstream competition on the upstream domestic like product. While acknowledging that the Commission has never had a case on point, they insist that the Commission has already recognized that causation and injury can be shown through the effects of downstream

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[103] CR and PR at Table C-1. Operating income was $11.3 million in interim 2003 compared with $13.0 million in interim 2002. CR and PR at Table C-1.

[104] CR and PR at Table C-1.

[105] Research and development expenses declined from $6.5 million in 2000 to $6.3 million in 2001 and increased to $6.5 million in 2002, decreasing on slightly between interim periods. CR and PR at Table VI-4.

[106] Petitioners' Br. at 2-3.

[107] See 19 U.S.C.§1677(4)(A).

[108] See e.g. Beryllium Alloys from Kazakhstan, Inv. No. 731-TA-746 (Final), USITC Pub. 3019 (Feb. 1997); and Nitromethane from the People's Republic of China, Inv. 731-TA-650 (Preliminary), USITC Pub. 2661 (July 1993); see also In General Motors Corp. v. United States, 827 F. Supp. 774, 780 (Ct. Int'l Trade 1993).

competition.[109] Of the cases that they cite in a footnote to support their assertion, only one, Tungsten Ore Concentrates from the People's Republic of China, Inv. No. 731-TA-497 (Preliminary), USITC Pub. 2367 (March 1991) ("Tungsten Ore"), discusses this "downstream injury causation theory."[110]

In Tungsten Ore, the primary domestic producer of tungsten ore captively consumed all its tungsten ore to produce a downstream product, ammonium paratungstate ("APT"). The domestic producer contended that as an integrated producer its financial condition was a function of the availability of the lower priced or dumped imports of the upstream product to its downstream, APT, competitors. As such, to compete in the downstream market, the domestic producer would incur losses or reduced revenue from the production and consumption of its own tungsten ore. In its preliminary determination, the Commission noted that such a "downstream injury" causation argument had never been a basis for a determination. Id. at 20-22.

While Tungsten Ore can be read to provide some support for considering a "make or buy" dilemma as one factor in the Commission's determination,[111] we note that developments since 1991 in the case law concerning our material injury determinations indicate that any such analysis must be viewed with caution. Our reviewing courts have stressed the need for the Commission's analysis of material injury by reason of subject imports to focus on the industry producing the domestic like product, and not other industries,[112] and have directed us to ensure that a sufficient causal link exists between the subject imports and the material injury to the domestic industry.[113] Thus, to the extent a "downstream injury" analysis may be appropriate, the Commission must still focus on the effects of subject imports on the domestic industry producing the domestic like product. We do not find a sufficient causal link between

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[109] Petitioners Br. at 2.

[110] Petitioners also cite to three other cases to support their proposition, Certain Non-Frozen Concentrated Apple Juice from China, Inv. No. 731-TA-841 (Final), USITC Pub. 3303 (May 2000); Saccharin from China, Inv. No. 731-TA-1013 (Preliminary) USITC Pub. 3535 (Sept. 2002); and Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan, Inv. Nos. 701-TA-373 and 731-TA-769-775 (Final), USITC Pub. 3126 (Sept. 1998). However, none of these cases support their assertion. In Certain Non-Frozen Concentrated Apple Juice from China, the Commission did not consider the effects of downstream competition on the upstream domestic like product. The Commission considered the effects of subject imports on prices of an upstream product that was not part of the domestic like product and ultimately upon the prices of the downstream domestic like product. USITC Pub. 3303 at 35. In Stainless Steel Wire Rod, the Commission found that subject imports had an adverse impact on the domestic like product which was both captively consumed and sold in the merchant market. However, the captively consumed steel wire rod and the downstream product (that captively consumed steel wire rod was used to produce) were all part of the same domestic like product. In Saccharin, the Commission made no reference to downstream competition or its effects on the upstream like product.

[111] See Tungsten Ore Concentrates from the People's Republic of China, Inv. No. 731-TA-497 (Final), USITC Pub. 2447 (November 1991) at 17 (Commissioners Rohr and Newquist) ("Further, the information regarding the so-called 'make or buy' decision of the largest U.S. producer shows the important role of the low-priced LTFV Chinese imports in determining the volume of U.S. production."), and at 38 & n. 28 (Commissioner Lodwick).

[112] In General Motors Corp. v. United States, 827 F. Supp. 774, 780 (Ct. Int'l Trade 1993) the court rejected the notion that the Commission could consider the injury to other product lines (other automotive vehicles) not included in the like product (minivans) produced by the corporate entities producing the like product, stating that the statute clearly required analysis of the effects of the subject imports on production of the like product only, not on lost sales of other vehicles. The court further affirmed the Commission's refusal to consider injury to the industry's Canadian operations, notwithstanding that the industry argued that this was a "relevant economic factor" the Commission is required to consider, noting that the statute specifically instructed the Commission to consider only the effects of subject imports in the context of production operations in the United States. 827 F. Supp. at 779-80.

[113] See, e.g., Gerald Metals v. United States, 132 F.3d 716 (Fed. Cir. 1997).

subject imports and any material injury to the domestic industry.[114] Moreover, there is also no evidence that subject imports are substituting for the domestic like product to any significant degree, and the record does not contain evidence that domestic producers are facing a "make or buy" decision of sufficient magnitude to warrant determining that the industry is suffering material injury by reason of subject imports.[115]

In sum, in light of the very limited direct competition between subject imports and the domestic like product, our finding that subject imports have not suppressed or depressed domestic prices to a significant degree, the healthy condition of the domestic industry, particularly its financial condition, and the lack of correlation between import trends and any declines in the condition of the domestic industry over the period of investigation, we find no reasonable indication that subject imports are having a material adverse impact on the domestic industry. Accordingly, we find that there is no reasonable indication that the domestic industry is materially injured by reason of the allegedly subsidized and LTFV imports of pigment dispersions from India.

V. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV AND SUBSIDIZED SUBJECT IMPORTS FROM INDIA

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[116] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[117] In making our determination, we have considered all factors that are relevant to

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[114] We also note that each of our investigations is sui generis, and that the situation in this present investigation is distinguishable from that in Tungsten Ore. See Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1088 (Ct. Int'l Trade 1988). See also, e.g., Ranchers-Cattlemen Action Legal Found. v. United States, 74 F. Supp. 2d 1353, 1379 (Ct. Int'l Trade 1999) (Commission determinations are sui generis, "'a particular circumstance in a prior investigation cannot be regarded by the Commission as dispositive of the determination in a later investigation,'" quoting Citrosuco, quoting Armstrong Bros. Tool Co. v. United States, 84 Cust. Ct. 102, 115, 489 F. Supp. 269, 279 (1980). Here, the subject imports do not dominate the market for the like product. CR and PR at Table C-1. In Tungsten Ore, subject imports "commanded over a 50 percent U.S. market share," whereas here, the greatest penetration of subject imports in the total market was *** percent. USITC Pub. 2447 at 35 (Commissioner Lodwick).

[115] One possible indicator that subject imports were forcing integrated producers to face an injurious "make or buy" decision would be a shift from the use of captively produced pigment dispersions to pigment dispersions purchased on the open market. However, the opposite occurred, as Flint and Sun both moved toward a greater reliance on internal consumption. The ratio of these companies' purchases on the merchant market to their internally consumed production fell from *** percent in 2000 to *** percent in 2001, *** percent in 2002, and *** percent in interim 2003. Calculated from questionnaire responses.

[116] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

[117] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

this investigation.[118] Based on an evaluation of the relevant statutory factors, we find that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports of pigment dispersions from India that are allegedly subsidized and/or sold in the United States at LTFV.

As an initial matter, we find that the domestic industry is not vulnerable to a threat of material injury by reason of the subject imports from India. As discussed above, the industry's performance remained healthy during the period of investigation, with the industry enjoying consistently high operating margins in each of the three years of the period of investigation and in both interim 2002 and 2003.[119] Moreover, the domestic industry dominated the total U.S. market, including the merchant market where it competed directly with subject imports.[120]

We find that the increase in the volume and market share of the subject imports over the period examined does not indicate a likelihood of substantially increased imports of subject merchandise in the imminent future. While the volume of subject imports rose over the period examined, the vast majority of imports were captively consumed by Micro, and subject imports' share of the merchant market never

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[118] 19 U.S.C. § 1677(7)(F). The Commission must consider, in addition to other relevant economic factors, the following statutory factors in its threat analysis:

> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,
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> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
>
> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,
>
> (V) inventories of the subject merchandise,
>
> (VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,
>
> (VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),
>
> (VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
>
> (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

Moreover, the Commission shall consider the threat factors "as a whole" in making its determination "whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur" unless an order issues. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class of merchandise suggest a threat of material injury to the domestic industry.

Factor VII is inapplicable to these investigations.

[119] CR and PR at Table C-1.

[120] CR and PR at Table IV-2.

exceeded *** percent.[121] Subject import volumes had little direct impact on the domestic industry given the extremely limited direct competition between the domestic like product and subject imports, and there is no evidence that conditions of competition will change in such a way that there would be any increases in the imminent future that would have a significant adverse impact on the domestic industry.

We also find that there is no indication that unused production capacity or any imminent increases in production capacity in India will lead to substantially increased imports in the imminent future. The record indicates that the subject producer has substantial unused capacity. However, that subject producer possessed significant unused capacity throughout the period examined which did not result in substantial volumes of subject imports that compete directly with domestic product. Although the subject producer projects that production of pigment dispersions will continue to increase, there is no basis to conclude that such production will result, in the imminent future, in significant export volumes to the United States that would compete in the domestic merchant market.[122] The overwhelming majority of pigment dispersions production in India was captively consumed in the United States for the production of ink.[123] There is no indication that this situation, in light of by the corporate relationship between Hindustan and Micro, is likely to change in the imminent future. Furthermore, there are no known dumping findings or investigations on pigment dispersions in other markets that might impede exports from India to those markets.[124] Thus, we do not find that unused foreign producer capacity will result in substantially increased imports to the U.S. market.

While inventories of subject imports held by U.S. importers rose over the period examined, they fell as a ratio to imports and remained modest in the context of the overall U.S. market.[125] Moreover, the inventories held by ***.[126] Hindustan's inventories remained at modest levels and declined as a ratio to production and shipments over the period examined. Accordingly, we find that inventory levels do not indicate a likelihood of increased imports in the imminent future.

As for the potential for product shifting, we note that respondents indicated that Hindustan manufactures both inks and ink raw materials and has a vertically integrated supply chain. According to respondents, its pigments dispersions, as well as other raw ink materials and inks, are produced at a single location in a seamless manner. However, these raw materials also go into the production of ink, a much higher value product. Regardless of the ability of the subject producer to shift from production of other products to pigment dispersions, there is no basis to conclude that such a shift will actually occur in the imminent future, or will result in significantly increased exports of subject merchandise to the United States.

We also find it unlikely that subject imports will enter the U.S. market at prices likely to suppress or depress domestic prices to any significant degree or to increase demand for subject imports. As discussed above, the record evidence indicates that subject import prices have had no significant adverse effects on domestic prices, in particular due to the low volume of subject imports that competes directly with domestic product. We see nothing in the record that indicates that conditions of competition in the industry will change so substantially in the imminent future that domestic prices will likely be adversely affected to a significant degree by subject import prices.

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[121] Calculated from CR and PR at Table C-1.

[122] In fact, all producers, domestic and foreign, had significant unused capacity. CR and PR at Tables III-2 and VII-1.

[123] CR and PR at Table VII-1.

[124] CR at VII-3, PR at VII-2.

[125] CR and PR at Tables VII-2 and C-1.

[126] Respondents' Br. at 26.

We also find that subject imports are not likely to have an actual or potential negative effect on the domestic industry's existing development and production efforts. Although the domestic industry's capital expenditures declined, the most significant decline occurred from 2000-2001, when subject imports were barely present in the U.S. market. While capital expenditures declined somewhat from 2001 to 2002, and between interim periods, they remained at relatively strong levels throughout the period of investigation. At the same time, domestic producers' research and development expenses remained essentially unchanged during the period of investigation.[127]

Several of the alleged subsidies on which Commerce initiated its CVD investigation may be export subsidies as described in Article 3 of the Subsidies Agreement.[128] We do not believe that these alleged export subsidies are likely to result in an increase in the volume of subject imports. Several of the alleged subsidies existed throughout the period of investigation, while others are nonrecurring.[129] They did not spur injurious exports of pigment dispersions to the United States during the period of investigation and there is no basis to conclude that they are likely to do so in the imminent future.

Finally, there is no evidence of any other demonstrable adverse trends that indicate a probability that the subject imports will materially injure the domestic industry.[130] On the contrary, the industry's performance has remained healthy, supporting our finding that the industry is not threatened with material injury by reason of the subject imports. Accordingly, we find no reasonable indication that the domestic industry producing pigment dispersions is threatened with material injury by reason of subject imports from India.

CONCLUSION

For the reasons stated above, we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of pigment dispersions from India that are allegedly subsidized and allegedly sold in the United States at less than fair value.

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[127] CR and PR at Table VI-4.

[128] Department of Commerce Notice of Initiation, 68 Fed. Reg. 39513 (July 2, 2003).

[129] See e.g., Petition at 15-39.

[130] 19 U.S.C. § 1677(7)(F)(I)(IX).

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by Apollo Colors, Inc. (Apollo), Rockdale, IL; General Press Colors, Ltd. (GPC), Addison, IL; Magruder Color Company, Inc. (Magruder), Elizabeth, NJ; and Sun Chemical Corporation (Sun), Fort Lee, NJ, on June 5, 2003, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (LTFV) imports of certain colored synthetic organic pigment dispersions[1] (pigment dispersions) from India. Information relating to the background of the investigations is provided on the following page.[2]

[1] Certain colored synthetic organic pigment dispersions are classified in either the Azo or Phthalocyanine chemical classes that have been dispersed in an oleoresinous organic varnish comprised of various combinations of solvents, oils, and resins. The subject pigment dispersions are commonly known as "flush" or "flushed color," but the base form of the subject pigment dispersions is also included in the scope of these investigations. The subject pigment dispersions are a thick putty or paste that contain by weight typically 20 percent or more pigment dispersed in the varnish, and are used primarily for the manufacture of letterpress and lithographic printing inks. The presence of additives, such as surfactants, antioxidants, wetting agents, and driers, in the subject pigment dispersions does not exclude them from the scope of these investigations.

Excluded from the scope of these investigations are dry powder pigments and pigment press cakes, as well as water and flammable solvent-based colored pigment dispersions, which typically are used in manufacturing liquid or fluid inks. Also excluded is Yellow 75, which is typically used to make the yellow paint to line roads.

The merchandise subject to these investigations is classifiable under statistical reporting numbers 3204.17.6020 (Pigment Blue 15:4) and 3204.17.6085 (Pigments Red 48:1, Red 48:2, Red 48:3, and Yellow 174), of the Harmonized Tariff Schedule of the United States (HTS), with a normal trade relations tariff rate of 7.4 percent *ad valorem*, applicable to imports from India, and statistical reporting numbers 3204.17.9005 (Pigment Blue 15:3), 3204.17.9010 (Pigment Green 7), 3204.17.9015 (Pigment Green 36), 3204.17.9020 (Pigment Red 57:1), 3204.17.9045 (Pigment Yellow 12), 3204.17.9050 (Pigment Yellow 13), 3204.17.9055 (Pigment Yellow 74), and 3204.17.9086, which prior to July 2002 was 3204.17.9085 (Pigments Red 22, Red 48:4, Red 49:1, Red 49:2, Red 52:1, Red 53:1, Yellow 14, and Yellow 83) of the HTS with a normal trade relations tariff rate of 7.8 percent *ad valorem*, applicable to imports from India.

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

Date	*Action*
June 5, 2003	Petition filed with Commerce and the Commission; institution of Commission investigations (68 FR 35003, June 11, 2003)
June 27, 2003	Commission's conference[3]
July 2, 2003	Commerce's notice of initiation of investigations (68 FR 39513)[4]
July 18, 2003	Date of the Commission's vote
July 21, 2003	Commission determinations transmitted to Commerce
July 28, 2003	Commission views transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of ten firms that accounted for nearly all of U.S. production of pigment dispersions during 2000-2002. U.S. import data are also based on questionnaire responses.

THE SUBJECT PRODUCT

Commerce has defined the scope of these investigations as follows:

> "Certain colored synthetic organic pigment dispersions are classified in either the Azo or Phthalocyanine chemical classes that have been dispersed in an oleoresinous organic varnish comprised of various combinations of solvents, oils and resins. The subject pigment dispersions are commonly known as "flush" or "flushed color," but the base form of the subject pigment dispersions is also included in the scope of these investigations. The subject pigment dispersions are a thick putty or paste that contain by weight typically 20 percent or more pigment dispersed in the varnish, and are used primarily for the manufacture of letterpress and lithographic printing inks. The presence of additives, such as surfactants, antioxidants, wetting agents, and driers, in the subject pigment dispersions does not exclude them from the scope of these investigations.
>
> "Excluded from the scope of these investigations are dry powder pigments and pigment press cakes, as well as water and flammable solvent-based colored pigment

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[3] A list of witnesses appearing at the conference is presented in app. B.

[4] Commerce's notice of initiation identifies the following 16 Government of India and/or State of Gujarat programs that are alleged to confer countervailable subsidies on manufacturers, producers, or exporters of the subject merchandise in India: (1) the Duty Entitlement Passback Scheme; (2) Advance Licenses; (3) Duty Free Replenishment Certificate Scheme; (4) Import Mechanism (Sale of Licences); (5) Pre-Shipment and Post-Shipment Export Financing; (6) Export Promotion Capital Goods Scheme; (7) Benefits for Export Processing Zones/Exported Oriented Units (EPZ/EOU); (8) Special Imprest Licenses (Deemed Exports); (9) Incentive Scheme for Export Oriented Park, Export Oriented Units (State of Gujarat Infrastructure Assistance Scheme); (10) Subsidy Scheme for Medium and Large Industries (State of Gujarat Infrastructure Assistance Scheme); (11) Income Tax Exemption Scheme (ITES) (Sections 10A, 10B, and 80HHC); (12) Re-Discounting of Export Bills Abroad; (13) Pre-Export and Post-Export Credits in Foreign Country; (14) Exemption of Export Credit from Interest Taxes; (15) Central Value Added Tax Scheme; and (16) Market Access Initiative. Commerce's notice of initiation with respect to the antidumping investigation estimates dumping margins ranging from 138 percent to 685 percent.

dispersions, which typically are used in manufacturing liquid or fluid inks. Also excluded is Yellow 75, which is typically used to make the yellow paint to line roads."[5] [6]

Physical Characteristics and Uses

The pigment dispersions covered in this petition are synthetic organic pigments[7] that have been dispersed (mixed) in an oleoresinous organic vehicle (varnish), which is composed of various solvents, oils, and resins. There is no one formula for pigment dispersions and many of them are likely to be proprietary.[8] The dispersions generally contain from approximately 35 to 45 percent of actual pigment material, but may be either higher or lower in some specialty applications.[9] [10] Although not dissolved, the pigments are uniformly dispersed in the varnish.

To prepare a press cake or powder for use as a printing ink, it is first dispersed in one of three types of commercial resins depending on which ink is required by the printing process at hand. The resins can be either water-based, flammable solvent-based, or oleoresin-based, the latter of which are the subject of these investigations, each having a different type of viscosity. An important difference among the types of resins is the degree of viscosity. In general, different printing processes require inks with different levels of viscosity; the oleoresinous dispersions (and resulting inks) are significantly more viscous than the other dispersions and associated inks.[11] Formulated pigment dispersions are used in inks for lithography and letterpress printing. Lithography is a major method for commercial and publication printing and for printing packaging material.[12] Formulations for pigment dispersions are modified to work with subsectors of lithography such as sheetfed offset and web offset lithography and with printing processes such as heatset and quickset. Letterpress printing, while the oldest form of printing and also a user of high-viscosity paste, is no longer a commercially large segment of the printing industry.

In 2002, the total ink market was ***. Of that market, lithographic inks accounted for *** valued at *** which amounted to approximately *** percent of total ink market value; the average unit

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[5] 68 FR 39513, July 2, 2003.

[6] No party to these investigations has raised any domestic like product issues.

[7] Inorganic pigments are not included in the petition.

[8] "The varnishes are oleoresinous vehicles that can contain different combinations of solvents, oils, and resins. These solvents, oils, and resins typically are composed of vegetable based oils such as linseed and soya oil; hydrocarbon based resins either straight or modified (such hydrocarbon resin modifications include but are not limited to phenolic, maleic or other hydrocarbon modifications); rosin based resins, either straight or modified (such rosin resin modifications include, but are not limited to phenolic, maleic or other rosin resin modifications); and alkyds." Petition, exhibit 6.

[9] *See* testimony of Michael Lewis, Sun, conference transcript, p. 20.

[10] Micro Inks Corp. (Micro) of Kankakee, IL, a U.S. ink producer, accounted for virtually all of the reported subject product imports during the period examined. Micro's imports were produced by its Indian corporate parent, Hindustan Ink and Resins (Hindustan). Of those imports, Micro reported that in 2002 *** percent of its imports contained 22-28 percent pigment, all of which was used internally in their production of ink. According to Micro, the 22-28 percent product is a "specially" prepared product it uses in its proprietary inks, and U.S. pigment flush producers are not able to duplicate it. The balance of Micro's imports contained 36 percent pigment and were sold to U.S. ink makers. *See* testimony of Richard Boltuck, Charles River Associates, conference transcript, pp. 98-99 and response to staff question, *see* question from Fred Ruggles, USITC, conference transcript, p. 123.

[11] For a discussion of the various viscosities and their implications for printing, *see* testimony of Michael Lewis, Sun, conference transcript, pp. 22-24, and Petition, second amendment, p. 11.

[12] Petition, p.12.

value for lithographic ink was ***. The letterpress market was some *** valued at ***, accounting for approximately *** percent of the value of the total market. The average unit price was *** per pound.[13]

Manufacturing Process and Facilities

There are two classes of pigments that are included in the petition, Azo and phthalocyanine.[14] Azo color pigments are synthesized in a multi-step process that includes the chemical reactions of diazotization and coupling.[15] Phthalocyanine pigments are also made in a multi-step process that includes adding copper atom to the molecule. The basic phthalocyanine pigment, containing the copper element, has a blue color. However, this pigment can be further reacted with either chlorine or bromine to produce green pigments. Both the Azo and Phthalo types of chemical require sophisticated chemistry.[16] Once the final chemical reaction is complete and the color/pigment is produced, it is typically semi-dried and referred to as "press cake."

Pigments can be shipped as slurries, press cake, or further dried into a powder, at which time it can then be used to add color to various products, including paints, plastics, and printing inks. However, before a pigment can be used in any application, it has to be dispersed in a medium. The medium in which it is dispersed is determined by the particular end-use application. Virtually all of the pigment dispersions under investigation are used for the same purpose -- "to produce printing inks for letterpress and lithographic printing."[17]

The subject pigment dispersions are prepared by using either the "flushing process" (about 90 percent of the time) or by using the "base process." In either case, the pigment dispersion that is prepared is the subject product of these investigations. The dispersion contains various amounts of resins, oils, and solvents, with the proportions and method of preparation often being proprietary. Petitioners stated that it is also possible to add other additives (e.g. wetting agents, surfactants, and antioxidants) in small quantities which in aggregate take up less than 10 percent of the flush color and still be considered a dispersion.[18] At this point, the pigment dispersion is ready for further processing to make an ink that is primarily used for lithography and, to a lesser extent, for letterpress applications.

To convert a pigment dispersion into an ink, it is further processed (and somewhat diluted) by adding other solvents and additives. "Every printing ink is formulated from three basic components: colorant, vehicle, and additives. A pigment dispersion provides the colorant (the pigment that provides the visible part of the ink) as well some of the vehicle. Additional solvents, oils and resins typically are needed to complete the proper vehicle. Additives such as silicone, waxes, metallo-organic compounds,

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[13] National Association of Printing Ink Manufacturers' (NAPIM) annual membership survey, the *Industry Outlook*, 2002. In 2000, the total ink market was ***. Lithographic inks accounted for *** valued at *** or *** percent of total ink market value with an average unit value of ***. The letterpress inks market was *** valued at ***, accounting for *** percent of the value of the total market with an average unit value of *** per pound.

[14] "The chemical classes of Azo and Phthalo produce pigments with the unique combination of physical properties, color, and price that make them universally demanded for letterpress and lithographic printing ink uses above all other pigment classes. It is this unique combination that makes the oleoresinous pigment dispersions produced using the pigments from these two specific classes a single like product." Petition, Second Amendment, p. 10.

[15] *See* testimony of William Rogers, Apollo, conference transcript, pp. 16-17 and petition, exhibit 7.

[16] Both of these basic processes are well known and are no longer proprietary. In fact, the discovery of the diazotization reactions and phthalocyanine occurred in the 19th Century. Similarly, the pigments subject to these investigations are no longer under patent.

[17] *See* testimony of William Rogers, Apollo, conference transcript, p. 17.

[18] Id.

wetting agents, driers and other materials also typically are put in to provide specific characteristics to an ink, or to the dried ink film, such as slip and resistance to scuffing."[19] The resulting ink is referred to as "concentrated ink" or "paste ink" and typically has the consistency of butter. Dispersions typically contain from 35 to 45 percent pigment and formulated inks approximately 10 to 15 percent pigment.[20]

Interchangeability and Customer and Producer Perceptions

Whether pigment dispersions are considered to be interchangeable revolves around the "oleoresinous dispersion" portion of an oleoresinous pigment dispersion.[21] One distinguishing characteristic between pigment dispersions is the difference in pigment concentration. Another is quality, which, in turn, is concerned with the type, amount, and the significance of carriers and additives.

The pigment dispersions produced by petitioners for both the commercial market and internal consumption in their ink operations generally contain 35 to 45 percent pigment, while most of the subject imported (by Micro) product, as noted earlier, contains 22-28 percent pigment[22] for internal consumption in the production of ink and 36 percent pigment for the commercial market. Micro also buys 36 percent pigment dispersions from U.S. producers.[23]

Respondents indicate that the subject imports Micro imports are "customized" flushes. According to Micro, "[t]he superior quality of our flush is also important in the merchant market. Micro sells flush mostly to small and medium-sized companies who have more local and branded sales. These companies are extremely concerned about the quality of their ink sold under their brand."[24] However, domestic producers counter that flushes with lower concentrations of pigments can be made by any domestic producer.[25]

With respect to technical quality, both ink and printing companies are concerned with certified products sheets, on site training for use of flushes, packaging and delivery, appropriate labeling, TQM and ISO standards.[26] Additional information with regard to interchangeability and customer and producer perceptions can be found in Part II of this report, *Conditions of Competition in the U.S. Market.*

Channels of Distribution

For both U.S. producers and importers, the vast majority of their pigment dispersions are internally consumed by their affiliated ink companies. Two U.S. firms, Sun and Flint Ink, are part of larger integrated ink companies. These two ink companies are, by far, the two largest ink producers in

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[19] Petition, p. 11.

[20] *See* testimony of Michael Lewis, Sun, conference transcript, p. 20.

[21] Each pigment mentioned in the petition is a uniquely defined synthetic organic chemical that has been described in the scientific literature and therefore technically, each pigment, irrespective of its source, is a perfect substitute.

[22] Micro and its corporate parent, Hindustan, refer to this pigment level as a concentrated ink. *See* testimony of Frank Morevec, Micro, conference transcript, p. 83. Petitioners note that "a concentrated ink only requires the addition of less than 5 percent oil to be ready to run on press." *See* testimony of Michael Lewis, Sun, conference transcript, p. 25.

[23] Micro stated that it buys more of the 36 percent pigment from U.S. producers than it sells to U.S. ink makers. *See* testimony of Frank Morevec, Micro, conference transcript, p. 85.

[24] Id.

[25] Postconference brief of Flint Ink, pp. 10-11.

[26] NAPIM membership survey, the *Industry Outlook*, 2002.

the United States.[27] In addition to the large producers, there are perhaps more than 200 smaller ink companies that purchase subject pigment dispersions in smaller quantities on a short term basis or in the spot market. Additional information with regard to channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market.*

Price

Information with regard to prices of pigment dispersions is presented in Part V of this report, *Pricing and Related Information.*

[27] In 2002, the top three U.S. ink producers' sales were as follows: Sun, $3.5 billion; Flint Ink, $1.4 billion; and INX Int'l Ink Co. (INX), $0.3 billion. INX is also a producer of pigment dispersions. *Ink Maker*, October, 2002, p. 13.

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

CHANNELS OF DISTRIBUTION

In the U.S. market, the majority of domestic and imported pigment dispersions is transferred to related firms or internally consumed. During 2002, data reported by U.S. producers indicate that *** percent of their quantity of domestic shipments of pigment dispersions were transferred to related firms or internally consumed and the remaining *** percent were commercial sales primarily to ink producers. Corresponding data from importers indicate that *** percent of their domestic shipments of pigment dispersions were transferred to related firms or internally consumed and *** percent were commercial sales primarily to ink producers.

SUPPLY AND DEMAND CONSIDERATIONS [1]

U.S. Supply

Based on available information, U.S. producers of pigment dispersions have the ability to respond to changes in prices with moderate to large changes in the quantity of shipments of U.S.-produced pigment dispersions to the U.S. market. The main factors contributing to this degree of responsiveness are excess capacity and exports to alternate markets. The degree of responsiveness may be moderated by the lack of sizable inventories. These factors are detailed next.

Industry Capacity

Data reported by U.S. producers indicate that there is excess capacity with which to expand production of pigment dispersions in the event of price changes. Domestic capacity utilization fell from 83.3 percent in 2000 to 69.7 percent in 2001, then declined further to 62.3 percent in 2002. Interim data for the first quarter of 2003 indicate that capacity utilization fell to 61.4 percent as compared to 62.7 percent for the first quarter of 2002.

Inventory Levels

U.S. producers' inventories of pigment dispersions, as a ratio to total shipments, were *** percent in 2000, *** percent in 2001, and *** percent in 2002. Interim data for the first quarter of 2003 indicate that inventories increased to *** percent of total shipments as compared to *** percent of total shipments in the first quarter of 2002. These data indicate some limited ability by U.S. producers to use inventories as a source of shipments to the U.S. market.

Export Markets

Exports represented a notable share of the quantity of total shipments during 2000-2002, accounting for *** percent in 2000, *** percent in 2001, and *** percent in 2002. These numbers suggest that U.S. producers may have considerable ability to divert shipments to or from alternate markets in response to changes in the prices of pigment dispersions.

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[1] Reported data on Indian production capacity, production, capacity utilization, inventories, and exports of pigment dispersions are shown in detail in Part VII of this report.

U.S. Demand

Based on available information, the overall demand for pigment dispersions is unlikely to change significantly in response to changes in price. The main factor contributing to the low degree of price sensitivity is the lack of substitute products.[2]

Demand Characteristics

Questionnaire responses reveal that U.S. producers and importers agree that, due to the general economic downturn, overall demand for pigment dispersions in the United States has declined or remained flat during the period examined. Available information indicates that U.S. consumption of pigment dispersions decreased from *** pounds in 2000 to *** pounds in 2001, then increased *** to *** pounds in 2002. Interim data also show a *** increase in demand from *** pounds in the first quarter of 2002 to *** pounds in the first quarter of 2003.[3]

Demand for this product is derived from the demand for finished printing inks, which in turn depends on such industries as advertising and packaging. According to Micro, the sluggish domestic economy has led to less demand for printed matter, which has reduced demand throughout the ink supply chain.

Substitute Products

Questionnaire responses from U.S. producers and importers reveal that seven of nine U.S. producers and one of two importers believe there are no substitute products for pigment dispersions. The remaining two U.S. producers and *** stated that dry pigments may be a substitute product. *** described imported dry pigments as a "major source of competition" to pigment dispersions.

Cost Share

According to responding U.S. producers and importers, the pigment dispersions that they sell in the U.S. market are used in the production of various types of printing inks, such as heatset web offset and sheetfed inks. Responding firms estimated the percentage of total end-use cost accounted for by the subject product to be in the range of 33 to 70 percent.

Importers that internally consume the subject product were asked to report the share that the subject product accounted for of the total cost of materials and the cost of production in 2002. The two importers that responded to this question reported that the subject product accounted for *** to *** percent of the cost of materials and *** to *** percent of the cost of production.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported pigment dispersions depends upon such factors as relative prices, quality, and conditions of sale. Based on available data in the preliminary

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[2] The high level of transfers to related firms/internal consumption may also insulate demand from the effects of changes in price.

[3] Petitioners assert that the growth in demand during the end of the period examined is "in sharp contrast" with declines in U.S. pigment dispersion prices during the same time frame, and thus shows the negative impact of subject imports within an overall weak U.S. economy. Petitioners also assert that the net effect of demand changes from 2000 to 2003 will be ***. Petitioners' postconference brief, pp. 15-16.

phase of these investigations, staff believes that there is a moderate to high degree of substitution between domestic pigment dispersions and subject imports from India.

Comparison of Domestic Product, Subject Imports, and Nonsubject Imports

Seven of nine responding U.S. producers and two of three responding importers believe that U.S. and Indian pigment dispersions are used interchangeably. Similarly, eight of nine responding U.S. producers and two of three responding importers believe that U.S. and nonsubject imported pigment dispersions are used interchangeably, while seven of nine responding U.S. producers and one of two responding importers believe that subject and nonsubject imported pigment dispersions are used interchangeably. Producers and importers who did not answer with the majority reported having no knowledge of product interchangeability for the two relevant categories cited in the particular questions.[4]

In its questionnaire response, Micro stated the following regarding differences in product characteristics between U.S.-produced pigment dispersions and the subject product from India. ***.

[4] U.S. producer *** and importer *** reported that all products were interchangeable, but that formulation changes may be necessary. U.S. producer *** reported that formulation changes may be necessary only for domestic and Indian product interchangeability.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of ten firms that accounted for nearly all of U.S. production of pigment dispersions during 2003.[1]

Table III-1 presents U.S. producers' plant locations, positions on the petition, and shares of total reported U.S. production in 2002, as well as each firms reported internal consumption/company transfers as a share of its total production in 2002. In 2002, *** percent of U.S. producers' total U.S. shipments were internally consumed or transferred to related firms.

[1] ***.

Table III-1
Pigment dispersions: U.S. producers, their positions on the petition, plant locations, ownership, and shares of U.S. production and internal consumption/company transfers as a share of production, 2002

Firm	Position on petition	Plant location(s)	Related companies	Share of total reported U.S. production	Internal consumption and transfers to related firms as a percent of firm's total production
Apollo	Support/ Petitioner	Rockdale, IL	***	***	***
CPS Corp. (CPS)[1]	Support	Dunkirk, NY	***	***	***
Daicolor-Pope, Inc. (Daicolor)[2]	Support	Paterson, NJ	***	***	***
Dynamic Color Systems, Inc. (Dynamic Color)	Support	Burr Ridge, IL	None	***	***
Flint Ink[1]	Support	Cincinatti, OH; Elizabeth, KY; and Holland, MI	None	***	***
GPC	Support/ Petitioner	Addison, IL	None	***	***
Heucotech	Support	Fairless Hills, PA	None	***	***
INX[1]	Support	West Chicago, IL	***	***	***
Magruder	Support/ Petitioner	Bridgeview, Il and Elizabeth, NJ	None	***	***
Sun[1]	Support/ Petitioner	Sterling, IL	***	***	***

[1] Produces ink.
[2] No reported production after 2000.

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

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

Table III-2 presents U.S. production capacity, production, capacity utilization, and shipments data for 2000-2002, January-March 2002, and January-March 2003, while table III-3 presents end-of-period inventories and employment-related data for the same period.

Table III-2
Pigment dispersions: U.S. production capacity, production, capacity utilization, and shipments, 2000-02, January-March 2002, and January-March 2003

Item	Calendar year			January-March	
	2000	2001	2002	2002	2003
Capacity (*1,000 pounds*)	304,296	320,596	331,596	80,691	82,891
Production (*1,000 pounds*)	253,419	223,484	206,480	50,560	50,896
Capacity utilization (*percent*)	83.3	69.7	62.3	62.7	61.4
Quantity (*1,000 pounds*)					
Commercial U.S. shipments	60,534	54,084	42,821	10,982	10,697
Internal consumption	64,828	58,807	57,346	13,378	12,223
Transfers to related firms	70,186	58,514	63,834	14,367	15,968
U.S. shipments	195,548	171,405	164,002	38,727	38,888
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Value (*$1,000*)					
Commercial U.S. shipments	160,672	145,046	112,544	29,127	27,251
Internal consumption	136,326	120,244	115,320	26,775	24,075
Transfers to related firms	165,260	141,214	140,770	32,319	35,716
U.S. shipments	462,257	406,505	368,634	88,221	87,042
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Unit value (*per pound*)					
Commercial U.S. shipments	$2.65	$2.68	$2.63	$2.65	$2.55
Internal Consumption	2.10	2.04	2.01	2.00	1.97
Transfers to related firms	2.35	2.41	2.21	2.25	2.24
U.S. shipments	2.36	2.37	2.25	2.28	2.24
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***

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

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

Table III-3
Pigment dispersions: U.S. producers' end-of-period inventories and employment-related data, 2000-02, January-March 2002, and January-March 2003

Item	Calendar year			January-March	
	2000	2001	2002	2002	2003
Inventories (*1,000 pounds*)[1]	7,855	7,871	7,580	7,221	11,082
Ratio to production (*percent*)	3.1	3.5	3.7	3.6	5.4
Ratio to U.S. shipments (*percent*)	4.0	4.6	4.6	4.7	7.1
Ratio to total shipments (*percent*)	***	***	***	***	***
Production and related workers (PRWs)	1,208	1,124	1,050	1,080	1,040
Hours worked by PRWs (*1,000 hours*)	2,441	2,147	2,140	528	539
Wages paid to PRWs (*1,000 dollars*)	61,408	56,279	56,184	14,107	14,328
Hourly wages	$25.16	$26.21	$26.26	$26.74	$26.60
Productivity (*pounds produced per hour*)	103.9	104.1	96.9	96.0	94.9
Unit labor costs (*per pound*)	$0.24	$0.25	$0.27	$0.28	$0.28

[1] Includes some product sold on consignment and held in inventories.

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

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

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

The Commission sent questionnaires to 60 firms identified by the petition and a review of Customs data.[1] The Commission received usable data on imports of pigment dispersions from three companies, two of which imported from India while the other imported product from ***. Virtually all reported imports of product from India were imported by Micro, a U.S. ink producer, which is wholly owned by Hindustan, an Indian producer of pigment dispersions and ***. Micro internally consumed nearly *** percent of its imports of subject product in 2002, while ***.[2]

Data in this section regarding the quantity and value of U.S. imports of pigment dispersions are based on questionnaire responses and are presented in table IV-1.

Table IV-1
Pigment dispersions: U.S. imports, by sources, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table IV-2 presents U.S. producers' U.S. shipments, U.S. shipments of imports, apparent U.S. consumption, and market shares. Table IV-3 presents data for U.S. production and import/production shares.

Table IV-2
Pigment dispersions: U.S. producers' U.S. shipments, U.S. shipments of imports, by types and sources, apparent U.S. consumption, and market shares, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

Table IV-3
Pigment dispersions: U.S. producers' production, U.S. imports, and import/production shares, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

[1] It should be noted that the HTS categories subject to these investigations contain, in addition to subject product, product not covered by the investigations.

[2] ***.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

U.S. Inland Transportation Costs

Transportation costs of pigment dispersions for delivery within the United States vary from firm to firm but tend to account for a relatively small percentage of the total cost of the product. For the nine U.S. producers that responded to this question, these costs accounted for between 1.1 and 6.0 percent of the total cost of pigment dispersions, with an average of 2.7 percent. For the three importers who provided usable responses to this question, these costs accounted for between 3.0 and 6.5 percent of the total cost of the product, with an average of 5.2 percent.

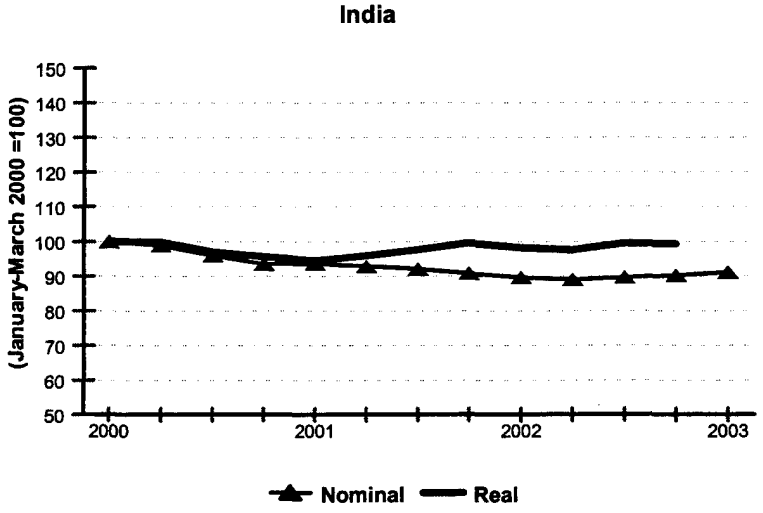
The vast majority of responding U.S. producers reported a geographic market area encompassing the continental or entire United States. The two importers that responded to this question reported market areas encompassing the entire United States.

Producers and importers were also requested to provide estimates of the percentages of their shipments that were made within specified distance ranges. Among the nine U.S. producers that provided usable responses to this question, an average of 23.8 percent of shipments occurred within 100 miles, 51.4 percent occurred within 101 to 1,000 miles, and 24.8 percent occurred at distances over 1,000 miles. Among the three importers that provided usable responses to this question, an average of 50.0 percent of shipments occurred within 100 miles, 37.7 percent occurred within 101 to 1,000 miles, and 12.3 percent occurred at distances over 1,000 miles.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Indian rupee depreciated approximately 10 percentage points during the period examined, while the real value depreciated approximately four percentage points through the second quarter of 2001 before appreciating irregularly through the fourth quarter of 2002 back to its value at the beginning of the period examined. The real value of the Indian rupee was not calculated for the first quarter of 2003 due to the unavailability of the necessary producer price data (figure V-1).

Figure V-1
Exchange rates: Indexes of the nominal and real values of the Indian rupee relative to the U.S. dollar, by quarters, January 2000-March 2003



Source: International Monetary Fund, *International Financial Statistics*, May 2003.

PRICING PRACTICES

Pricing Methods

Questionnaire responses reveal that most sales of pigment dispersions in the United States are made on a transaction-by-transaction basis based on current market conditions, with the majority of sales reportedly occurring on a spot basis.[1]

In those instances where suppliers use contracts to sell pigment dispersions, these contracts appear to typically be 1 to 2 years in duration, fix price, quantity, or both price and quantity, and have no standard quantity requirements or meet-or-release provisions.

Sales Terms and Discounts

The vast majority of responding U.S. producers and importers reported some sort of discount policy, which is generally negotiated with individual customers based on volume. U.S. producers and importers showed uniformity on the issue of payment terms and price basis, with most responding firms reporting that payment is required within 30 days and price quotes are typically on a delivered basis.

[1] Contrary to their questionnaire responses, petitioners state that commercial sales are typically sold under contractual agreements that are subject to annual renegotiation. One type of agreement sets volume discounts that will apply to a customer's total purchases during the upcoming year, with fixed prices but flexible quantities that will determine the volume rebate at the end of the contract. The other type of agreement is a consignment contract where a set volume at a set price is shipped and the customer draws from that inventory. After a given holding time in consignment, the customer will be charged for the entire amount shipped. Petitioners' postconference brief, p. 23.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and value of six pigment dispersion products. These data were used to determine the weighted-average price in each quarter. Data were requested for the period January 2000 through March 2003. The products for which pricing data were requested are as follows:

For use in heatset web offset printing inks:

Product 1. - PR-57:1 (red) (CAS 5281-04-9)

Product 2. - PY-12 (yellow) (CAS 15541-56-7/6358-85-6)

Product 3. - PB-15:3 (blue) (CAS 147-14-8)

For use in sheetfed inks:

Product 4. - PR-57:1 (red) (CAS 5281-04-9)

Product 5. - PY-12 (yellow) (CAS 15541-56-7/6358-85-6)

Product 6. - PB-15:3 (blue) (CAS 147-14-8)

Nine U.S. producers and one importer (Micro) provided usable pricing data for sales of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters. Pricing data reported by the U.S. producers and importer accounted for 79.5 percent of the 2002 quantity of U.S. producers' commercial U.S. shipments of pigment dispersions, as well as *** percent of the importer's commercial U.S. shipments of pigment dispersions from India.

Price Comparisons

Data on f.o.b. selling prices and quantities of products 1 through 6 sold by the U.S. producers and importer of Indian pigment dispersions are shown in tables V-1 through V-6, and figures V-2 through V-7, respectively.

Product 1

As shown in table V-1 and figure V-2, price comparisons for product 1 between the United States and India were possible in a total of seven quarters. In all quarters, the Indian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging *** percent.

Table V-1
Product 1: Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Figure V-2
Weighted-average f.o.b. prices for product 1, as reported by U.S. producers and importers, by quarters, January 2000-March 2003

* * * * * * *

Product 2

As shown in table V-2 and figure V-3, price comparisons for product 2 between the United States and India were possible in a total of seven quarters. In all quarters, the Indian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging *** percent.

Table V-2
Product 2: Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Figure V-3
Weighted-average f.o.b. prices for product 2, as reported by U.S. producers and importers, by quarters, January 2000-March 2003

* * * * * * *

Product 3

As shown in table V-3 and figure V-4, price comparisons for product 3 between the United States and India were possible in a total of five quarters. In all quarters, the Indian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging *** percent.

Table V-3
Product 3: Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Figure V-4
Weighted-average f.o.b. prices for product 3, as reported by U.S. producers and importers, by quarters, January 2000-March 2003

* * * * * * *

Product 4

As shown in table V-4 and figure V-5, price comparisons for product 4 between the United States and India were possible in a total of five quarters. In one quarter, the Indian product was priced above the U.S. product, with a margin of *** percent. In the other four quarters, the Indian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging *** percent.

Table V-4
Product 4: Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Figure V-5
Weighted-average f.o.b. prices for product 4, as reported by U.S. producers and importers, by quarters, January 2000-March 2003

* * * * * * *

Product 5

As shown in table V-5 and figure V-6, price comparisons for product 5 between the United States and India were possible in a total of five quarters. In one quarter, the Indian product was priced above the U.S. product, with a margin of *** percent. In the other four quarters, the Indian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging *** percent.

Table V-5
Product 5: Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Figure V-6
Weighted-average f.o.b. prices for product 5, as reported by U.S. producers and importers, by quarters, January 2000-March 2003

* * * * * * *

Product 6

As shown in table V-6 and figure V-7, price comparisons for product 6 between the United States and India were possible in a total of five quarters. In all quarters, the Indian product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging *** percent.

Table V-6
Product 6: Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Figure V-7
Weighted-average f.o.b. prices for product 6, as reported by U.S. producers and importers, by quarters, January 2000-March 2003

* * * * * * *

LOST SALES AND LOST REVENUES

Five U.S. producers provided information on 35 alleged lost sales and/or lost revenues due to imports of pigment dispersions from India. The reported allegations of lost sales and lost revenues total $7.5 million and involve 7.0 million pounds of pigment dispersions, of which nearly $1.1 million and 466,000 pounds were confirmed or partially confirmed by purchasers. The lost sales and lost revenues allegations are reported in tables V-7 and V-8, respectively. Additional information provided by purchasers follows.

Table V-7
Pigment dispersions: Lost sales allegations

* * * * * * *

Table V-8
Pigment dispersions: Lost revenue allegations

* * * * * * *

* * * * * * *

* * * * * * *

* * * * * * *

* * * * * * *

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Nine producers provided usable financial data on their U.S.-produced pigment dispersions operations. Financial performance was generally reported on a calendar-year basis using U.S. GAAP.[1]

The majority of activity was accounted for by *** which reported operations throughout the period. Only a small amount of the absolute change in pigment dispersions revenue is attributable to companies entering and exiting the industry.[2] In 2002, 74.5 percent of overall revenue represented transfers and internal consumption with the rest being commercial sales. The combined percentage of transfers and internal consumption was marginally higher in 2002 compared to the previous periods.[3]

OPERATIONS ON PIGMENT DISPERSIONS

Income-and-loss data are presented in table VI-1 and on a unit basis in table VI-2. Table VI-3 presents selected company-specific data which are referenced in this section of the report.

Declining sales volume, revenue, and absolute profitability in each period, as well as period-to-period changes in average unit sales values and costs, were important features of the period examined. To the extent that operating profit (as a percent of net sales and on a unit basis) was relatively stable during the period examined, the absolute decline in profitability can be attributed to declining volume. While all three classes of revenue reflected lower volume, declining transfers accounted for the largest portion of the overall decline.[4] On a percentage basis, the overall reduction in commercial sales revenue (in 2002 compared to 2000) was largest.

During the full-year periods, average unit gross profitability moved within a relatively narrow range. Declines in average unit revenue were largely offset by lower average unit cost of goods sold (COGS). Lower period-to-period average unit raw material costs were the primary reason that overall average unit COGS declined in 2001 and 2002.[5] As noted before, the absolute level of profitability declined during the period examined due to lower volume, as opposed to lower profitability margins.

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[1] ***. With the exception of ***, the financial results presented in this section of the report are specific to pigment dispersions. ***. ***.

[2] The share of total sales accounted for by companies entering and exiting the industry during the period examined was relatively small. ***.

[3] Internal consumption and transfers both generally represent pigment dispersions used by the respective overall/consolidated company to produce ink. Classification of a transaction as internal consumption versus a transfer reflects the reporting and operational structure of the U.S. producer.

[4] At the staff conference, company officials from Flint Ink and Sun stated that the decline in the volume of transfers, as well as internal consumption, was due to reduced demand from downstream ink operations. *See* testimony of Michael Lewis, Sun, and W. Rucker Wickline, Flint Ink, conference transcript, p. 62.

The average unit values associated with commercial sales, internal consumption, and transfers generally occupied distinct levels/values throughout the period examined. With respect to the difference between its average unit commercial sales and transfers values, ***.

[5] Reductions in average unit raw material costs may reflect more efficient operations, as well as reduced input prices. For example, a Flint Ink company official noted that lower costs were achieved by improvements in manufacturing efficiency which in turn helped to maintain profitability despite declining pigment dispersion prices. *See* testimony of W. Rucker Wickline, Flint Ink, conference transcript, p. 41.

Table VI-1
Pigment dispersions: Financial results for calendar years 2000-02, January-March 2002, and January-March 2003

Item	Calendar year			January-March	
	2000	2001	2002	2002	2003
	Quantity (*1,000 pounds*)				
Commercial sales	61,401	54,808	43,657	11,165	10,910
Internal consumption	50,975	45,933	48,387	11,084	10,625
Transfers to related firms	128,977	108,628	104,294	24,744	25,000
Total net sales	241,352	209,368	196,338	46,993	46,535
	Value (*$1,000*)				
Commercial sales	159,233	142,958	112,821	29,247	27,950
Internal consumption	125,098	110,991	110,619	25,484	23,408
Transfers to related firms	282,546	241,112	218,582	51,870	55,263
Total net sales	566,877	495,061	442,022	106,601	106,621
Raw material	361,840	304,868	270,744	64,541	65,571
Direct labor	27,623	25,612	22,293	5,443	5,266
Other factory costs	58,928	58,054	49,420	12,724	12,978
Total cost of goods sold	448,392	388,533	342,457	82,708	83,815
Gross profit	118,485	106,528	99,566	23,893	22,806
SG&A expenses	53,216	49,873	46,929	10,942	11,524
Operating income	65,269	56,655	52,637	12,951	11,282
Interest expense	4,811	4,861	3,098	886	595
Other expenses	2,594	2,739	3,318	920	743
Other income items	653	265	0	12	195
Net income	58,517	49,320	46,220	11,157	10,139
Depreciation/amortization	14,736	16,368	18,643	4,659	5,838
Estimated cash flow	73,253	65,688	64,864	15,816	15,977
Continued on following page					

Table VI-1--*Continued*
Pigment dispersions: Financial results for calendar years 2000-02, January-March 2002, and January-March 2003

Item	Calendar year			January-March	
	2000	2001	2002	2002	2003
	Ratio to net sales (*percent*)				
Raw material	63.8	61.6	61.3	60.5	61.5
Direct labor	4.9	5.2	5.0	5.1	4.9
Other factory costs	10.4	11.7	11.2	11.9	12.2
Cost of goods sold	79.1	78.5	77.5	77.6	78.6
Gross profit	20.9	21.5	22.5	22.4	21.4
SG&A expenses	9.4	10.1	10.6	10.3	10.8
Operating income	11.5	11.4	11.9	12.1	10.6
Net income	10.3	10.0	10.5	10.5	9.5
	Number of producers reporting				
Operating losses	4	4	5	4	4
Data	8	8	9	9	8
Source: Compiled from data submitted in response to Commission questionnaires.					

Table VI-2
Pigment dispersions: Financial results (*per pound*) for calendar years 2000-02, January-March 2002, and January-March 2003

Item	Calendar year			January-March	
	2000	2001	2002	2002	2003
	Unit value (*per pound*)				
Total net sales	$2.35	$2.36	$2.25	$2.27	$2.29
Cost of goods sold:					
Raw material	1.50	1.46	1.38	1.37	1.41
Direct labor	0.11	0.12	0.11	0.12	0.11
Other factory costs	0.24	0.28	0.25	0.27	0.28
Total cost of goods sold	1.86	1.86	1.74	1.76	1.80
Gross profit	0.49	0.51	0.51	0.51	0.49
SG&A expenses	0.22	0.24	0.24	0.23	0.25
Operating income	0.27	0.27	0.27	0.28	0.24
Source: Compiled from data submitted in response to Commission questionnaires.					

Selected financial information of U.S. producers' pigment dispersions operations, by firms, fiscal years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

At the end of the period, interim 2003 profitability was lower compared to the previous interim period due to lower volume (continuing the previous trend) and higher average unit costs. The increase in average unit raw material costs was the primary factor causing higher COGS[6] -- the increase being only partially offset by higher interim 2003 average unit sales value.[7] Interim 2003 SG&A expenses were also marginally higher which contributed to the decline in average unit operating profit.

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

Data on capital expenditures, research and development (R&D) expenses, and property, plant, and equipment related to pigment dispersions are shown in table VI-4.

Table VI-4
Pigment dispersions: Capital expenditures, research and development expenses, and overall value of property, plant, and equipment, fiscal years 2000-02, January-March 2002, and January-March 2003

Item	Calendar year			January-March	
	2000	2001	2002	2002	2003
	Value (*$1,000*)				
Capital expenditures	10,512	7,287	6,977	753	636
R&D expenses	6,504	6,273	6,472	1,698	1,558
Property, plant, and equipment:					
Original cost	256,245	263,292	264,347	262,701	259,362
Book value	140,542	135,938	120,827	132,235	115,623

Note: The information reported by ***.

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

[6] Three specific intermediate raw materials are derived from naphthalene. *See* testimony of W. Rucker Wickline, Flint Ink, conference transcript, p. 40. Company officials noted that in the fourth quarter of 2002 a sharp increase in world-wide naphthalene prices drove up the price of beta napthal, a major raw material (in the production of pigment dispersions), as well beta napthal derivatives. *See* testimony of W. Rucker Wickline, Flint Ink, conference transcript, p. 60.

[7] Several company officials stated that they were unable to increase their prices in response to higher raw material costs at the end of the period examined. *See* testimony of Walter Zamerovsky, Sun, conference transcript, p. 31 and W. Rucker Wickline, Flint Ink, conference transcript, p. 40.

*** and *** accounted for the majority of reported capital expenditures and R&D expenses.[8]

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of pigment dispersions from India on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are presented in appendix D.

[8] In response to a follow-up question, *** stated that ***. *** explained that its ***. *** stated that its capital expenditures *** and that its R&D expenses ***.

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 nature of the alleged subsidies was presented earlier in this report. Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN INDIA

The only reported/known producer of pigment dispersions in India is Hindustan and as such table VII-1 is solely derived from Hindustan's questionnaire response.[1] According to testimony by Micro, a U.S. ink producer and wholly owned subsidiary of Hindustan, at the Commission's staff conference in these investigations:

> "Hindustan is the largest manufacturer of inks and ink raw materials in India, and sells its product to over 50 countries. Unlike the petitioners, Hindustan has a complete vertically integrated supply chain. In fact, Hindustan is the only company in the world that produces inks in the full range of ink raw materials, including pigments, pigment dispersions, which we refer to as flush, press cake, resin, varnish and wax compound at a single location in a seamless manner."[2]

[1] Aum Farben-Chem (India) Pvt., Ltd., Hercules Pigment Industry, and Heubach Colour PVT, Ltd., were identified in the petition as Indian producers. These three firms responded to the Commission's Foreign Producers' questionnaire, ***. ***

[2] See, testimony of Frank Morevec, Micro, conference transcript, p. 82. According to its website, Hindustan is "part of US $250 million Bilakhia group, which has diverse interests in printing inks, resins, flushed pigments and crop protection chemicals." From Hindustan's website, *http://www.hindustaninks.com/company.htm*, retrieved on July 2, 2003.

Table VII-1
Pigment dispersions: Indian production capacity, production, shipments, and inventories, 2000-02, January-March 2002, January-March 2003, and projected 2003-04

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Table VII-2 presents data on U.S. importers' end-of-period inventories of imported pigment dispersions from India and all other sources. All "other source" imports reported are from ***.

Table VII-2
Pigment dispersions: U.S. importers' end-of-period inventories of imports from India and all other sources, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

U.S. IMPORTERS' CURRENT ORDERS

Micro reported *** of pigment dispersions scheduled for delivery between ***.

ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known antidumping duty orders on pigment dispersions from India in third-country markets.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–436 (Preliminary) and 731–TA–1042 (Preliminary)]

Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions From India

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of the preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty and antidumping investigation nos. 701–TA–436 (Preliminary) and 731–TA–1042 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that 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 imports from India of certain colored synthetic organic oleoresinous pigment dispersions. This petition covers imports of colored synthetic organic pigment dispersions, in flush or base form, containing pigments classified in either the Azo or Phthalo chemical classes that have been dispersed in an oleoresinous organic vehicle system comprising assorted combinations of various solvents, oils, and resins ("the varnish"). The subject pigment dispersions are a thick putty that contain by weight 20 percent or more pigment dispersed in the varnish. The subject pigment dispersions are used primarily for the manufacture of letterpress and lithographic printing inks, provided for in subheadings 3204.17.6020 (Pigment Blue 15:4), 3204.17.6085 (Pigments Red 48:1, Red 48:2, Red 48:3, and Yellow 174), 3204.17.90 (Pigments Red 57:1, Yellow 12, Yellow 13, Yellow 74, Blue 15:3, Green 7), and 3204.17.9085 (Pigments Red 22, Red 48:4, Red 49:1, Red 49:2, Red 52:1, Red 53:1, Yellow 14, Yellow 83, and Green 36) of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India and alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) and 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) and (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in these investigations in 45 days, or in this case by July 21, 2003. The Commission's views are due at Commerce within five business days thereafter, or by July 28, 2003.

For further information concerning the conduct of these investigations 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 B (19 CFR part 207).

EFFECTIVE DATE: June 5, 2003.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187 or *fruggles@usitc.gov*), 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 (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on June 5, 2003, by Apollo Colors, Inc., Rockdale, IL, General Press Colors, Ltd.,

Addison, IL, Magruder Color Company, Inc., Elizabeth, NJ, and Sun Chemical Corporation, Fort Lee, NJ.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to these investigations under the APO issued in these investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 27, 2003, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187 or *fruggles@usitc.gov*) not later than June 25, 2003, to arrange for their appearance. Parties in support of the imposition of countervailing duties and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 2, 2003, a written brief containing information and arguments pertinent to the subject matter of these investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must 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 permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to these investigations must be served on all other parties to these investigations (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: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: June 6, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–14793 Filed 6–10–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–836]

Notice of Initiation of Antidumping Duty Investigation: Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions from India

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

ACTION: Initiation of Antidumping Duty Investigation.

EFFECTIVE DATE: July 2, 2003.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson at (202) 482–4929 or Rebecca Trainor at (202) 482–4007, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigation

The Petition

On June 5, 2003, the Department of Commerce ("the Department") received a petition filed in proper form by Apollo Colors Inc., General Press Colors, Ltd., Magruder Color Company, Inc., and Sun Chemical Corporation (collectively, "the petitioners"). The Department received petition supplements on June 16, 18 and 20, 2003.

In accordance with section 732(b)(1) of the Tariff Act of 1930 ("the Act"), as amended, the petitioners allege that imports of certain colored synthetic organic oleoresinous pigment dispersions ("colored pigment dispersions") from India are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that imports from India are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. See infra, "Determination of Industry Support for the Petition."

Scope of Investigation

The products covered by this investigation are colored synthetic organic pigment dispersions containing pigments classified in either the Azo or Phthalocyanine chemical classes that have been dispersed in an oleoresinous varnish comprised of various combinations of solvents, oils and resins. The subject pigment dispersions are commonly known as "flush" or "flushed color," but the base form of the subject pigment dispersions is also included in the scope of this investigation. The subject pigment dispersions are a thick putty or paste that contain by weight typically 20 percent or more pigment dispersed in the varnish, and are used primarily for the manufacture of letterpress and lithographic printing inks. The presence of additives, such as surfactants, antioxidants, wetting agents, and driers, in the subject pigment dispersions does not exclude them from the scope of this investigation.

Excluded from the scope of this investigation are dry powder pigments and pigment press cakes, as well as water and flammable solvent based colored pigment dispersions, which typically are used in manufacturing liquid or fluid inks. Also excluded is Yellow 75, which is typically used to make the yellow paint to line roads.

The merchandise subject to this investigation is classifiable under subheadings 3204.17.6020 (Pigment Blue 15:4), 3204.17.6085 (Pigments Red 48:1, Red 48:2, Red 48:3, and Yellow 174), 3204.17.9005 (Pigment Blue 15:3), 3204.17.9010 (Pigment Green 7), 3204.17.9015 (Pigment Green 36), 3204.17.9020 (Pigment Red 57:1), 3204.17.9045 (Pigment Yellow 12), 3204.17.9050 (Pigment Yellow 13), 3204.17.9055 (Pigment Yellow 74), and 3204.17.9086[1] (Pigments Red 22, Red 48:4, Red 49:1, Red 49:2, Red 52:1, Red 53:1, Yellow 14, and Yellow 83) of the Harmonized Tariff Schedule of the United States ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Period of Investigation

The anticipated period of investigation is April 1, 2002, through March 31, 2003.

[1] Prior to July 2002, this number was 3204.17.9085.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[2]

Section 771(10) of the Act defines the 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 under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the definition of domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information presented by the petitioners, we have determined that there is a single domestic like product, colored pigment dispersions, which is defined in the "Scope of Investigation" section above, and we have analyzed industry support in terms of this domestic like product.

In their initial petition and subsequent submissions, the petitioners state that they comprise over 50 percent of U.S. colored pigment dispersions production. The petition identifies nine additional U.S. companies engaged in the production of colored pigment dispersions, none of which have taken a position on (either for or against) the petition. Through data provided by the petitioners and our own independent research, we have determined that the colored pigment dispersions production of these nine companies is not high enough to place the petitioners' industry support in jeopardy. Based on all available information, we agree that the petitioners comprise over 50 percent of all domestic colored pigment dispersions production.

Our review of the data provided in the petition and other information readily available to the Department indicates that the petitioners have established industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. In addition, the Department received no opposition to the petition from domestic producers of the like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(I) of the Act are met. Furthermore, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. For more information on our analysis and the data upon which we relied, see Import Administration AD/CVD Enforcement Initiation Checklist ("Initiation Checklist"), Industry Support section and Attachment II, dated June 25, 2003, on file in the Central Records Unit of the main Department of Commerce building.

Constructed Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. price, constructed value ("CV"), and factors of production are discussed in greater detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we may re-examine the information and revise the margin calculations, if appropriate.

Constructed Export Price

The petitioners alleged that the subject colored pigment dispersions produced in India by Hindustan Inks and Resins Ltd. ("Hindustan") (*i.e.*, the largest Indian producer named in the petition) were sold in the United States through its affiliate Micro Inks. Therefore, the petitioners based U.S. price on constructed export price ("CEP"). According to the data provided by the petitioners, in the United States Micro Inks sells the subject colored pigment dispersions imported from Hindustan in the flush form as imported and as further manufactured into printing ink. The petitioners based CEP prices for colored pigment dispersions sold as imported on invoice prices adjusted for movement expenses, indirect selling expenses, and CEP profit. The CEP prices for further manufactured colored pigment dispersions were based on Micro Inks' listed prices for printing ink adjusted for movement expenses, indirect selling expenses, CEP profit and further manufacturing costs. For margin calculation purposes, we excluded one of the three prices for the sale of flush colored pigment dispersions because we were unable to definitively determine

[2] *See USEC, Inc.* v. *United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), *citing Algoma Steel Corp. Ltd.* v. *United States*, 688 F. Supp. 639, 642–44 (Ct. Int'l Trade 1988) ("the ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV").

from the invoice if the sale was to a U.S. customer.

Normal Value

The petitioners alleged that neither India nor any third country constitutes a viable market on which to base normal value ("NV"). Therefore, the petitioners based NV on CV, using the factors of production of one of the petitioners, but incorporating values derived largely from publicly available Indian data. Specifically, the petitioners used the U.S. producer's own consumption rates for raw materials, direct labor, electricity, natural gas and water, and applied either publicly available Indian prices or the U.S. producer's own costs. For certain raw materials and electricity, natural gas and water, the petitioners relied upon average market prices obtained from publically available sources. To adjust the U.S. producer's costs associated with direct labor, the petitioners relied upon the Indian labor rate found on the Import Administration website. To calculate overhead, selling, general and administrative expense, and financial expense, the petitioners relied upon amounts reported in the fiscal year 2002 financial statements of Hindustan. The petitioners included in CV an amount for profit which was based on the profit from Hindustan's fiscal year 2002 financial statements. The petitioners converted NV into U.S. dollars using the exchange rates posted on the Department's website.

The estimated dumping margins in the petition for flush form based on a comparison between CEP and CV range from 138 percent to 677 percent.[3] The estimated dumping margins in the petition for further manufactured colored pigment dispersions based on a comparison between CEP and CV range from 189 percent to 685 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of certain colored synthetic organic oleoresinous pigment dispersions from India are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of imports from India of the subject merchandise sold at less than NV.

[3] The margins associated with the excluded invoice were not included in this range. *See* "Constructed Export Price" section above.

The petitioners contend that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit-to-sales ratios, and production employment. The allegations of injury and causation are supported by relevant evidence including U.S. import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See the Initiation Checklist.

Initiation of Antidumping Investigation

Based upon our examination of the petition on certain colored synthetic organic oleoresinous pigment dispersions from India, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of certain colored synthetic organic oleoresinous pigment dispersions from India are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of India. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(C)(2).

ITC Notification

We have notified the ITC of our initiation as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine no later than July 21, 2003, whether there is a reasonable indication that imports of Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions from India are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated, otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 25, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16669 Filed 7–1–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–837]

Notice of Initiation of Countervailing Duty Investigation: Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions From India

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

ACTION: Initiation of Countervailing Duty Investigation.

EFFECTIVE DATE: July 2, 2003.

FOR FURTHER INFORMATION CONTACT: Geoffrey Craig at (202) 482–5256 or Stephen Cho at (202) 482–3798, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigation

The Petition

On June 5, 2003, the Department of Commerce ("the Department") received a petition filed in proper form by Apollo Colors Inc., General Press Colors, Ltd., Magruder Color Company, Inc., and Sun Chemical Corporation (collectively, "the petitioners"). The Department received petition supplements on June 16, June 18, and June 20, 2003.

In accordance with section 702(b)(1) of the Tariff Act of 1930 ("the Act"), as amended, the petitioners allege that manufacturers, producers, or exporters of certain colored synthetic organic oleoresinous pigment dispersions ("colored pigment dispersions") from India receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports from India are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the countervailing investigation that they are requesting the Department to initiate. *See infra,* "Determination of Industry Support for the Petition."

Scope of Investigation

The products covered by this investigation are colored synthetic organic pigment dispersions containing pigments classified in either the Azo or Phthalocyanine chemical classes that have been dispersed in an oleoresinous varnish comprised of various combinations of solvents, oils and resins. The subject pigment dispersions are commonly known as "flush" or "flushed color," but the base form of the subject pigment dispersions is also included in the scope of this investigation. The subject pigment dispersions are a thick putty or paste that contain by weight typically 20 percent or more pigment dispersed in the varnish, and are used primarily for the manufacture of letterpress and lithographic printing inks. The presence of additives, such as surfactants, antioxidants, wetting agents, and driers, in the subject pigment dispersions does not exclude them from the scope of this investigation.

Excluded from the scope of this investigation are dry powder pigments and pigment press cakes, as well as water and flammable solvent based colored pigment dispersions, which typically are used in manufacturing liquid or fluid inks. Also excluded is Yellow 75, which is typically used to make the yellow paint to line roads.

The merchandise subject to this investigation is classifiable under subheadings 3204.17.6020 (Pigment Blue 15:4), 3204.17.6085 (Pigments Red 48:1, Red 48:2, Red 48:3, and Yellow 174), 3204.17.9005 (Pigment Blue 15:3), 3204.17.9010 (Pigment Green 7), 3204.17.9015 (Pigment Green 36), 3204.17.9020 (Pigment Red 57:1), 3204.17.9045 (Pigment Yellow 12), 3204.17.9050 (Pigment Yellow 13), 3204.17.9055 (Pigment Yellow 74), and 3204.17.9086 [1] (Pigments Red 22, Red 48:4, Red 49:1, Red 49:2, Red 52:1, Red 53:1, Yellow 14, and Yellow 83) of the Harmonized Tariff Schedule of the United States ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, the

[1] Prior to July 2002, this number was 3204.17.9085.

written description of the merchandise under investigation is dispositive.

As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of India ("GOI") for consultations with respect to the petition filed in this proceeding. However, the GOI declined our invitation, and therefore consultations were not held.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act require that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provide that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provide that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[2]

Section 771(10) of the Act defines the 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 under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the definition of domestic like product, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information presented by the petitioners, we have determined that there is a single domestic like product, colored pigment dispersions, which is defined in the "Scope of Investigation" section above, and we have analyzed industry support in terms of this domestic like product.

In their initial petition and subsequent submissions, the petitioners state that they comprise over 50 percent of U.S. colored pigment dispersions production. The petition identifies nine additional U.S. companies engaged in the production of colored pigment dispersions, none of which have taken a position on (either for or against) the petition. Through data provided by the petitioners and our own independent research, we have determined that the colored pigment dispersions production of these nine companies is not high enough to place the petitioners' industry support in jeopardy. Based on all available information, we agree that the petitioners comprise over 50 percent of all domestic colored pigment dispersions production.

Our review of the data provided in the petition and other information readily available to the Department indicates that the petitioners have established industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 702(c)(4)(D) of the Act. In addition, the Department received no opposition to the petition from domestic producers of the like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 702(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 702(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. For more information on our analysis and the data upon which we relied, see Import Administration AD/CVD Enforcement Initiation Checklist ("Initiation Checklist"), Industry Support section and Attachment II, dated June 25, 2003, on file in the Central Records Unit of the main Department of Commerce building.

Injury Test

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of imports of the subject merchandise.

[2] *See USEC, Inc.* v. *United States*, 132 F. Supp. 2d 1,8 (Ct. Intl Trade 2001), *citing Algoma Steel Corp. Ltd.* v. *United States*, 688 F Supp. 639, 642–44 (Ct. Int'l Trade 1988) ("the ITC does not look behind ITA's determination, but accepts ITAs determination as to which merchandise is in the class of merchandise sold at LTFV").

The petitioners contend that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit-to-sales ratios, and production employment. The allegations of injury and causation are supported by relevant evidence including U.S. import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet statutory requirements for initiation. See the Initiation Checklist.

Initiation of Countervailing Duty Investigation

The Department has examined the countervailing duty petition on colored pigment dispersions from India and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating countervailing duty investigation to determine whether manufacturers, producers, or exporters of colored pigment dispersions receive countervailable subsidies. We will make our preliminary determination no later than 65 days after the date of this initiation, unless this deadline is extended pursuant to section 703(b)(1) of the Act.

We are including in our investigation the following programs alleged in the petition to have provided a countervailable subsidy to manufacturers, producers, or exporters of colored pigment dispersions:

1. Duty Entitlement Passbook Scheme
2. Advance Licenses
3. Duty Free Replenishment Certificate Scheme
4. Import Mechanism (Sale of Licenses)
5. Pre-Shipment and Post-Shipment Export Financing
6. Export Promotion Capital Goods Scheme ("EPCGS")
7. Benefits for Export Processing Zones/ Export Oriented Units ("EPZ/EOU")
8. Special Imprest Licenses (Deemed Exports)
9. Incentive Scheme for Export Oriented Park, Export Oriented Units (State of Gujarat Infrastructure Assistance Scheme)
10. Subsidy Scheme for Medium and Large Industries (State of Gujarat Infrastructure Assistance Scheme)
11. Income Tax Exemption Scheme ("ITES") (Sections 10A, 10B and 80HHC)
12. Re-Discounting of Export Bills Abroad ("EBR")
13. Pre-Export and Post-Export Credits in Foreign Country
14. Exemption of Export Credit from Interest Taxes
15. Central Value Added Tax ("CENVAT") Scheme
16. Market Access Initiative ("MAI")

A discussion of evidence supporting our initiation determination on these programs is contained in the *Initiation Checklist.*

At this time, we are not including in our investigation of colored pigment dispersions the following programs alleged to benefit producers and exporters of the subject merchandise in India.

1. Special Economic Zones (State of Gujarat Infrastructure Assistance Scheme)

According to the petitioners, the State of Gujarat infrastructure provides assistance to industrial units located in special economic zones under its Special Economic Zones scheme. Under the program, industrial units located in SEZs in Gujarat will receive incentives including exemption from electrical duty for ten years and exemption from payment of sales and other levies. Petitioners claim that this program results in revenue forgone by the State of Gujarat and is specific to companies located within a designated geographic region of Gujarat.

In *Final Negative Countervailing Duty Determination; Carbon Steel Wire Rod From Singapore,* 51 FR 3357 (January 27, 1986), we found that the right to locate in an industrial park can confer a subsidy only if the government limits the firms that can locate in the industrial park. The petitioners have provided no information indicating that the State of Gujarat is limiting access to the SEZ. Thus, the petitioners have not provided sufficient evidence that this alleged subsidy is specific within the meaning of section 771(5A) of the Act and section 351.502 of the Department's regulations.

2. Financial Assistance for Upgradation of Quality in SSI/Medium & Large Scale Sector (State of Gujarat Infrastructure Assistance Scheme)

According to the petitioners, the State of Gujarat provides infrastructure assistance to registered industrial units under its Financial Assistance for Upgradation of Quality in SSI/Medium & Large Scale Section. This alleged program applies to "all industrial units which have been registered as a SSI/ SSEB with respective DICs or/and industries registered under Industries (Development & Regulation) Act, 1951 as amended * * *." Under this alleged program, eligible industrial units are eligible for government reimbursements of up to 50 percent for expenditures such as consultant fees and equipment for research and development, and testing equipment. Petitioners claim that this alleged program results in a direct transfer of funds from the State of Gujarat that benefit the recipients in the amount of the infrastructure expenses paid.

The petitioners have provided no information indicating that the benefits provided under this program are specific. In particular, there is no information that the eligible companies comprise a specific group of industries within the meaning of section 771(5A) of the Act and section 351.502 of the Department's regulations.

3. GOI Loans, Loan Guarantees, and Loan Forgiveness

According to the petitioners, the Indian Ministry of Finance extends loan guarantees to selected Indian companies on an *ad hoc* basis and continues to extend loan guarantees to non-steel industrial sectors on an *ad hoc* basis. Petitioners assert that the GOI has been found to provide loans on terms that are more favorable than commercially available. Petitioners also claim that the GOI has forgiven past loans in some cases. Lastly, the petitioners allege that Hindustan and other Indian producers and exporters of subject merchandise have received countervailable subsidies in the forms of GOI loans, loan guarantees, and loan forgiveness.

The petitioners have provided no information to support their supposition that manufacturers and exporters of the subject merchandise received loans, loan guarantees, or debt forgiveness.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i)) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of India. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine no later than July 21, 2003, whether there is a reasonable indication that imports of Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions from India are causing material injury, or threatening to cause material injury, to a U.S. industry. A

negative ITC determination will result in the investigation being terminated, otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 25, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–16670 Filed 7–1–03; 8:45 am]

BILLING CODE 3510–DS–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–436 (Preliminary) and 731–TA–1042 (Preliminary)]

Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions From India

Determination

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 1673b(a)) (the Act), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from India of certain colored synthetic organic oleoresinous pigment dispersions [2] that are alleged to be subsidized by the Government of India and alleged to be sold in the United States at less than fair value (LTFV).

Background

On June 5, 2003, a petition was filed with the Commission and Commerce by Apollo Colors, Inc., Rockdale, IL; General Press Colors, Ltd., Addison, IL; Magruder Color Company, Inc., Elizabeth, NJ; and Sun Chemical Corporation, Fort Lee, NJ, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of certain colored synthetic organic oleoresinous pigment dispersions from India. Accordingly, effective June 5, 2003, the Commission instituted countervailing duty investigation No. 701–TA–436 (Preliminary) and antidumping duty investigation No. 731–TA–1042 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference 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 June 11, 2003 (68 FR 35003). The conference was held in Washington, DC on June 27, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 21, 2003. The views of the Commission are contained in USITC Publication 3615 (July 2003), entitled Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions from India: Investigation Nos. 701–TA–436 (Preliminary) and 731–TA–1042 (Preliminary).

By order of the Commission.

Issued: July 21, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–18926 Filed 7–24–03; 8:45 am]

BILLING CODE 7020–02–P

[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] Certain colored synthetic organic pigment dispersions subject to these investigations are classifiable under statistical reporting numbers 3204.17.6020 (Pigment Blue 15:4) and 3204.17.6085 (Pigments Red 48:1, Red 48:2, Red 48:3, and Yellow 174), 3204.17.9005 (Pigment Blue 15:3), 3204.17.9010 (Pigment Green 7), 3204.17.9015 (Pigment Green 36), 3204.17.9020 (Pigment Red 57:1), 3204.17.9045 (Pigment Yellow 12), 3204.17.9050 (Pigment Yellow 13), 3204.17.9055 (Pigment Yellow 74), and 3204.17.9086, which prior to July 2002 was 3204.17.9085 (Pigments Red 22, Red 48:4, Red 49:1, Red 49:2, Red 52:1, Red 53:1, Yellow 14, and Yellow 83) of the Harmonized Tariff Schedule of the United States.

APPENDIX B

CONFERENCE WITNESSES

CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigations:

CERTAIN COLORED SYNTHETIC ORGANIC OLEORESINOUS PIGMENT DISPERSIONS FROM INDIA

Investigation Nos. 701-TA- 436 (Preliminary) and 731-TA-1042 (Preliminary)

June 27, 2003 - 9:30 am

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

IN SUPPORT OF THE IMPOSITION OF COUNTERVAILING AND ANTIDUMPING DUTIES:

Pepper Hamilton LLP
Washington, D.C.
on behalf of

Apollo Colors Incorporated
Thomas William Rogers, President and CEO, Apollo Colors, Inc.

Sun Chemical Corporation's Colors Group
Michael K. Lewis, Vice-President of Supply Chain, Sun Chemical Company
V. Walter Zamerovsky, Vice-President of Sales and Marketing, Magruder Color Company
Brad Bergey, Corporate Vice President of Canada and Mexico, Sun Chemical Corporation

General Press Colors, Ltd.
Richard J. Kuebel, President, General Press Colors, Ltd.

Economic Consulting Services, LLC
Mark W. Love, Senior Vice President, Economic Consulting Services, LLC

Gregory C. Dorris)– OF COUNSEL

Williams Mullen
Washington, DC
on behalf of

Flint Ink Corporation
W. Rucker Wickline, President, CDR Pigments and Dispersions

James R. Cannon, Jr.)--OF COUNSEL

IN OPPOSITION TO THE IMPOSITION OF COUNTERVAILING AND ANTIDUMPING DUTIES:

Garvey, Schubert & Barber
Washington, DC
on behalf of

Hindustan Inks and Resins, Ltd. and Micro Inks Corp.
Prashant Desai, Member of the Board, Hindustan Inks and Resins, Ltd.
Vinday Pardya, CFO Hindustan Inks and Resins, Ltd.
Frank Morevec, President and CEO, Micro Inks Corp.
Coumara Radja, Vice-President for Corporate Affairs, Micro Inks Corp.
Ron Douglas, Vice-President for Sales and Marketing, Micro Inks Corp.
Linda Du Pris, Switchboard Operator, Micro Inks Corp.
Mark McDermott, Shipping Department, Micro Inks Corp.

Charles River Associates
Richard Boltuck, Vice President
Mark Schulman, Associate

Lizbeth Levinson
Ronald Wisla) --OF COUNSEL

APPENDIX C

SUMMARY DATA

Table C-1
Pigment dispersions: Summary data concerning the U.S. market, 2000-2002, January-March 2002, and January-March 2003

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

Item	Calendar year			January-March		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-March 2002-Jan.-March 2003
U.S. consumption quantity: Amount	***	***	***	***	***	***	***	***	***
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importers' share:[1]									
India	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value: Amount	***	***	***	***	***	***	***	***	***
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importers' share:[1]									
India	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. shipments of imports from-- India (commercial shipments): Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
India (internal/transfers): Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
India Total: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Other sources: Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
All sources Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***

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

Item	Calendar year			January-March		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-March 2002-Jan.-March 2003
U.S. producers'–									
Capacity quantity	304,296	320,596	331,596	80,691	82,891	9.0	5.4	3.4	2.7
Production quantity	253,419	223,484	206,480	50,560	50,896	-18.5	-11.8	-7.6	0.7
Capacity utilization[1]	83.3	69.7	62.3	62.7	61.4	-21.0	-13.6	-7.4	-1.3
U.S. commercial shipments:									
Quantity	60,534	54,084	42,821	10,982	10,697	-29.3	-10.7	-20.8	-2.6
Value	160,672	145,046	112,544	29,127	27,251	-30.0	-9.7	-22.4	-6.4
Unit value	2.7	$2.68	$2.63	$2.65	$2.55	-1.0	1.0	-2.0	-3.9
U.S. internal/transfers:									
Quantity	135,014	117,321	121,181	27,745	28,191	-10.2	-13.1	3.3	1.6
Value	301,585	261,459	256,090	59,094	59,791	-15.1	-13.3	-2.1	1.2
Unit value	2.2	$2.23	$2.11	$2.13	$2.12	-5.4	-0.2	-5.2	-0.4
Total U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	7,855	7,871	7,580	7,221	11,082	-3.5	0.2	-3.7	53.5
Inventories/total shipments[1]	***	***	***	***	***	***	***	***	***
Production workers	1,208	1,124	1,050	1,080	1,040	-13.0	-7.0	-6.5	-3.7
Hours worked (*1,000 hours*)	2,441	2,147	2,140	528	539	-12.4	-12.0	-0.4	2.1
Wages paid (*1,000 dollars*)	61,408	56,279	56,184	14,107	14,328	-8.5	-8.4	-0.2	1.6
Hourly wages	$25.16	$26.21	$26.26	$26.74	$26.60	4.4	4.2	0.2	-0.5
Productivity (*units per hour*)	103.9	104.1	96.9	96.0	94.9	-6.8	0.2	-6.9	-1.2
Unit labor costs	$0.24	$0.25	$0.27	$0.28	$0.28	12.3	4.2	7.8	0.8
Net sales:									
Quantity	241,352	209,368	196,338	46,993	46,535	-18.7	-13.3	-6.2	-1.0
Value	566,877	495,061	442,022	106,601	106,621	-22.0	-12.7	-10.7	0.0
Unit value	$2.35	$2.36	$2.25	$2.27	$2.29	-4.1	0.7	-4.8	1.0
COGS	448,392	388,533	342,457	82,708	83,815	-23.6	-13.4	-11.9	1.3
Gross profit or (loss)	118,485	106,528	99,565	23,893	22,806	-16.0	-10.1	-6.5	-4.5
SG&A expenses	53,216	49,873	46,929	10,942	11,524	-11.8	-6.3	-5.9	5.3
Operating income	65,269	56,655	52,637	12,951	11,282	-19.4	-13.2	-7.1	-12.9
Capital expenditures	10,512	7,287	6,977	753	636	-33.6	-30.7	-4.3	-15.5
Unit COGS	$1.86	$1.86	$1.74	$1.76	$1.80	-6.1	-0.1	-6.0	2.3
Unit SG&A expenses	$0.22	$0.24	$0.24	$0.23	$0.25	8.4	8.0	0.3	6.4
Unit operating income	$0.27	$0.27	$0.27	$0.28	$0.24	-0.9	0.1	-0.9	-12.0

Table continued on next page.

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

Item	Calendar year			January-March		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-March 2002-Jan.-March 2003
COGS/sales[1]	79.1	78.5	77.5	77.6	78.6	-1.6	-0.6	-1.0	1.0
Operating income or (loss)/sales[1]	11.5	11.4	11.9	12.1	10.6	0.4	-0.1	0.5	-1.6

[1] Period changes are in percentage points.
[2] Not applicable.

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

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

Table C-2
U.S. producers' and importers' shipments of printing ink produced from pigment dispersions, 2000-02, January-March 2002, and January-March 2003

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APPENDIX D

EFFECTS OF IMPORTS OF PIGMENT DISPERSIONS FROM INDIA ON U.S. FIRMS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested that U.S. firms describe any actual or anticipated negative effects of imports of pigment dispersions from India on their growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of production). Responses are shown below.

Actual Negative Effects

* * * * * * *

Anticipated Negative Effects

* * * * * * *