Carbazole Violet Pigment 23 From China and India

Investigations Nos. 701-TA-437 and
731-TA-1060 and 1061 (Final)

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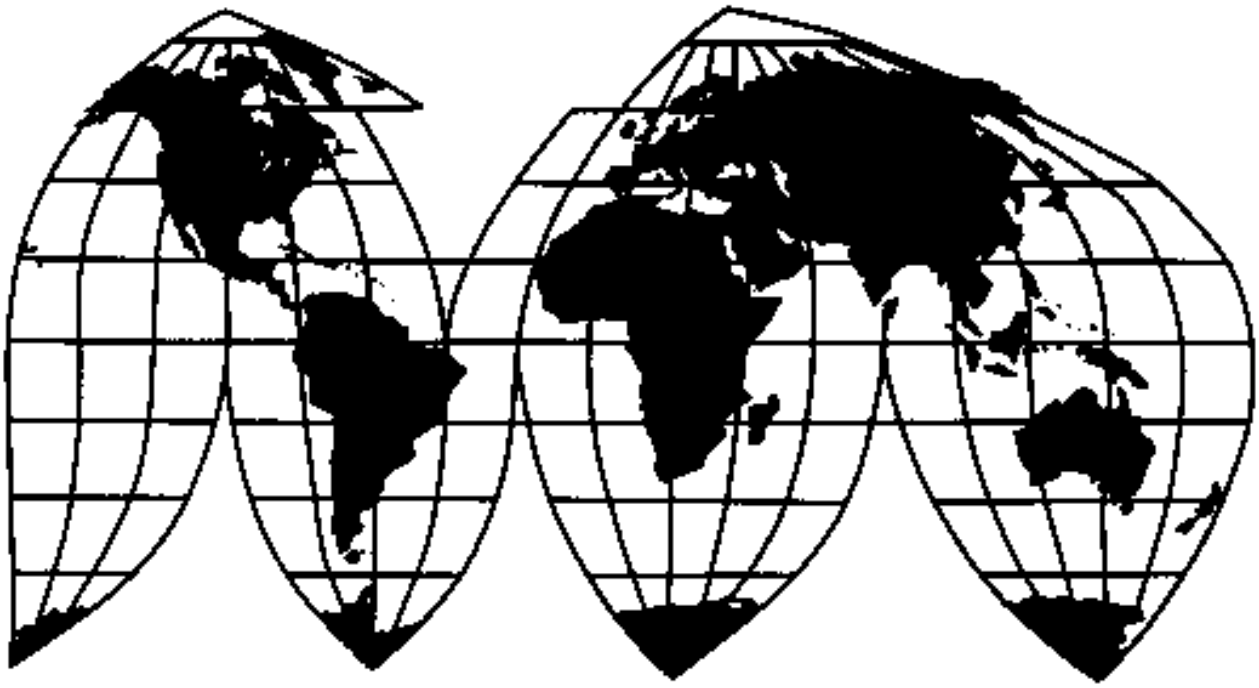

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GLOSSARY OF TERMS

AUV	Average unit value
COGS	Cost of goods sold
Commission	U.S. International Trade Commission
Customs	U.S. Customs and Border Protection
f.o.b.	Free on board
FR	*Federal Register*
HTS	Harmonized Tariff Schedule of the United States
PRWs	Production and related workers
R&D	Research and development expenses
SG&A	Selling, general, and administrative

GLOSSARY OF FIRMS

Aesthetic	Aesthetic Color Tech (Shanghai) Co., Ltd.
Allegheny	Allegheny Color Corp.
Alpanil	Alpanil Industries
AMI	AMI Pigments Pvt. Ltd.
Baihe	Hangzhou Baihe Chemical Co., Ltd.
Barker	Barker Fine Color
Ciba	Ciba Specialty Chemicals Corp.
Clariant	Clariant Corp.
Flint	Flint Ink
GoldLink	GoldLink Industries Co., Ltd.
Haidi	Nantong Haidi Chemical Co., Ltd.
Haimen	Jiangsu Haimen Industrial Chemicals Factory
Hanchem	Tianjin Hanchem International Trading Co., Ltd.
INX	INX International Ink Co.
JECO (China)	JECO Pigment China Co., Ltd.
Longteng	Nantong Longteng Chemical Co., Ltd.
NAPIM	National Association of Printing Ink Manufacturers
NFC	Nation Ford Chemical Co.
Oriental	Oriental Color Corp., Ltd.
Pidilite	Pidilite Industries Ltd.
Shanco	Shanco International, Inc.
Summit	Summit Specialty Chemicals, LLC
Sun	Sun Chemical Corp.
Toyo	Toyo Color America LLC
Trust	Trust Chem Co., Ltd.
Wuxi	Wuxi Xinguang Chemical Industry Co., Ltd.

Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Investigations Nos. 701-TA-437 and 731-TA-1060 and 1061 (Final)

CARBAZOLE VIOLET PIGMENT 23 FROM CHINA AND INDIA

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China and India of carbazole violet pigment 23, provided for in subheading 3204.17.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Government of India and to be sold in the United States at less than fair value (LTFV).[2]

BACKGROUND

The Commission instituted these investigations effective November 21, 2003, following receipt of a petition filed with the Commission and Commerce by Nation Ford Chemical Co., Fort Mill, SC, and Sun Chemical Corp., Cincinnati, OH. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of carbazole violet pigment 23 from India were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and that imports of carbazole violet pigment 23 from China and India were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of July 23, 2004 (69 FR 44059). The hearing was held in Washington, DC, on November 10, 2004, 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] The Commission further determines that critical circumstances do not exist with respect to those imports of the subject merchandise from China that were subject to the affirmative critical circumstances determination by the Department of Commerce.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that an industry in the United States is materially injured by reason of carbazole violet pigment 23 ("violet 23") imported from India that is subsidized and sold in the United States at less than fair value and violet 23 imported from China that is sold at less than fair value.[1]

I. BACKGROUND

Violet 23 is a type of synthetic organic chemical used as a colorant or pigment to color inks, textiles, plastics, coatings, and other materials. Its crude form ("crude violet 23") has no use or intended purpose other than to produce "finished violet 23" in the finished forms of "presscake" or "dry color." Presscake consists of approximately 30 to 40 percent solids and 60 to 70 percent water, and dry color is pure pigment. Presscake can be used to make pigment dispersions or it may be processed (dried) into dry color. There are numerous end uses for finished violet 23, including plastics, printing inks, textiles, and coatings.[2] During 2003, data reported by domestic producers and importers indicated that the majority of their U.S. shipments of violet 23 were commercial sales primarily to the ink, plastics, and coatings industries.[3]

The antidumping and countervailing duty petitions in these investigations were filed on November 21, 2003, by Nation Ford Chemical Co. ("NFC") and Sun Chemical Corp. ("Sun").[4] There were five firms involved in the production of violet 23 (either crude or finished) in 2003, all five of which provided questionnaire responses to the Commission.[5] Sun's production facilities are located in Ohio and South Carolina, and accounted for the large majority of domestic production of finished violet 23 in 2003.[6] NFC, located in South Carolina, toll-produces crude violet 23 for Sun and is the only domestic producer of crude violet 23. NFC does not produce finished violet 23. Sun along with three other domestic firms produce finished violet 23 from crude violet 23.

Domestic production accounted for *** of the U.S. market for violet 23 during the period of investigation. Subject imports' U.S. market share increased over the period of investigation, while non-subject imports' U.S. market share declined. The subject imports undersold the domestic like product throughout the period of investigation and U.S. prices generally declined.

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[1] We find that those imports from China that are subject to an affirmative critical circumstances determination by the U.S. Department of Commerce ("Commerce") are not likely to undermine seriously the remedial effect of the antidumping duty order. We therefore make a negative determination with respect to critical circumstances.

[2] See, e.g., Confidential Staff Report, Mem. INV-BB-148 (Nov. 30, 2004), as amended by Mem. INV-BB-154 (Dec. 9, 2004) ("CR")/Public Staff Report ("PR") at Table IV-6, App. E.

[3] See, e.g., id.

[4] See, e.g., CR at I-1; PR at I-1.

[5] See, e.g., CR at III-1; PR at III-1; CR/PR at Table III-1. Four firms, believed to account for *** percent of U.S. finished violet 23 production over the period of investigation, provided usable trade data on their U.S. violet 23 operations, and four firms, accounting for essentially *** percent of U.S. finished violet 23 production, provided financial data. See, e.g., CR at III-1, VI-1; PR at III-1, V-1. NFC, the sole U.S. producer of crude violet 23, provided both trade and financial data. See, e.g., CR at III-1, VI-1; PR at III-1, VI-1; CR/PR at Tables III-1, VI-5.

[6] See, e.g., CR at III-1; PR at III-1; CR/PR at Table III-1.

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[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 Commerce's determinations as to the scope of the imported merchandise sold at less than fair value, the Commission determines what domestic product is like the imported articles that Commerce has identified.[13]

B. Product Description

In its final determinations regarding subject imports from China and India, Commerce defined the imported merchandise within the scope of these investigations as follows:

> carbazole violet pigment 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of diindolo [3,2-b:3',2'-m] triphenodioxazine, 8, 18-dichloro-5, 15-diethy-5, 15-dihydro- and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$. The subject merchandise includes the crude pigment in any form (e.g., dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions

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[7] 19 U.S.C. § 1677(4)(A). Material retardation of the domestic industry was not an issue in these investigations.

[8] Id.

[9] 19 U.S.C. § 1677(10).

[10] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'").

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

[12] See, e.g., Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also, e.g., S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the domestic like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and 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] See, e.g., Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission's determination of six domestic like products in investigations where Commerce found five classes or kinds).

> in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of [these investigations].[14]

Thus, Commerce's scope includes both the semifinished violet 23 ("crude violet 23") as well as certain violet 23 finished products (i.e., "presscake" or "dry color"). Presscakes have varying degrees of pigment diluted with water whereas dry color pigments are pure pigment.

Violet 23 is a color pigment that is a very strong blue shade of violet exhibiting excellent tinctorial strength and brightness, heat and bleed resistance, and good lightfastness. Because of these qualities, violet 23 has a broad range of applications in the production of inks, plastics, textiles, and coatings, among other products. It is the primary violet pigment used for the coloring of printing inks and plastics. In the printing industry, it is used in inks, packaging, and labels; for example, violet 23 has applications for magazines, snack food packages, soda bottle labels, and even clothing. In the plastics industry, it is used in resins. Violet 23 also has applications in children's toys, home wiring insulation, shampoo bottles, and even carpets. It is commonly employed for shading (reddening) phthalocyanine blue while maintaining good lightfastness. It can be used as the sole colorant for a violet hue and even in pale shades exhibits satisfactory "fastness" to weathering. At low concentrations, violet 23 is used for "correcting" the white color of white coatings and plastics.[15]

C. Analysis

In the final phase of these investigations, we find a single domestic like product comprised of both crude and finished violet 23 that corresponds to Commerce's scope, consistent with our domestic like product definition in the preliminary phase of these investigations and based on an analysis of the semi-finished like product factors. In cases where an issue is presented as to whether articles at different stages of processing should be included in the same like product, the Commission has used the semi-finished like product analysis.[16]

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[14] 69 Fed. Reg. 63704 (Nov. 17, 2004) (China); 69 Fed. Reg. 67306 (Nov. 17, 2004) (India antidumping); 69 Fed. Reg. 67321 (Nov. 17, 2004) (India subsidies); 69 Fed. Reg. 68876 (Nov. 26, 2004) (amended China). The scope definition presented above is the one contained in the notices of Commerce's final determinations. The chemical name as identified by the Chemical Abstracts Service ("CAS"), a division of the American Chemical Society, is slightly different from the chemical name in Commerce's notices. The CAS name is *diindolo [3,2-b:3',2'-m] triphenodioxazine, 8,18-dichloro-5,15,-diethyl-5,15-dihydro*. See, e.g., CR at I-6 n.16; PR at I-5 n.16.

[15] See, e.g., Hearing Tr. at 18-19; Petition at Exh. 2c.

[16] See, e.g., Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom, Invs. Nos. 701-TA-409 to 412 (Prelim.) and 731-TA-909 to 912 (Prelim.), USITC Pub. 3388 at 5-6 (Jan. 2001); Uranium from Kazakhstan, Inv. No. 731-TA-539-A (Final), USITC Pub. 3213 at 6 n.23 (Jul. 1999); Live Cattle From Canada and Mexico, Invs. Nos. 701-TA-386 & 731-TA-812 (Prelim.), USITC Pub. 3155 (Feb. 1999); Certain Stainless Steel Sheet & Strip From France, Germany, Italy, Japan, The Republic of Korea, Mexico, Taiwan, & the United Kingdom, Invs. Nos. 701-TA-380 to 382 and 731-TA -797 to 804 (Prelim.), USITC Pub. 3118 (Aug. 1998); Uranium from the U.S.S.R., Inv. No. 731-TA-539 (Prelim.), USITC Pub. 2471 at 5 (Dec. 1991). Under the semi-finished like product analysis, the Commission examines: (1) whether the upstream article is dedicated to the production of the downstream article, or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the cost or value of the vertically differentiated articles; and (5) the significance and extent of the process used to transform the upstream into the downstream articles. See, e.g., Frozen and Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Invs. Nos. 731-TA-1063-1068 (Prelim.), USITC Pub. 3672 at 13 (Feb. 2004); Certain Frozen Fish Fillets From Vietnam, Inv. No. 731-TA-1012 (Prelim.), USITC Pub. 3553 at 7 (Aug. 2002).

Whether the Upstream Article is Dedicated to Production of the Downstream Article. It is beyond dispute that all domestically-produced crude violet 23 is used in the production of the downstream articles, presscake and dry color.[17]

Whether There are Perceived to be Separate Markets for the Upstream and Downstream Articles. The record indicates that there are no independent uses or markets for crude violet 23 other than to produce finished violet 23. NFC is the only producer of crude violet 23 in the United States, and *** of NFC's crude violet 23 is sold to Sun for use in the production of finished violet 23 under a tolling agreement. Sun purchases and supplies the raw materials for the production of crude violet 23 to NFC and helped NFC develop its production process, providing financing and on-site technical help.[18] In addition to being *** consumer of domestically-produced crude violet 23, Sun is by far the largest domestic producer of finished violet 23 (i.e., presscake and dry color).[19] Some domestically-produced presscake and some domestically-produced dry color are internally consumed,[20] and other domestically-produced presscake and dry color are sold to end users in the following industries: inks, plastics, coatings, and textiles.[21] Firms in the ink industry are the largest purchasers of finished violet 23.[22] Thus, because crude and finished violet 23 are part of a continuous chain of production, their end-use markets are essentially the same.

Differences in Physical Characteristics and Functions of the Upstream and Downstream Articles. The record indicates that crude and finished violet 23 possess the same chemical structure, and crude violet 23 embodies and imparts essential coloring characteristics to presscake and dry color.[23] Crude violet 23 has no use or function on its own; instead, a conversion of crude violet 23 is necessary for the production of finished violet 23.[24]

Differences in Cost or Value of the Vertically Differentiated Articles. Although substantial value is added in the production phase between crude and finished violet 23, crude violet 23 is the most costly input used to produce finished violet 23.[25] Crude violet 23 accounted for *** percent of the cost of finished violet 23 produced by the domestic industry on a weighted-average basis.[26] During the period of investigation, the overall value added by producers of finished violet 23, on a weighted-average basis,

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[17] See, e.g., CR at I-14; PR at I-9; Petitioners' Posthg Br. at 2; Clariant's Prehg Br. at 3; Indian Respondents' Posthg Br. at 6; Hearing Tr. at 125; Chinese Respondents' Postconf. Br. at 4.

[18] See, e.g., CR at III-1 n.2, III-3 to III-4; PR at III-1 n.2, III-2.

[19] The actual pigment manufacturing, or pigmentation, is performed by Sun at its plants in Cincinnati, OH and Bushy Park, SC. Sun is ***. In 2003, Sun accounted for *** percent of total U.S. production of finished violet 23. ***. See, e.g., CR at III-2 to III-5; PR at III-1 to III-2. During the investigation period there were three other domestic producers of finished violet 23 – Allegheny, Barker Fine Color, Inc. ("Barker"), and Clariant Corporation ("Clariant"). See, e.g., CR at III-1 to III-3; PR at III-1 to III-2.

[20] See, e.g., CR at III-13 to III-15; PR at III-4 to III-5; CR/PR at Table III-5. Sun accounts for the overwhelming majority of internally consumed presscake and dry color. Presscake was internally consumed by Sun mainly for production of ***; *** was consumed internally by Sun mainly for ***. See, e.g., CR/PR at Tables III-5, III-6; CR at III-15; PR at III-6.

[21] See, e.g., CR at II-1; PR at II-1.

[22] See, e.g., Hearing Tr. at 46.

[23] See, e.g., Hearing Tr. at 25.

[24] See, e.g., Hearing Tr. at 25, 35, and 125.

[25] See, e.g., CR at I-15; PR at I-9.

[26] (derived from domestic producer questionnaire responses).

was *** percent, exclusive of selling, general and administrative ("SG&A") expenses and *** percent, inclusive of SG&A expenses.[27] Value added is not a static number and ***.[28]

Significance and Extent of the Processes Used to Transform the Upstream into the Downstream Articles. Although crude and finished violet 23 have the same chemical structure, converting crude violet 23 into presscake or dry color is necessary in order to give it coloring properties; on its own, the crude violet 23 has little coloring value. There are five separate chemical reactions required to synthesize the crude violet 23.[29] Crude violet 23 is converted to presscake in an attrition process known as "salt grinding" that does not involve any chemical synthesis, just washing and filtration.[30] Some presscake is then dried to make dry color,[31] the most common form of finished violet 23 in the U.S. market. Dry color is produced from presscake by slurrying the presscake in water and then atomizing that slurry into an 800 degree Fahrenheit airstream, which instantly flashes off the water, leaving a dry powder. This process of producing dry color from presscake is known as spray drying. The finished violet 23 has a much higher nitrogen surface area with stronger and brighter shades than the corresponding crude violet 23. The conditions of milling, the temperature, the processing time, and the addition of surfactants, modifiers, solvents, and lubricants all have a bearing on the strength and brightness of the end product.[32]

Conclusion. Based on the record as a whole, we find that there is not a sufficiently clear dividing line between crude and finished violet 23 to warrant finding two separate like products. Crude violet 23 has no use other than to be converted into finished violet 23. As explained above, there are no independent uses or markets for the crude violet 23 supplied by NFC other than for use in the production of finished violet 23. Moreover, although NFC is the only producer of the crude violet 23 and does not produce finished violet 23, Sun supplies the raw materials for the production of crude violet 23 to NFC and has also provided financing and technical help. NFC then produces the crude violet 23 under a tolling arrangement with Sun. Crude and finished violet 23 have the same chemical structure, and crude violet 23 imparts to finished violet 23 essential coloring properties, although a conversion process is necessary to make the product useable. Crude violet 23 involves a chemical synthesis, while finished violet 23 production does not. Although the costs associated with and the processes used to produce finished violet 23 are not insignificant, crude violet 23 is the most costly input used to make finished

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[27] See, e.g., CR at VI-7, VI-10; PR at VI-2. The first figure represents conversion costs (direct labor and other factory costs) incurred by producers of finished violet 23 divided by total cost of finished violet 23 (*i.e.*, the cost of imported crude violet 23, tolling raw materials, tolling fee, and conversion costs). The second figure adds SG&A expenses to both the numerator and denominator of the value added calculation.

[28] See, e.g., CR at VI-10 n.8; PR at VI-2 n.8.

[29] See, e.g., CR at I-9; PR at I-6. The reactions use several vessels, each designed and constructed for the specific reactions and operations performed. In addition to the reaction chemistry, there are several chemical unit operations required to produce the pigment, including washing, purification, filtering, solvent recovery, waste water treatment, and drying. Support facilities include steam production, cooling water, vacuum service, waste water treatment, environmental venting, and capability for safe handling of hazardous chemicals used to produce the pigment. See, e.g., CR at I-10; PR at I-7.

[30] See, e.g., CR at I-10; PR at I-7. Although ***, a very small amount of crude violet 23 purchased by Sun is converted into finished dry color at Sun's facility in Bushy Park, SC. See, e.g., Hearing Tr. at 22. The process used for converting crude violet 23 into dry color at Sun's Bushy Park plant is very different from the conversion process used at Sun's Cincinnati plant. At Sun's Bushy Park facility, the crude violet 23 is conditioned via an acid swelling process followed by recovery of the pigment from the acid with subsequent drying and blending. Dry color violet 23 produced at Sun's Bushy Park facility is targeted for the automotive coatings industry. Id. ***.

[31] See, e.g., CR/PR at Table III-5.

[32] See, e.g., CR at I-10 to I-11; PR at I-7; USITC Pub. No. 3662 (Prelim.) at 8; Petition at 10, Exh. 1, 2(c).

violet 23. On balance, we find a single domestic like product, violet 23, whether in crude or finished form, that is coextensive with the scope of these investigations.

III. DOMESTIC INDUSTRY

The domestic industry is defined in the Act as "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."[33] In the preliminary determinations, we defined the domestic industry to include all domestic producers of crude and finished violet 23.[34] Consistent with our finding of a single domestic like product in the final phase of these investigations, we define the domestic industry to include all domestic producers of crude and finished violet 23.[35]

No domestic producers directly imported subject merchandise from China or India. Domestic producers *** purchased violet 23 that was imported from China or India, ***.[36] No party argues that any domestic producer is a related party or that appropriate circumstances exist to exclude any domestic producer from the domestic industry under the Act's related parties provision, 19 U.S.C. § 1677(4)(B)(ii)(II). The record evidence does not lead us to conclude that any domestic producer *** is a related party based on a direct or indirect control relationship between any of the domestic producers and any exporters or importers of the subject merchandise. Thus, we define the domestic industry to include all violet 23 producers: Allegheny, Barker, Clariant, NFC, and Sun.

IV. NEGLIGIBLE IMPORTS

In antidumping and countervailing duty investigations, if imports from a subject country corresponding to a domestic like product account for less than three percent of all such merchandise imported into the United States during the most recent 12 months preceding the filing of the petition for which data are available, the statute provides that, barring certain exceptional circumstances, the

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[33] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[34] See USITC Pub. 3662 (Prelim.) at 9-11.

[35] All known companies that produced violet 23 during the period of investigation are identified in CR/PR at Table III-1. No party has argued that any of these companies is not engaged in sufficient production-related activities in the United States to qualify as a domestic producer. Accordingly, because there has been no significant change in the relevant facts since the preliminary phase of these investigations, see, e.g., CR/PR at Tables III-9, III-10, VI-7; Petitions at 10, Exhs. 1, 3; Hearing Tr. at 20-21; CR at III-3, III-22, VI-7, VI-10 to VI-11 & n.8; PR at III-2, III-6 to III-7, VI-2 to VI-3 & n.8; USITC Pub. 3662 (Prelim.) at 9-10 and internal citations, we continue to find that companies that produce crude violet 23 and companies that produce finished violet 23 are part of the domestic industry based on the same analysis as in the preliminary determinations. We thus treat products within the definition of the domestic like product that are made by these producers as shipments of the domestic industry.

[36] See, e.g., CR at III-1 to III-2, III-5 to III-6, III-17; PR at III-1, III-2, III-6; CR/PR at III-7.

Commission is to find such imports "negligible."[37] By operation of law, a finding of negligibility terminates the investigation with respect to such imports without an injury determination.[38]

We have considered which set of data to use in these investigations to analyze negligibility, as well as volume and apparent U.S. consumption: import statistics obtained from Commerce or importer questionnaire responses. The Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels for purposes of deciding negligibility.[39] We have relied on data from importer questionnaire responses for purposes of our negligibility analysis for the following reasons: (1) import statistics obtained from Commerce include non-subject merchandise; (2) the quantities reported in import statistics obtained from Commerce are unreliable due to misreporting of some imports of subject merchandise from China; (3) import statistics obtained from Commerce are unreliable due to substantial underreporting of subject merchandise from India; and (4) data from importer questionnaire responses, which are also used as the basis for our analysis of volume and apparent U.S. consumption in these investigations, are nearly complete.

The import statistics from Commerce are for a tariff subheading that also includes some non-subject dispersions, although the non-subject dispersions reportedly only account for a small portion of imports, and from only one or two non-subject countries.[40] Furthermore, the Chinese respondents argued that Commerce's import statistics, particularly for 2003, are unreliable for purposes of quantifying subject imports from China because the quantities for certain imports of presscake were misreported in terms of their "wet" rather than their "dry" weight, resulting in an overstatement of the quantity of subject imports from China.[41] Whereas the import statistics from Commerce are unreliable to the extent that they overstate imports of subject merchandise from China, they are also unreliable to the extent that they understate imports of subject merchandise from India. The importer questionnaire responses show a considerably higher volume of subject imports from India than the import statistics obtained from Commerce, as shown in a comparison of the total value of imports from India for each source.[42] The volume of subject imports from India reflected in the importer questionnaire responses, moreover, nearly matches the volume of subject exports from India to the U.S. market reflected in foreign producer questionnaire responses.[43] Hence, we have much greater confidence in the reliability of importer questionnaire data than import statistics obtained from Commerce.

Finally, data from the importer questionnaire responses appear to be nearly complete, with responding firms' imports of violet 23 accounting for approximately *** percent of the value of imports

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[37] 19 U.S.C. § 1677(24). India has been designated by the United States Trade Representative to be a least developed country. See 15 C.F.R. § 2013.1; 63 Fed. Reg. 29945 (June 2, 1998). In countervailing duty investigations involving such least developed countries, the statute provides that subject imports from the least developed country that correspond to a domestic like product and account for less than 4 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petitions, shall be deemed negligible. See, e.g., 19 U.S.C. §§ 1677(24)(A)(i)(I), 1677(24)(B).

[38] 19 U.S.C. § 1673d(b).

[39] 19 U.S.C. § 1677(24)(C); see also, e.g., Statement of Administrative Action for the Uruguay Round Agreements Act ("SAA"), H.R. 315, 103d Cong., 2d Sess., vol. 1 at 856-57 (1994); Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004).

[40] See, e.g., USITC Pub. 3662 at IV-3; Conference Tr. at 60-61.

[41] At the hearing, the Indian respondents conceded that this was still a problem, although they asserted that this problem is limited to imports of presscake from China, and concerns mostly one Chinese exporter whose imports constitute a low percentage of total imports from China. See, e.g., Hearing Tr. at 129.

[42] Importer questionnaire responses account for approximately *** percent of (or well more than one and a half times) the value reported in Commerce's import statistics in 2003. See, e.g., CR at IV-3; PR at IV-2.

[43] See, e.g., CR/PR at Table IV-3.

from China reported in Commerce's import statistics, approximately *** percent of the value of imports from India reported in Commerce's import statistics, and approximately *** percent of the value of imports from all other sources reported in Commerce's import statistics in 2003.[44] The import statistics obtained from Commerce do not provide separate breakouts for crude violet 23, presscake, and dry color, whereas the importer questionnaire responses separately report such information.[45] Use of the importers' questionnaire responses, therefore, avoids double-counting problems associated with the fact that crude violet 23 is used to make finished violet 23 and some presscake is used to make dry color. Thus, we find the importer questionnaire responses to be the most reliable measure of the quantity and value of imports, and we base our analysis of negligibility on importer questionnaire responses, consistent with our analysis of volume and apparent U.S. consumption.

Based on import data (for both subject and non-subject imports) from importer questionnaire responses, subject imports from China and India each accounted for well more than 3 percent of the volume of all violet 23 imported into the United States in the most recent twelve-month period for which data are available preceding the November 2003 filing of the petitions, the negligibility threshold applicable in antidumping duty investigations. Subject imports from India also easily exceeded the 4 percent negligibility threshold applicable to certain least developing countries in countervailing duty investigations.[46] As such, we find that subject imports from China and India are not negligible under 19 U.S.C. § 1677(24).

V. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with the domestic like product in the U.S. market.[47] In assessing whether subject imports compete with each other and with the domestic like product,[48] the Commission has generally considered four factors, including:

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

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[44] See, e.g., CR at IV-3; PR at IV-2; CR/PR at Appendix D.

[45] See, e.g., CR at IV-3; PR at IV-2.

[46] See, e.g., CR/PR at Table IV-2 (indicating that subject imports from China constituted over ***, and subject imports from India constituted *** percent of the quantity of all imports of violet 23 between November 2002 and October 2003) (derived from CR/PR at Table IV-3). Even had we relied on import statistics from Commerce for data on imports from China and from all other sources, reported subject imports from India based on importer questionnaire data still clearly exceeded both negligibility thresholds. (derived from CR/PR at Table IV-3).

[47] 19 U.S.C. § 1677(7)(G)(i). There are four exceptions to the cumulation provision, none of which applies to these investigations. See, e.g., 19 U.S.C. § 1677(7)(G)(ii).

[48] The SAA expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848, citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.[49]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[50] Only a "reasonable overlap" of competition is required.[51]

B. Analysis

We find that the criteria for cumulating subject imports from China and India have been met in these investigations. The petitions covering subject imports from China and India were filed on the same day.[52] We find that there is a reasonable overlap of competition between subject imports from China and India and between subject imports and the domestic like product.

Throughout the period of investigation, there were subject imports from China and U.S. shipments by the domestic industry of crude violet 23, subject imports from China and India and U.S. shipments by the domestic industry of presscake,[53] as well as subject imports from China and India and U.S. shipments by the domestic industry of dry color.[54] Although importer questionnaire responses indicate that crude violet 23 was not imported from India, there was also evidence ***.[55]

The evidence indicates that the *** of the domestic industry's shipments are for ink-related applications, an area where there is also overlap with subject imports from China and India. In 2003, *** percent of U.S. producers' U.S. shipments of violet 23 were allocated to ink end-uses, as were *** percent of U.S. shipments of imports from China and *** percent of U.S. shipments of imports from India.[56] In addition to internally consuming violet 23 for the production of water-based ink products, the

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[49] See, e.g., Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278 to 280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, 678 F. Supp. 898, aff'd, 859 F.2d 915.

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

[51] See, e.g., Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); Wieland Werke, 718 F. Supp. at 52 ("Completely overlapping markets are not required.")

[52] See, e.g., CR at I-1; PR at I-1.

[53] The record indicates that the U.S. shipments of presscake imported from India were ***. See, e.g., CR/PR at Tables III-5, IV-2.

[54] See, e.g., CR/PR at Tables III-3, III-4, IV-2.

[55] See, e.g., CR at III-1; PR at III-1; CR/PR at Table III-7; Hearing Tr. at 55, 81, 162-63; Petitioners' Posthg Br. at 6, Exh. 1 at 11, Exh. 2 at 3.

[56] See, e.g., CR/PR at Table III-6, Appendix E; CR at I-8 to I-9; PR at I-6. For U.S. producers of finished violet 23, 2003 U.S. shipments by volume were allocated to end-use applications as follows: inks (*** percent); textiles (*** percent); plastics (*** percent); coatings (*** percent), and other applications (*** percent). For importers of Chinese finished violet 23, 2003 U.S. shipments were allocated as follows: inks (*** percent); textiles (*** percent); plastics (*** percent); coatings (*** percent); and other applications (*** percent). For importers of Indian finished violet 23, *** percent were allocated to ***. A witness for one of the Indian producers admitted that

(continued...)

domestic industry also competes in the merchant market for water-based applications along with violet 23 from China and India.[57]

The degree of substitutability between domestic and imported violet 23 depends upon such factors as relative prices, quality, and conditions of sale. The record indicates that there is a moderate-to-high degree of substitutability between domestic violet 23 and subject imports, although subject imports from China may have a higher degree of substitutability for the domestically-produced violet 23 than does Indian violet 23.[58] Domestic producers, importers, and purchasers generally agreed that subject imports from China and India and domestically-produced violet 23 are interchangeable with one another, and although there is some evidence that subject imports from India had a more difficult time meeting qualification requirements than their U.S. and Chinese competitors, purchasers often reported that violet 23 from all three sources was comparable.[59]

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[56] (...continued)
there were at least some subject imports from India for applications other than water-based inks and that there were ongoing efforts to qualify Indian products for a wider variety of applications. See, e.g., CR/PR at Table IV-6; Hearing Tr. at 133-34, 136, 151-53; Indian Respondents' Posthg Br. at 3; see also, e.g., Clariant's Posthg Br. at 9-10, Exh. 1 at 7-8, Exh. 2; Petitioners' Posthg Br. at 6-8, 14 n.18, 15, Exh. 1 at 11-12, Exh. 2.

[57] A witness for one of the Indian producers testified at the hearing that subject imports from India were primarily directed at water-based ink applications and claimed it was a very small segment of the market. See, e.g., Hearing Tr. at 121. Indian respondents claim that they have "confirmed with NAPIM ... that water-based inks constitute only about 5 percent of the total U.S. market for inks." Other record evidence indicates, however, that the size of the water-based ink market is larger. The National Association of Printing Ink Manufacturers estimated in 2004 that 46 percent of packaging inks are water-based. Petitioners estimate that the water-based inks market constitutes 30 percent of the U.S. violet 23 market, consistent with evidence they offered about the global market for organic pigments; they assert that for the global market for organic pigments 38 percent of the violet 23 consumption is in solvent/oil-based inks, 29 percent is in water-based inks, 16 percent is in coatings, 10 percent is in plastics, and the remaining 7 percent is for all other markets. Producer Clariant estimates that the water-based ink market accounts for *** percent of the entire market for violet 23. See, e.g., CR at II-5 to II-6 & n.12; PR at II-3; Petitioners' Posthg Br. at App. 2 at 2, Exh. B; Indian Respondents' Posthg Br. at 3; Clariant's Posthg Br. at App. 1 at 8.

[58] See, e.g., CR at II-10; PR at II-6.

[59] Most reporting domestic producers and U.S. importers indicated that domestically-produced violet 23, and imported violet 23 from both China and India are "sometimes," "frequently," or "always" interchangeable with one another, although there were several importers that reported insufficient familiarity to assess the interchangeability between the Indian product and products produced domestically or in China. See, e.g., CR/PR at Table II-1. Most reporting U.S. purchasers indicated that domestically-produced violet 23, and imported violet 23 from both China and India are "sometimes," "frequently," or "always" interchangeable with one another, although, again, there were several purchasers that reported insufficient familiarity to assess the interchangeability between the Indian product and products produced domestically or in China. See, e.g., CR/PR at Table II-1. Domestic producers generally reported that differences in factors other than price are "sometimes" more important among violet 23 produced domestically, in China, and in India, and most importers agreed that differences in factors other than price are at least "sometimes" more important among the three sources, although there were also several that reported non-price factors were "frequently" or "always" an important difference among those sources. See, e.g., CR/PR at Table II-2. Although petitioners assert that price is the most important factor in violet 23 purchase decisions, some importers reported that quality is the main factor and that only when the quality of violet 23 from competing sources is equal or close to equal does price become a factor. See, e.g., CR at II-12; PR at II-7. Purchasers were asked to list the top three factors that they consider in choosing a supplier of violet 23. Quality/consistency was by far the most important factor they reported, with price being their secondary consideration followed by factors such as availability, delivery/reliability, and other factors. See, e.g., CR/PR at Table II-3. Purchasers reported that meeting industry quality standards, consistency, lowest price, and reliability of supply were considered the most important factors when choosing among suppliers, and for these and other identified factors, purchasers often reported comparability among domestically-produced and imported violet 23 from both China and India, although there was
(continued...)

Based on all of these considerations, we conclude that subject imports from China and India are sufficiently fungible with one another and with the domestic like product to support a finding of a reasonable overlap of competition.

The record also indicates a substantial geographic overlap among subject imports from China and India and the domestic like product, with subject imports from China and India sharing several common ports of entry, and most U.S. shipments by the domestic industry and subject imports from China and India occurring on a nationwide basis.[60] Subject imports from China and India and the domestic like product were present in the U.S. market throughout the period of investigation.[61] We also find that subject imports from China and India and the domestic like product are generally sold in the same channels of distribution. For crude violet 23, both NFC and importers of the subject merchandise reported tolling for or selling primarily to end users during the period of investigation, although importers of subject merchandise made some sales to distributors. For commercial shipments of finished violet 23, U.S. producers and importers of the subject merchandise made large portions of their sales to end users, although there were increasing sales of subject merchandise to distributors towards the end of the period of investigation.[62] Given our findings of sufficient fungibility among subject imports and the domestic like product as well as our findings of overlapping geographic markets, common channels of distribution and simultaneous presence of violet 23 from all three sources, we find a reasonable overlap of competition between subject imports from China and India and between subject imports and the domestic like product.

Because the petitions covering subject imports from China and India were filed on the same day and in light of our finding of a reasonable overlap of competition between subject imports from China and India and between subject imports and the domestic like product, we cumulate subject imports from China and India for purposes of our material injury analysis.

VI. MATERIAL INJURY BY REASON OF SUBSIDIZED IMPORTS FROM INDIA AND LESS THAN FAIR VALUE IMPORTS FROM CHINA AND INDIA

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[63] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[64] The statute defines "material injury" as

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[59] (...continued)
somewhat less comparability between the imported product from India and the products made in the United States and China. See, e.g., CR/PR at Table II-5.

On the whole, purchasers know the origin of the violet 23 that they buy. They were asked how often violet 23 manufactured domestically, in China, in India, and in non-subject countries meets minimum quality specifications for their or their customers' end uses. The responses indicated general comparability among the sources, although India had a more difficult time in meeting the minimum quality requirements than other countries. See, e.g., CR/PR at Table II-4.

[60] See, e.g., CR at IV-14, V-1; PR at IV-5, V-1; CR/PR at Table IV-7.

[61] See, e.g., CR/PR at Table IV-8; CR at IV-15; PR at IV-5.

[62] See, e.g., CR at I-12 to I-13; II-1; PR at I-8, II-1 (also indicating that some domestically-produced violet 23 is internally consumed).

[63] 19 U.S.C. §§ 1671d(b), 1673d(b).

[64] 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."
(continued...)

"harm which is not inconsequential, immaterial, or unimportant."[65] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[66] 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."[67]

Based on an evaluation of the relevant statutory factors, we find that the domestic industry producing violet 23 is materially injured by reason of cumulated subject imports from India that are subsidized and sold at less than fair value and imports from China that are sold at less than fair value.

A. Conditions of Competition[68]

Several conditions of competition inform our analysis of whether the domestic industry is materially injured by reason of cumulated subject imports from China and India.

1. Demand Conditions

Demand for violet 23 is derived from the demand for other products such as printing inks, plastics, coatings, and textiles, which in turn depend on such industries as advertising, packaging, and clothing. Violet 23 thus does not have its own business cycle. The largest use of violet 23 is in the production of printing inks. U.S. demand for inks decreased over the period of investigation as demand for printed products contracted, although Sun argues that there was a slight upswing in demand in 2003 due to a somewhat improved U.S. economy.[69] Because there are no real alternatives to violet 23 and because violet 23 does not account for a large share of the cost of at least some of the end use products in which it is used, changes in violet 23 prices are not likely to lead to large changes in the quantity

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[64] (...continued)
19 U.S.C. § 1677(7)(B); see also, e.g., Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[65] 19 U.S.C. § 1677(7)(A).

[66] 19 U.S.C. § 1677(7)(C)(iii).

[67] Id.

[68] We considered the applicability of the captive production provision, 19 U.S.C. § 1677(7)(C)(iv), because ***. See, e.g., Staff Phone Notes (Dec. 3, 2004); CR/PR at Table III-5; CR at I-8, III-14; PR at I-6, III-5. No party argued that the requirements for application of the captive production provision were met in these investigations. We find the statutory threshold criterion to be met because over the period of investigation, internal shipments of presscake accounted for between *** and *** percent of the volume of U.S. producers' total shipments of presscake and between *** and *** percent of the volume of U.S. producers' total shipments of dry color; the balance was commercially sold. See, e.g., CR at I-8, III-13 to III-14; PR at I-6, III-5. We also find that the first statutory criterion is met in these investigations because no violet 23 transferred internally for further processing is known to have been sold in the merchant market in the form of violet 23. See, e.g., CR at III-14; PR at III-5. It is difficult to assess whether the second statutory criterion is met in these investigations because the cost shares of the internally consumed products (presscake and dry color) in the principal downstream products for which they are captively consumed (***) vary widely. See, e.g., CR at II-9 to II-10, III-14; PR at II-5, III-5. The third statutory criterion, however, appears not to be satisfied because presscake and dry color are sold in the merchant market for the production of the same downstream products as internally consumed presscake and dry color. See, e.g., CR/PR at Tables III-5, III-6; CR at III-15; PR at III-5. Based on these considerations, we find that the captive production provision is not met in these investigations.

[69] See, e.g., CR at II-5 to II-6; PR at II-3 to II-4.

demanded.[70] Apparent domestic consumption of crude violet 23 declined from *** pounds in 2001 to *** pounds in 2002 and *** pounds in 2003, although it increased from *** pounds in interim 2003 to *** pounds in interim 2004.[71] Apparent domestic consumption of finished violet 23 increased irregularly from approximately *** pounds in 2001 to *** pounds in 2002 and *** pounds in 2003, and it increased from *** pounds in interim 2003 to *** pounds in interim 2004.[72]

2. Supply Conditions

NFC is the only known producer of crude violet 23 in the United States.[73] During the period of investigation, several domestic producers converted imported or domestically-produced crude violet 23 into finished violet 23, including Allegheny, Barker, Bayer, Clariant, and Sun.[74] Barker (a ***) closed its business at the end of 2003.[75] In addition to subject imports from China and India, there were also non-subject imports present in the U.S. market throughout the period of investigation.[76] In terms of end-use applications, there was overlap among U.S. shipments of subject imports from China and India and domestically-produced violet 23 during the period of investigation, particularly for ink applications, as discussed above.

There are several important aspects of the structure of the U.S. industry in these investigations. First, *** domestically-produced crude violet 23 is toll-produced by NFC for Sun.[77] NFC began toll production of crude violet 23 in 1987 when Clariant, then known as Sandoz, discontinued production of crude violet 23 at its Fair Lawn, NJ plant.[78] Sun helped NFC to develop the production process, provided financing for additional equipment, and provided on-site technical help during the start-up phase.[79] The toll agreement that NFC and Sun entered into in 1988 ***. As part of this agreement Sun supplies all raw materials *** to NFC at no charge. The two companies then negotiate the toll price and quantity to be produced each year, ***.[80] During the preliminary phase of these investigations, petitioners reported that ***.[81] NFC's witness testified that while the toll contract does not prohibit NFC from selling crude violet 23 to others, as a practical matter, there is no one else to sell to because Sun is the largest single customer

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[70] See, e.g., Hearing Tr. at 59-64; CR at II-8 to II-10; PR at II-5.

[71] See, e.g., CR/PR at Table IV-9.

[72] See, e.g., CR/PR at Table IV-12.

[73] See, e.g., CR/PR at Table III-1.

[74] See, e.g., CR/PR at Table III-1; CR at III-1 to III-6; PR at III-1 to III-2. Sun purchased Bayer's Bushy Park facility in February 2003. See, e.g., CR at III-5; PR at III-2.

[75] See, e.g., CR/PR at Table III-1.

[76] Non-subject imports were from Germany, France, and Japan. See, e.g., CR at IV-1 n.5; PR at IV-1 n.5. The volume of U.S. shipments of non-subject crude violet 23 imports increased from *** pounds in 2001 to *** pounds in 2002 and then declined to *** pounds in 2003, and was *** pounds in interim 2003 as compared to *** pounds in interim 2004. The volume of non-subject finished violet 23 imports declined from *** pounds in 2001 to *** pounds in 2002 and *** pounds in 2003, and was *** pounds in interim 2003 as compared to *** pounds in interim 2004. See, e.g., CR/PR at Tables IV-2, IV-12.

[77] ***.

[78] At the time, NFC was supplying aminoethylcarbazole, a chemical intermediate used to produce carbazole violet, to Sandoz. According to NFC, when Sandoz decided to discontinue crude violet 23 production, it was logical for Sun to approach NFC about producing crude violet 23 for Sun. See, e.g., Hearing Tr. at 37-39.

[79] See, e.g., CR at III-4; PR at III-2.

[80] See, e.g., Petitions at 10; Hearing Tr. at 38, 42-44.

[81] See, e.g., Mem. INV-AA-194 (Dec. 30, 2003) at III-4.

in the United States, Clariant has its own crude violet 23 production in Europe, and there is no real opportunity for NFC to compete with the Chinese and Indian producers in Europe or in Asia.[82]

Second, *** imported crude violet 23 (whether from subject and/or non-subject countries) to produce finished violet 23.[83] Over the course of the period of investigation, Sun's purchasing activity under the toll agreement changed. According to Sun, in order to compete with subject imports of finished violet 23 in the U.S. market, Sun reduced the quantity of crude violet 23 that it purchased from NFC in 2002, lowered the corresponding tolling fee that it paid to NFC, and purchased Chinese crude violet 23. Subsequently, Sun ***, but at a lower tolling rate than in 2001, in order to ensure a domestic supply of crude violet 23.[84] In 2003, Sun increased its purchases from NFC at the expense of its imports of subject crude violet 23 from China. Petitioners testified that Sun has an interest in maintaining a secure U.S. supply source for crude violet 23.[85] Thus, Sun's purchases of crude violet 23 from NFC accounted for *** percent of its crude requirement in 2001, *** percent in 2002, *** percent in 2003, and *** percent in interim 2004.[86]

The domestic industry's capacity utilization for the production of crude violet 23 declined from *** percent in 2001 to *** percent in 2002 before increasing to *** percent in 2003, and from *** percent in interim 2003 to *** percent in interim 2004.[87] The tolling fee declined from *** per pound in the first quarter of 2001 to *** per pound throughout 2002 before increasing to *** in the first quarter of 2003, ***.[88]

Third, as noted above, a significant volume of finished violet 23 is internally transferred. Sun uses some of its presscake to produce dry color and flush color at its plant in Cincinnati, OH, and Sun ships some presscake to its Amelia, OH plant where it is converted to aqueous dispersions. Some of Sun's dry color is also used internally by Sun's Ink Division (General Printing Ink).[89]

Fourth, several domestic producers are affiliated with ***. As discussed above, ***.[90]

3. Other Considerations

All crude violet 23 (whether imported or domestically-produced) is used in the production of finished violet 23, and some presscake is used in the production of dry color, so we are mindful of the need in assessing the data to minimize double-counting. As discussed above, we rely on importer questionnaire responses rather than import statistics obtained from Commerce to measure volume and apparent U.S. consumption in these investigations because import statistics obtained from Commerce understate subject imports from India, overstate the volume of subject imports from China and include some non-subject dispersions. Moreover, official statistics do not provide separate break-outs for crude

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[82] See, e.g., Hearing Tr. at 38.

[83] ***. See, e.g., CR at III-1 to III-6; PR at III-1 to III-2; CR/PR at Table III-7. ***. See, e.g., CR at III-5; PR at III-2; CR/PR at Table III-7.

[84] See, e.g., CR at III-6, VI-3 n.4; PR at III-3, VI-1 n.4; CR/PR at Table VI-2, App. G; Hearing Tr. at 14, 27-29, 84-85; Petitioners' Final Comments at 1, 9-10.

[85] See, e.g., Hearing Tr. at 112-13.

[86] See, e.g., CR at III-4; PR at III-2.

[87] See, e.g., CR/PR at Table III-2.

[88] See, e.g., CR/PR at Table V-1. Under the toll agreement, NFC is required to be competitive with other world sources of crude violet 23, and NFC is not insulated from low prices from other countries such as China and India. See, e.g., Hearing Tr. at 13, 98-99.

[89] See, e.g., Hearing Tr. at 21-22; CR/PR at Table III-5; CR at III-13 to III-15; PR at III-5.

[90] See, e.g., CR at III-3 to III-6; PR at III-2.

violet 23, presscake, and dry color that would be needed to avoid double-counting in measuring apparent domestic consumption of violet 23.[91]

B. Volume of 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."[92]

The cumulated volume of subject imports increased significantly overall during the period of investigation, both in absolute terms and relative to production and consumption in the United States. The volume of cumulated subject imports increased from *** pounds in 2001 to *** pounds in 2002 and then declined somewhat to *** pounds in 2003, but was *** pounds in interim 2004 compared to *** pounds in interim 2003.[93] The volume of U.S. shipments of cumulated subject imports increased from *** pounds in 2001 to *** pounds in 2002 and to *** pounds in 2003, and was *** pounds in interim 2004 compared to *** pounds in interim 2003.[94] Whether measured in terms of cumulated subject import volume or in terms of U.S. shipments of cumulated subject imports, the absolute volume of cumulated subject imports *** over the period of investigation.

Apparent domestic consumption of violet 23 was relatively stable during the period of investigation, increasing irregularly from *** pounds in 2001 to *** pounds in 2002 before declining to *** pounds in 2003, and then increasing from *** pounds in interim 2003 to *** pounds in interim 2004.[95] Subject imports' share of the U.S. market on a quantity basis for finished violet 23 increased from *** percent in 2001 to *** percent in 2002 and to *** percent in 2003, and was *** percent in interim 2004 compared to *** percent in interim 2003.[96] The record indicates increases in overall market share for subject imports of crude violet 23,[97] presscake,[98] and dry color.[99] During this time, non-subject

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[91] See, e.g., CR at IV-3; PR at IV-2; CR/PR at Table III-5. Compilations of data concerning crude and finished violet 23 were calculated on the basis that there is approximately a one-to-one ratio between the amount of crude violet 23 consumed to make finished violet 23. See, e.g., CR at III-2; PR at III-1.

[92] 19 U.S.C. § 1677(7)(C)(i).

[93] See, e.g., CR/PR at Table IV-2. The absolute volume of subject imports increased the most between 2001 and 2002 (from *** pounds to *** pounds) and then dropped *** from 2002 to 2003 from *** pounds to *** pounds due to Sun's decision to buy more imports of crude violet 23 from China in 2002 and then to rely more on domestic supplier NFC in 2003. Indeed, the absolute volume of subject crude violet 23 imports increased from *** pounds in 2001 to *** pounds in 2002, and then declined to *** pounds in 2003. See, e.g., CR/PR at Table IV-2.

[94] See, e.g., CR/PR at Table IV-12.

[95] See, e.g., CR/PR at Table IV-16. Thus, the ratio of cumulated subject imports of violet 23 to U.S. apparent consumption increased from *** percent in 2001 to *** percent in both 2002 and 2003; and was *** percent in interim 2004 compared to *** percent in interim 2003. (derived from Tables IV-2, IV-16).

[96] See, e.g., CR/PR at Table IV-16.

[97] Apparent domestic consumption of crude violet 23 declined from *** pounds in 2001 to *** pounds in 2002 and *** pounds in 2003, and increased from *** pounds in interim 2003 to *** pounds in interim 2002. Subject crude violet 23 imports increased their market share on a quantity basis from *** percent in 2001 to *** percent in 2002 before declining to *** percent in 2003 and their market share declined from *** percent in interim 2003 to *** percent in interim 2004. See, e.g., CR/PR at Table IV-13.

[98] Apparent domestic consumption of presscake increased irregularly over the period of investigation from *** pounds in 2001 to *** pounds in 2002 before declining somewhat to *** pounds in 2003, and it increased from *** pounds in interim 2003 to *** pounds in interim 2004. See, e.g., CR/PR at Table IV-14. Subject imports of presscake increased their market share on a quantity basis from *** percent in 2001 to *** percent in 2002 and

(continued...)

imports' market share of finished violet 23 declined from *** percent in 2001 to *** percent in 2002 and *** in 2003; their market share declined from *** percent in interim 2003 to *** percent in interim 2004.[100] The domestic industry's market share was relatively steady over the period of investigation, increasing from *** percent in 2001 to *** percent in 2002 before declining somewhat to *** percent in 2003, and was *** percent in interim 2004 compared to *** percent in interim 2003.[101] These trends in market share over the period of investigation are consistent with our findings, discussed below, that the domestic industry lowered its prices in response to low-priced subject imports in order to maintain or limit its losses in market share in the face of increasing subject import volumes.

As a ratio to U.S. production (by volume), subject imports of crude violet 23 *** between 2001 and 2002, increasing from *** percent in 2001 to *** percent in 2002 before declining to *** percent in 2003 as Sun began substituting more domestically-produced crude violet 23 for crude violet 23 produced in China for its production of finished violet 23. During interim 2004, the ratio of subject imports of crude violet 23 to U.S. production was *** percent compared to *** percent in interim 2003.[102] Subject imports of finished violet 23 were equivalent to *** percent of U.S. finished violet 23 production (by volume) in 2001, then increased to *** percent in 2002 and to *** percent in 2003, and were equivalent to *** percent of U.S. finished violet 23 production in interim 2003 and an even higher *** percent in interim 2004; thus, their ratio to domestic production *** over the period of investigation.[103]

Accordingly, we find that the absolute volume of cumulated subject imports as well as the increase in cumulated subject imports (both absolutely and relative to domestic production and consumption) was significant during the period of investigation.

C. Price Effects of the Subject Imports

Section 771(7)(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.[104]

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[98] (...continued)
remained stable at *** percent in 2003, and their market share increased from *** percent in interim 2003 to *** percent in interim 2004. See, e.g., CR/PR at Tables IV-10, IV-14.

[99] Apparent domestic consumption of dry color increased over the period of investigation, from *** pounds in 2001 to *** pounds in 2002 and then *** pounds in 2003, and was *** pounds in interim 2003 as compared to *** pounds in interim 2004. See, e.g., CR/PR at Table IV-15. Subject imports of dry color increased their market share on a quantity basis from *** percent in 2001 to *** percent in 2002 and *** percent in 2003, and their market share was *** percent in interim 2003 as compared to *** percent in interim 2004. See, e.g., CR/PR at Table IV-15.

[100] See, e.g., CR/PR at Table IV-16.

[101] See, e.g., CR/PR at Table IV-16.

[102] See, e.g., CR/PR at Table IV-17.

[103] See, e.g., CR/PR at Table IV-18.

[104] 19 U.S.C. § 1677(7)(C)(ii).

Virtually all responding purchasers reported that there are no direct substitutes for violet 23.[105] In selecting a violet 23 supplier, purchasers ranked price as the second most important factor, after quality.[106] Out of twenty-four total responses, twenty purchasers said that they "usually" or "sometimes" purchased violet 23 offered at the lowest price.[107] While quality is the most important factor in purchasing decisions, violet 23 is typically purchased from suppliers whose quality and reliability have already been established,[108] making price and volume the focal point of contract negotiations. Indeed, the overwhelming majority of purchasers reported that they require potential suppliers to pass certain qualification procedures to assure that quality standards are met before they will even enter into contract negotiations with them.[109] The majority of purchasers reported that they contact only two or three suppliers while some purchasers reported that they contact just one supplier before negotiating contract terms and conditions.[110]

As noted above, we find that there is a moderate-to-high degree of substitutability between subject imports and the domestic like product, although Chinese violet 23 has a higher degree of substitutability for domestic violet 23 than does Indian violet 23.[111] Questionnaire respondents reported that violet 23 from each of the three sources was generally interchangeable with the others, and there was overlap in the end-use applications for which violet 23 from these sources was sold and offered for sale, particularly for inks, and more specifically for water-based application inks.[112] Subject imports from China and India were also sold on similar terms and under similar circumstances.[113] The majority of producers (4 of 5), importers (21 of 23), and purchasers (18 of 24) noted that the price of violet 23 does

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[105] Eighteen out of nineteen responding purchasers reported that there are no direct substitute products for violet 23. See, e.g., CR at II-7; PR at II-4.

[106] Generally, purchasers found the domestic product comparable or superior to subject imports with respect to product quality and consistency, availability, and reliability of supply. See, e.g., CR at II-14 to II-15; PR at II-8; CR/PR at Table II-5.

[107] See, e.g., CR at II-13; PR at II-8. Nine purchasers identified Sun as a price leader while five purchasers identified Clariant as a price leader. However, four out of nine purchasers identifying Sun as a price leader noted that Sun simply was responding to market pressure. See, e.g., CR at II-2; PR at II-1.

[108] Only four purchasers ranked price as the most important factor considered when selecting a purchaser, but ten ranked it second, and ten ranked it third. Although nineteen purchasers ranked quality as the most important factor considered when selecting a purchaser, just six ranked it second, and only one ranked it third. See, e.g., CR/PR at Table II-3.

[109] Twenty-two out of twenty-five responding purchasers indicated that they require all of their violet 23 suppliers to become certified or pre-qualified with respect to the chemistry, quality, strength, or other performance characteristics before purchasing from a vendor. See, e.g., CR at II-13; PR at II-8.

[110] See, e.g., CR at II-12; PR at II-7; purchasers' questionnaire responses to question III-11. Thirteen purchasers that responded to the Commission's questionnaire reported that they have not changed suppliers while thirteen purchasers reported that they have added or dropped suppliers since January 2001. See, e.g., CR at II-13; PR at II-7.

[111] See, e.g., CR at II-10; PR at II-6.

[112] See, e.g., CR at II-5 to II-6 & n.12, II-12; PR at II-3 & n.12, II-7; CR/PR at Tables II-1 to II-5; Petitioners' Posthg Br. at App. 2 at 2, Exh. B; Indian Respondents' Posthg Br. at 3; Clariant's Posthg Br. at App. 1 at 8.

[113] Most domestic production and subject imports are sold on a spot basis, with the remainder sold using short-term contracts of up to twelve months (with the exception of the tolling agreement between Sun and NFC). See, e.g., CR at V-3; PR at V-2. Most prices for the domestic like product and subject imports are determined on a transaction-by-transaction basis. See, e.g., CR at V-3; PR at V-2; Hearing Tr. at 45. Most reporting producers and importers indicated that payment is required within thirty days, and all producers except *** and twenty of twenty-five responding importers sell violet 23 on a delivered basis. The majority of responding producers and importers reported no formal discount policy, although several firms reported some volume-based discounts for individual customers. See, e.g., CR at V-4; PR at V-3.

not depend on its end-use application.[114] To the extent that there are price variances among end users in inks, plastics, and coatings, such price variances appear to be mostly a function of volume.[115]

To evaluate prices in the U.S. market, the Commission collected quarterly weighted-average price information from U.S. producers and importers from January 2001 through June 2004 on three products for sales to unrelated U.S. customers: (1) crude violet 23, (2) presscake, and (3) dry color. Five U.S. producers and twenty-three importers 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.[116] The pricing data collected by the Commission provided a high coverage rate for the investigation period.[117]

Based on these data, we find significant underselling by cumulated subject imports from China and India. Subject imports were priced lower than the domestic product throughout the period of investigation. In all twenty-two quarters for which price comparisons were possible, subject imports of presscake (product 2) undersold the domestic like product, with margins of underselling ranging from 12.1 percent to 50.4 percent.[118] In all 28 quarters for which price comparisons were possible, subject imports of dry color (product 3) undersold the domestic like product, with margins of underselling ranging from 42.3 percent to 54.8 percent.[119]

NFC's reported price data for crude violet 23 (product 1) do not reflect market prices and thus cannot be used to calculate margins of underselling or overselling with respect to subject imports.[120] However, using *** for crude violet 23 as a proxy for domestic prices of crude violet 23, domestic prices of crude violet 23 were at least *** percent above subject import prices for crude violet 23 in most of the period of investigation.[121]

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[114] See, e.g., CR at II-10; PR at II-5. Most importers, purchasers, and producers reported that finished violet 23 accounts for very small percentages of the cost of the end-use product for which it is dedicated, although some reported more substantial amounts. For example, importer/purchaser *** estimates that violet 23 accounts for between *** and *** percent of the cost of coatings, whereas *** estimates *** percent. Purchaser *** estimates that it accounts for *** percent of the cost of paint. Purchaser *** estimates that violet 23 accounts for *** percent of the cost of finished inks. *** and *** estimated that violet 23 accounts for between *** and ***, and *** percent, respectively, of the cost of producing plastics. See, e.g., CR at II-9; PR at II-5.

[115] See, e.g., Hearing Tr. at 45-46.

[116] See, e.g., CR at V-4; PR at V-3.

[117] In 2003, pricing data reported by U.S. producers and importers accounted for *** percent of the quantity of U.S. producers' commercial U.S. shipments of crude violet 23, and *** percent of U.S. shipments of crude violet 23 from China. See, e.g., CR at V-4; PR at V-3. In 2003, pricing data reported by U.S. producers and importers accounted for *** percent of the quantity of U.S. producers' commercial U.S. shipments of finished violet 23 (i.e., presscake and dry color), *** percent of commercial U.S. shipments of finished violet 23 from China, and *** percent of commercial U.S. shipments of finished violet 23 from India. See, e.g., CR at V-5; PR at V-3.

[118] See, e.g., CR/PR at Table V-2. In all fourteen quarters for which price comparisons were possible, subject imports of presscake from China undersold the domestic like product with margins ranging from 22.2 percent to 50.4 percent, and averaging 36.3 percent. See, e.g., CR at V-10; PR at V-4. In the eight quarters for which price comparisons with Indian products were possible, subject imports of presscake from India undersold the domestic like product, with margins ranging from 12.1 percent to 27.3 percent, and averaging 20.9 percent. See, e.g., CR/PR at Table V-2; CR at V-10 to V-11; PR at V-4.

[119] In all fourteen quarters for which price comparisons were possible, subject imports of dry color from China undersold the domestic like product with margins of underselling ranging from 46.3 percent to 54.8 percent, and averaging 50.8 percent. In all fourteen quarters for which price comparisons were possible, subject imports of dry color from India undersold the domestic like product with margins of underselling ranging from 42.3 percent to 54.1 percent, and averaging 47.3 percent. See, e.g., CR/PR at Table V-3; CR at V-11; PR at V-4.

[120] See, e.g., CR at V-5; PR at V-4.

[121] (derived from CR/PR at Table V-1).

In light of the importance of price in purchasing decisions, and the significant and increasing volume of subject imports during the investigation period discussed above, we find the consistent and pervasive underselling to be significant.

In addition to significant underselling, we find significant price depression by subject imports in these investigations. The prices for the domestic like product and subject imports declined throughout virtually the entire period of investigation. Domestic prices for presscake declined from $*** per pound in the first quarter of 2001 to $*** per pound in the second quarter of 2004,[122] and prices for imported presscake from subject countries also declined over the period of investigation.[123] Likewise, domestic prices for dry color declined over the period of investigation from $*** per pound in the first quarter of 2001 to $*** per pound in the second quarter of 2004, after dropping to a period low of $*** per pound in the third quarter of 2003, and prices for imported dry color from subject countries also declined over the period of investigation.[124] Furthermore, using *** as a proxy, the price of domestic crude violet 23 shipments declined over the period of investigation, as did the price of crude violet 23 imported from the subject countries.[125]

While the domestic industry's comprehensive raw material costs for finished violet 23 (tolling raw material, tolling fee, and imported crude violet 23) declined throughout most of the period of investigation, the domestic industry faced increased raw materials costs in interim 2004. The declines in raw material costs *** the reductions in average unit revenues which the industry experienced throughout most of the period of investigation. While interim 2004 average unit revenue was *** compared to 2003, *** raw material costs offset this modest increase.[126] We thus conclude that changes in raw material costs do not adequately explain the significant decline in domestic violet 23 prices during the investigation period.[127]

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[122] See, e.g., CR/PR at Table V-2. Underselling margins for subject imports of presscake were greatest from 2001 to 2002, which corresponds with the steepest decline in price for domestically-produced presscake for the period of investigation. Prices for domestically-produced presscake declined from *** per pound in 2003 to *** per pound in the third quarter of 2002. Prices for domestically-produced presscake declined overall during the remainder of the investigation period as underselling of presscake subject imports continued. See, e.g., CR/PR at Table V-2. While the volume of subject imports of dry color exceeded the volume of subject imports of presscake during the investigation period, domestic prices for presscake nevertheless have declined more than domestic prices for dry color over the same period. This phenomenon appears to be related to the fact that dry color can be used to make many of the same products as presscake such that "subject imports are attacking Sun's presscake business with both dry color and presscake." See, e.g., Petitioners' Posthg Br. at Appendix 1 at 3-4.

[123] Prices for subject imports of presscake from China declined from $*** per pound in the first quarter of 2001 to $*** per pound in the second quarter of 2004. Prices for subject imports of presscake from India declined from $*** per pound in the first quarter of 2001 to $*** per pound in the fourth quarter of 2002 when subject imports of presscake from India stopped. See e.g., CR/PR at Table V-2.

[124] See, e.g., CR/PR at Table V-3. Prices for subject imports of dry color from China declined from $*** per pound in the first quarter of 2001 to $16.71 per pound in the second quarter of 2004. Prices for subject imports of dry color from India declined from $20.81 per pound in the first quarter of 2001 to $*** per pound in the second quarter of 2004.

[125] (derived from CR at V-5, n.9; PR at V-4 , n.9; CR/PR at Table V-1).

[126] See, e.g., CR/PR at Tables VI-6, VI-4, VI-1.

[127] At the hearing, Mr. Parekh, a witness for one of the Indian producers, attributed price depression to the Chinese respondents stating that "[t]he customer will approve our product and they continue to buy, but whenever there is a price reduction mainly from the Chinese pressure comes now that China is supplying at a lower price, so you have to reduce your prices." See, e.g., Hearing Tr. at 135. Especially since (as discussed above) we are cumulating subject imports from China and India, this concession by a witness for one of the Indian producers supports our finding that subject imports from China and India have had adverse price effects on the domestic like

(continued...)

Purchaser data corroborate the significant underselling and price depression by subject imports reflected in the pricing data. More specifically, the record contains evidence of allegations of lost sales and lost revenues that total approximately $*** and involve approximately *** pounds of violet 23.[128] Of these, lost sales and lost revenues amounting to $*** and *** pounds were confirmed or partially confirmed by purchasers. The fact that there were a number of confirmed or partially confirmed lost revenue allegations and *** confirmed lost sales allegation is consistent with other evidence that the domestic industry met the lower prices of subject imports in order to try to retain market share.[129] In addition, comments by several purchasers, including some that disagreed with specific lost sales or lost revenue allegations, further support the price-depressing effects of subject imports. These purchasers reported that U.S. producers had to reduce prices in order to compete with subject imports.[130]

For all of these reasons, we find significant price underselling and significant price depression and find that cumulated subject imports from China and India have had significant adverse price effects.

D. Impact of the Subject Imports[131]

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[132] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[133]

We have examined the performance indicators of the domestic industry and its components, including consolidated trade and financial results for the domestic industry producing violet 23, and the separate data on trade and financial performance of the domestic producers of crude and finished violet

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[127] (...continued)
product.

[128] See, e.g., CR/PR at Tables V-4 & V-5.

[129] See, e.g., CR/PR at Tables V-2 & V-3.

[130] See, e.g., CR at II-2, V-12, V-15 to V-19; PR at II-1, V-7; CR/PR at Tables V-4 to V-5. For example, *** stated that violet 23 made in foreign countries, including China, was offered at much lower prices than domestic sources, and therefore domestic producers lowered prices to remain competitive. *** acknowledged that since January 2000, U.S. producers of violet 23 have reduced their prices in order to compete with violet 23 from China.

[131] The statute instructs the Commission to consider the "magnitude of the dumping margin" in antidumping duty proceedings as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final antidumping duty determinations, Commerce found ad valorem dumping margins for subject imports from China of violet 23 of 5.51 percent for GoldLink Industries Co., Ltd; 44.50 percent for Nantong Haidi Chemical Co., Ltd. ("Haidi"); 27.19 percent for Trust Chem Co., Ltd.; 217.94 percent for Tianjin Hanchem International Trading ("Hanchem"); and 217.94 percent for all others. For subject imports from India of violet 23, Commerce found ad valorem dumping margins of 27.23 percent for Alpanil Industries, Ltd.; 69.23 percent for Pidilite Industries, Ltd.; and 45.98 percent for all others. See, e.g., 69 Fed. Reg. 67304 (Nov. 17, 2004) (China); 69 Fed. Reg. 67306 (Nov. 17, 2004) (India).

[132] 19 U.S.C. § 1677(7)(C)(iii); see also, e.g., SAA at 851, 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.")

[133] 19 U.S.C. § 1677(7)(C)(iii); see also, e.g., SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Prelim.), USITC Pub. 3155 at 25 n. 148 (Feb. 1999).

23.[134] As a practical matter, given their relative size and functions in the domestic industry, Sun and NFC's performance contributed importantly to the domestic industry's overall performance.

While the market share held by the domestic industry was relatively steady over the period of investigation, as were production and sales volumes, the domestic industry's net sales value declined steadily and markedly, by *** percent, as a result of declining prices due to the underselling and price pressure from subject imports. The price erosion led to *** in 2001 and 2002. The industry's financial condition improved modestly in 2003 due to cost savings and improved efficiencies, and despite continued price depression by the subject imports. Its gains in interim 2004 appear to be attributable in part to the filing of the petition.[135]

During the period of investigation, apparent U.S. consumption was relatively stable, increasing irregularly from *** pounds in 2001 to *** pounds in 2002 before declining to *** pounds in 2003, and then increasing from *** pounds in interim 2003 to *** pounds in interim 2004.[136] Subject imports of violet 23 from China and India were present in the U.S. market in significant volumes and were increasing significantly absolutely and relative to domestic production and consumption. The domestic industry's U.S. shipments of finished violet 23 (by quantity) increased from *** pounds in 2001 to *** pounds in 2002, then decreased to *** pounds in 2003, and the domestic industry's U.S. shipments of finished violet 23 increased from *** pounds in interim 2003 to *** pounds in interim 2004.[137] The domestic industry's market share increased from *** percent in 2001 to *** percent in 2002 before decreasing somewhat to *** percent in 2003, and its market share decreased from *** percent in interim 2003 to *** percent in interim 2004.[138] The domestic industry's production capacity for crude violet 23 increased from *** pounds in 2001 to *** pounds in 2002, and *** pounds in 2003,[139] and the domestic industry's production capacity for finished violet 23 remained stable at *** pounds in 2001 and 2002, but then declined to *** pounds in 2003 as *** exited the industry.[140]

Although the industry as a whole did not lose significant sales volume or market share over the period of investigation, its net sales value declined due to falling prices. On a value basis, net sales of finished violet 23 declined over the period of investigation, from $*** in 2001 to $*** in 2002, and $*** in 2003, and then increased from $*** in interim 2003 to $*** in interim 2004.[141] As a ratio to net sales, cost of goods sold decreased from *** percent in 2001 to *** percent in 2002 and to *** percent in 2003, and the ratio of cost of goods sold to net sales declined from *** percent in interim 2003 to *** percent in interim 2004.[142]

In order to compete with the unfairly traded, low-priced subject imports, the domestic industry, and more specifically Sun, first increased its purchases of imported crude violet 23 from the subject countries at the expense of the domestic industry's own crude production, and Sun lowered the tolling fee that it paid for crude violet 23 produced by NFC.[143] Consequently, capacity utilization for crude violet 23

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[134] See, e.g., CR/PR at Tables VI-6, C-1, C-2.

[135] See, e.g., Petitioners' Prehg Br. at 22 n.54; Petitioners' Final Comments at 1; CR/PR at Tables IV-2, V-1 to V-3, VI-6.

[136] See, e.g., CR/PR at Table IV-16.

[137] See, e.g., CR/PR at Table IV-12.

[138] See, e.g., CR/PR at Table IV-16.

[139] See, e.g., CR/PR at Table C-1.

[140] See, e.g., CR/PR at Tables III-2, C-2.

[141] See, e.g., CR/PR at Table VI-6.

[142] See, e.g., CR/PR at Table VI-6.

[143] Sun testified that its internal consumption of finished violet 23 was also affected by the low-priced subject imports because the internally produced products had to compete for sales to the separate stand-alone business units (continued...)

declined significantly from *** percent in 2001 to *** percent in 2002,[144] and the tolling fee that Sun paid to NFC plummeted from $*** per pound in the first quarter of 2001 to $*** per pound in 2002.[145] According to Sun, purchasing low-priced imported crude violet 23 from the subject countries was only a short-term solution that sacrificed its longer-term ability to have a consistent U.S. supplier of crude violet 23, as discussed above. Thus, when Sun agreed to increase the percentage of crude violet 23 that it purchased from NFC and increase somewhat the tolling fee that it paid NFC for the domestically-produced crude violet 23, capacity utilization for crude violet 23 increased from *** percent in 2002 to *** percent in 2003, and increased from *** percent in interim 2003 to *** percent in interim 2004.[146]

Capacity utilization for finished violet 23 remained *** and declined irregularly throughout the period of investigation, increasing from *** percent in 2001 to *** percent in 2002 before declining to *** percent in 2003 (a lower level than in 2001), and finished violet 23 capacity utilization declined from *** percent in interim 2003 to *** percent in interim 2004.[147] The number of production-related workers for crude and finished violet 23 together fell over the period of investigation, although the number of production-related workers for crude violet 23 fluctuated with Sun's purchases of crude violet 23 from NFC over the period of investigation.[148] There were capital expenditures and research and development expenditures throughout the period of investigation that varied by producer and in terms of crude versus finished violet 23 production operations.[149]

Due to downward price pressure from subject imports, the overall domestic industry had *** operating margins as a ratio to net sales of *** percent in 2001 and *** percent in 2002. The *** in 2002 *** in the crude segment of the domestic industry. The industry had an *** as a ratio to net sales of *** percent in 2003 as its costs and efficiencies improved, despite continued price declines. The domestic industry's *** percent in interim 2003 and *** percent in interim 2004.[150] Although we looked at the industry as a whole, we note that the operating margins for crude violet 23 producer *** from *** percent in 2001 to *** percent in 2002 before improving *** to *** percent in 2003. Further, the domestic industry's operating margin for its crude violet 23 production was *** percent in interim 2003 and *** in interim 2004.[151]

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[143] (...continued)
within Sun. See, e.g., Hearing Tr. at 24.

[144] See, e.g., CR/PR at Table C-1.

[145] See, e.g., CR/PR at Table V-1.

[146] See, e.g., CR/PR at Table C-1.

[147] See, e.g., CR/PR at Table C-2.

[148] See, e.g., CR/PR at Tables C-1, C-2. The number of production-related workers for crude violet 23 declined from *** in 2001 to *** in 2002 before increasing to *** in 2003, and was *** in interim 2003 as compared to *** in interim 2004. The number of production hours worked for crude violet 23 production increased irregularly over this period, declining from *** hours in 2001 to *** in 2002 before increasing to *** hours in 2003, and was *** hours in interim 2003 as compared to *** hours in interim 2002. See, e.g., CR/PR at Table C-1. The number of production-related workers for finished violet 23 declined from *** in 2001 to *** in 2002 and *** in 2003, and was *** in interim 2003 as compared to *** in interim 2004. The number of production hours worked also declined over this period for finished violet 23 production, from *** hours in 2001 to *** in 2002 and to *** hours in 2003, and was *** hours in interim 2003 as compared to *** hours in interim 2004. See, e.g., CR/PR at Table C-2.

[149] See, e.g., CR/PR at Table VI-7. ***. According to a Sun company official, "... the [2003] capital expenditure is the waste water upgrade we had to make at our Cincinnati plant and the primary mission of that upgrade was we had to meet local copper regulations that had been put on by the Cincinnati MSD, which is the local Metropolitan Sewer District." CR at VI-13 to VI-14; PR at VI-3.

[150] See, e.g., CR/PR at Table VI-6.

[151] See, e.g., CR/PR at Table VI-1.

The domestic industry's *** improved financial performance towards the end of the period of investigation was due in part to the fact that once Sun agreed to source a larger portion of its crude violet 23 requirements domestically instead of from subject countries, NFC *** by producing larger volumes of crude violet 23 even at the lower tolling fee necessitated by the low-priced imports of crude violet 23 from the subject countries. The domestic industry also took other steps to improve its performance. Sun continued to purchase *** quantities of low-priced crude violet 23 in 2003 for its finishing operations, it was able to *** that it supplied to NFC for the tolling operations during the period of investigation (although it experienced higher raw material costs at the end of the period of investigation for its finishing operations, as discussed above in our analysis of price effects), and Sun also reportedly benefitted from ***.[152] There is also some evidence that improvements in the domestic industry's financial performance towards the end of the period of investigation are related to the pendency of these investigations.[153] At the same time, we also observe that prices in the U.S. market continued to decline even at the end of the period of investigation.

Although the domestic industry's overall market share was relatively steady, its financial performance suffered due to eroding prices. In order to remain competitive with the subject imports and hold on to market share, it was forced to lower prices, which negatively affected its financial performance. The domestic industry also took other measures to try to cut its losses, such as *** for crude violet 23 tolling operations, purchasing low-priced crude violet 23 from subject countries, and making other structural and process improvements.

For all of the reasons stated above, we conclude that subject imports from China and India adversely impacted the domestic industry during the period of investigation. We conclude that the significant absolute volume of subject imports and the significant increase in subject import volume both absolutely and relative to domestic production and consumption as well as the significant underselling and significant price depression by subject imports had a significant adverse impact on the condition of the domestic industry during the period of investigation.

VII. CRITICAL CIRCUMSTANCES

In its final affirmative antidumping duty determination concerning subject merchandise from China, Commerce found that critical circumstances exist for subject exports from China to the U.S. market by Chinese producer/exporter Haidi and Chinese exporter Hanchem.[154] Because we have determined that the domestic violet 23 industry is materially injured by reason of subject imports from China, we must further determine "whether the imports subject to the affirmative [Commerce critical circumstances] determination ... are likely to undermine seriously the remedial effect of the antidumping duty order to be issued."[155] The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order."[156]

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant:

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[152] See, e.g., CR/PR at Table VI-2; CR at VI-6 to VI-7 & n.7, VI-11 to VI-12 & nn.10-12; PR at VI-1 to VI-3 & nn.7, 10-12.

[153] See, e.g., Petitioners' Prehg Br. at 22 n.54; Petitioners' Final Comments at 1; CR/PR at Tables IV-2, V-1 to V-3, VI-6.

[154] CR/PR at Table I-3; CR at IV-11; PR at IV-3.

[155] 19 U.S.C. § 1673d(b)(4)(A)(i).

[156] SAA at 877.

(I) the timing and the volume of the imports,
(II) a rapid increase in inventories of the imports, and
(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[157]

Consistent with Commission practice,[158] in considering the timing and volume of subject imports, we consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstance determination.

The petitions in these investigations were filed on November 21, 2003, and suspension of liquidation occurred on June 24, 2004 for subject imports from China subject to affirmative antidumping findings, when Commerce issued its preliminary determinations.[159] Comparing the six-month period May 2003 - October 2003 with the six-month period December 2003 - April 2004, imports for which Commerce made affirmative critical circumstances determinations increased from *** pounds to *** pounds, or by *** percent.[160] We do not consider the increase in subject imports in the six months following the filing of the petition as likely to undermine seriously the remedial effect of the antidumping duty order.

We also have considered the extent to which there was an increase in inventories of the subject imports. End-of-period inventories for Haidi and Hanchem's U.S. importers of violet 23, ***, were *** pounds in 2001, *** pounds in 2002, *** pounds in 2003, *** pounds in June 2003, and *** pounds in June 2004. ***.[161] Therefore, we do not find that there has been a rapid increase in inventories of the subject merchandise following the filing of the petitions.

We have evaluated the timing and the volume of the imports, the levels of inventories of the imports, and any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined. Based on the record in these investigations, we find that the imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order to be issued, and therefore make a negative finding with respect to critical circumstances.

CONCLUSION

For the reasons stated above, we determine that the domestic industry producing violet 23 is materially injured by reason of subject imports of violet 23 from India that are subsidized and of violet 23 from China and India that are sold in the United States at less than fair value. We make a negative finding with respect to critical circumstances.

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[157] 19 U.S.C. § 1673d(b)(4)(A)(ii).

[158] See, e.g., Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003); Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 at 12-13 (Aug. 2000).

[159] See, e.g., CR at I-1; PR at I-1; 69 Fed. Reg. 35287 (June 24, 2004).

[160] (derived from CR/PR at Table IV-5). The data reflected in this table may be overstated to the extent that ***. See, e.g., CR/PR at Table IV-5 n.1.

[161] See, e.g., Mem. INV-BB-154 (Dec. 9, 2004).

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by Nation Ford Chemical Co. (NFC) and Sun Chemical Corp. (Sun), on November 21, 2003, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of carbazole violet pigment 23 (violet 23)[1] from India and less-than-fair-value (LTFV) imports of violet 23 from China and India. Information relating to the background of the investigations is provided in table I-1.

Table I-1
Violet 23: Chronology of events in the subject investigations

Date	Action
November 21, 2003	Petition filed with Commerce and the Commission; institution of Commission investigations (68 FR 66851, November 28, 2003)
December 19, 2003	Commerce's notice of initiation (68 FR 70761, December 19, 2003)
January 5, 2004	Commission's preliminary determinations (69 FR 2002, January 13, 2004)
April 27, 2004	Commerce's notice of preliminary affirmative countervailing duty determination and alignment with final LTFV determinations (69 FR 22763, April 27, 2004)
June 24, 2004	Commerce's notice of preliminary LTFV determinations and postponement of final determinations (69 FR 35287 and 69 FR 35293, June 24, 2004); scheduling of final phase of the Commission's investigations (69 FR 44059, July 23, 2004)[1]
November 17, 2004	Commerce's notice of final LTFV determinations and notice of final affirmative countervailing duty determination (69 FR 67304, 69 FR 67306, and 69 FR 67321), November 17, 2004, and 69 FR 68876, November 26, 2004[2]
November 10, 2004	Date of the Commission's hearing[3]
December 10, 2004	Date of the Commission's vote
December 22, 2004	Commission's determinations and views sent to Commerce

[1] The Commission's notice of scheduling is presented in app. A.
[2] Commerce's notices are presented in app. A.
[3] A list of witnesses at the hearing is presented in app. B.

Source: *Federal Register* notices of the Commission and Commerce.

[1] For purposes of these investigations, the subject violet 23 is in the forms of crude pigment or finished pigment (presscake and dry color), but the scope does not include pigment dispersions or other pigment preparations. Violet 23 is one of several organic pigments used to color inks, paints, plastics, and other materials. A complete description of the imported product subject to the investigations is presented in the section entitled *The Subject Product* of this report.

MAJOR FIRMS INVOLVED IN THE VIOLET 23 MARKET

NFC is the only U.S. producer of crude violet 23, and several U.S. firms produce finished violet 23. Sun is the largest U.S. producer of finished violet 23, accounting for *** percent of U.S. production of the finished product in 2003.[2] Another U.S. producer of finished violet 23 that is a party to the investigations is Clariant Corp.[3]

The major known U.S. importers of crude violet 23 from China in 2003 were ***, which together accounted for *** percent of the reported volume of such imports from China. The major known U.S. importers of finished violet 23 from China in 2003 were ***, which collectively accounted for *** percent of the reported volume of such imports.[4] The major reporting U.S. importers of finished violet 23 from India were ***, which together accounted for about *** percent of the reported volume of such imports in 2003. There are no known importers of crude violet 23 from India during the period for which data were collected in these investigations (2001 through June 2004).

The four Chinese firms that were both producers and exporters of violet 23 in 2003 and that reported data in response to Commission questionnaires were (1) Hangzhou Baihe Chemical Co., Ltd. ("Baihe"); (2) Nantong Haidi Chemicals Co., Ltd. ("Haidi");[5] (3) Nantong Longteng Chemical Co., Ltd. ("Longteng"); and (4) Wuxi Xinguang Chemical Industry Co., Ltd. ("Wuxi"). An additional six reporting exporters of finished violet 23 from China to the United States in 2003 were (1) Aesthetic ColorTech (Shanghai) Co., Ltd. ("Aesthetic"); (2) GoldLink Industries Co., Ltd. ("GoldLink"); (3) JECO Pigment China Co., Ltd. ("JECO (China)"); (4) Oriental Color Corp. Ltd. ("Oriental"); (5) Tianjin Hanchem International Trading Co., Ltd. ("Hanchem"); and (6) Trust Chem Co., Ltd. ("Trust"). *** is the sole responding Chinese exporter that reported crude violet exports to the United States in 2003. The Indian producers reporting data in response to Commission questionnaires were Alpanil Industries ("Alpanil"); AMI Pigments Pvt. Ltd. ("AMI"); and Pidilite Industries Ltd. ("Pidilite").[6]

Major U.S. purchasers of violet 23 consist of firms in the ink, textiles, plastics, and coatings industries.[7]

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, tables C-1-C-3. Table C-1 contains data for crude violet 23, table C-2 consists of data for finished violet 23, and table C-3 contains data for all violet 23. Except as noted, U.S. producers' data are based on the questionnaire responses of five U.S. firms which accounted for all known U.S. production during the period examined. Data on U.S. imports are based on importer questionnaire responses submitted by 28 U.S. importers, accounting for *** percent of the value (based on official Commerce statistics)[8] of subject imports from China in 2003 and for *** percent of the value of subject imports from India in 2003. Chinese industry

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[2] NFC and Sun are represented by the law firm of Pepper Hamilton LLP.

[3] Clariant is represented by the law firm of Barnes, Richardson & Colburn.

[4] ***.

[5] Haidi is represented by the law firm of Garvey Shubert Barer. ***.

[6] Indian firms Alpanil and Pidilite are parties to the investigations, represented by the law firm of Garvey Schubert Barer.

[7] INX International Ink Co. ("INX") is a party to the investigations, represented by the law firm of Gardner Carton & Douglas. Flint Ink is also a party to the investigations, represented by the law firm of Williams Mullin. A representative of INX testified in opposition to the petition at the Commission's conference.

[8] Commerce's official import statistics are presented in app. D.

data are from questionnaire data submitted by four firms accounting for an estimated ***[9] percent of Chinese production of violet 23 in 2003. Indian industry data are from questionnaire data submitted by three firms accounting for *** share of Indian production of the subject product in 2003.[10] A representative of Pidilite testified that only three (perhaps four) manufacturers of violet 23 operate in India,[11] that there are two main exporters of finished violet 23 dry color from India (Alpanil and Pidilite),[12] that there were no Indian exports of crude violet 23 to the United States,[13] and that only dry color from India was being imported into the United States.[14]

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Countervailable Subsidies on India

On November 17, 2004, Commerce published its final determination that four Government of India (GOI) programs (pre-shipment export financing, the duty entitlement passbook scheme, the income tax exemption scheme (Section 80 HHC), and the export promotion capital goods scheme) and two State programs (the State of Gujarat's sales tax incentive scheme and the State of Marashtra's sales tax incentive scheme) have provided countervailable subsidies to producers/exporters of the subject merchandise in India.[15] The final net subsidy rates as reported by Commerce are presented in table I-2.

Table I-2
Violet 23: Commerce's final net subsidy rates for India, by manufacturer/exporter

Manufacturer/exporter	Net subsidy rate (*percent ad valorem*)
Alpanil Industries/Meghmani Organics, Ltd.	17.57
Pidilite Industries Corp., Ltd.	17.33
AMI Pigments Pvt., Ltd.	33.61
All others	20.55

Source: Commerce's final affirmative countervailing duty determination, published in the *Federal Register* (69 FR 67321, November 17, 2004).

[9] ***.

[10] Questions II-8 and II-10, fn. 3 and fn. 4, of the foreign producers' questionnaire asked for estimates of the percentage of crude and finished violet 23 from China or India accounted for by the responding firms' production (n.3) and the percentage of total exports to the United States of crude violet 23 (fn.4) from China or India accounted for by your firms' exports in 2003. *** share of Indian production in 2003.

[11] Hearing transcript (Mr. Parekh), p. 146.

[12] Ibid., pp. 121-122.

[13] Ibid., p. 126.

[14] Ibid., pp. 129 and 132.

[15] Commerce also determined that one GOI program did not provide countervailable subsidies to manufacturers, producers, and exporters of the subject merchandise in India, that seven GOI programs were not used, and that one GOI program was terminated. 69 FR 67322, November 17, 2004.

Dumping Margins on China

Table I-3 presents Commerce's final dumping margins on China. The period of investigation for Commerce's antidumping investigation is April 1, 2003, through September 30, 2003. India was selected as the surrogate country for the nonmarket economy of China.

Table I-3
Violet 23: Commerce's final dumping margins on China, by manufacturer/exporter

Manufacturer/exporter	Type of comparison	Weighted-average margin (*percent ad valorem*)
GoldLink Industries Co., Ltd.	Export price to normal value[1]	5.51
Nantong Haidi Chemical Co., Ltd.[2]	Export price to normal value[1]	44.5
Trust Chem Co., Ltd.	Export price to normal value[1]	27.19
Tianjin Hanchem International Trading[2]	([3])	217.94
All others	([3])	217.94

[1] India was used as the surrogate country for normal value.
[2] Based on import data for the comparison periods July 2003 through October 2003 (4 months prior to the filing of the petition) and November 2003 to February 2004 (4 months after the filing of the petition), Commerce made affirmative critical circumstances determinations (e.g., a history of dumping, knowledge of dumping, and massive imports over a short period of time) for Nantong Haidi Chemical Co., Ltd., and Tianjin Hanchem International Trading Co.
[3] Recalculated margin using information otherwise available.

Source: Commerce's final determination of sales at less than fair value, published in the *Federal Register* (69 FR 67304, November 17, 2004).

Dumping Margins on India

Table I-4 presents Commerce's final dumping margins on India. The period of investigation for Commerce's antidumping investigation is October 1, 2002, through September 30, 2003.

Table I-4
Violet 23: Commerce's final dumping margins on India, by manufacturer/exporter

Manufacturer/exporter	Type of comparison	Weighted-average margin (*percent ad valorem*)
Alpanil Industries, Ltd.	Export price to normal value	27.23
Pidilite Industries, Ltd.	Export price to normal value	69.23
All others	([1])	45.98

[1] Weighted average.

Source: Commerce's final determination of sales at less than fair value, published in the *Federal Register* (69 FR 67306, November 17, 2004).

THE SUBJECT PRODUCT

Commerce has defined the scope of these investigations as:

> carbazole violet pigment 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of *diindolo [3,2-b:3',2'-m]triphenodioxazine, 8,18-dichloro-5, 15-diethy-5,15-dihydro-*, and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$. The subject merchandise includes the crude pigment in any form (e.g., dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of {these investigations}.[16]

THE DOMESTIC LIKE PRODUCT

Traditional Domestic Like Product Analysis

In the preliminary phase of the investigations, the Commission found one domestic like product consisting of carbazole violet pigment 23, whether in crude or finished form, coextensive with the scope of the investigations.[17] The Commission applied a semi-finished domestic like product analysis but stated that examination of the traditional domestic like product factors did not lead to a contrary conclusion.[18]

Petitioners and Clariant agree that there is one domestic like product coextensive with the scope of the investigations.[19] They contend that crude and finished violet 23 have an identical chemical structure, although the presscake form of the finished product contains water. They contend, for example, that the crude and finished products are each referred to as violet 23 by customers and producers and that both products are priced similarly on the basis of their active pigment content.

Chinese respondents contend that there are two domestic like products: crude violet 23 and finished violet 23. They contend that the crude and finished products have different physical characteristics and that the uses for each are entirely different. They contend that crude violet 23 is sold to converters who finish the crude into presscake or dry powder, whereas finished pigment is sold commercially as presscake or dry powder for use as a colorant; that customer and producer perceptions of

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[16] 69 FR 67304, 67306, and 67321, November 17, 2004, and 69 FR 68876, November 26, 2004. Violet 23 is imported under Harmonized Tariff Schedule of the United States (HTS) statistical reporting number 3204.17.9040, at a column 1-general duty rate of 6.5 percent *ad valorem* applicable to imports from China and India. Although Commerce identified the HTS statistical reporting number, it stated that the written description of the subject merchandise is dispositive.

The scope definition presented above is the one contained in Commerce's notices of final determinations of sales at LTFV from China and India. The chemical name as identified by the Chemical Abstracts Service ("CAS"), a division of the American Chemical Society, is slightly different from the chemical name in Commerce's final LTFV scope definitions. The CAS name is *diindolo [3,2-b:3',2'-m]triphenodioxazine, 8,18-dichloro-5,15,-diethyl-5,15-dihydro*.

[17] *Carbazole Violet Pigment 23 From China and India, Investigations Nos. 701-TA-437 and 731-TA-1060 and 1061 (Preliminary)*, USITC Pub. 3662, January 2004, p. 9.

[18] See id. at 9 and fn. 44. Commissioner Hillman relied on the semi-finished domestic like product factors. See id. at fn. 45.

[19] E.g., petitioners' prehearing brief, pp. 2-4 and posthearing brief, pp. 1-4, and Clariant's prehearing brief, pp. 2-8 and posthearing brief, pp. 1-4; conference transcript (Mr. McGrath), p. 48.

the crude and finished products are different and that they are not manufactured in the same facilities; and that the products are sold at different price points.[20]

Indian respondents contend that there are two domestic like products: crude violet 23 and finished violet 23. They contend that although crude violet 23 and finished violet 23 have the same chemical structure, they have distinct different physical characteristics due to their physical form. They contend that the functional uses of the two products are entirely different insofar as crude is an intermediate input whereas presscake and powder are finished colorant products that can be incorporated into coloring processes. Indian respondents contend that given this distinction, crude violet 23 and finished violet 23 cannot be used interchangeably.[21]

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

Physical Characteristics and Uses

Violet 23 is a type of synthetic organic chemical used as a colorant or pigment to color inks, textiles, plastics, coatings, and other materials. Crude violet 23 has no use or intended purpose other than to produce finished violet 23 in the forms of presscake or dry color. Presscake is produced from crude using a particle size reduction process.[22] Dry color violet 23 is pure pigment, and presscake has varying degrees of pigment diluted with water. Dry color can be sold for numerous end uses, including plastics, printing inks, textiles, and to produce dispersions. Presscake can be processed into dry pigment powder, or used to make pigment dispersions.

U.S. producers were requested to provide data on U.S. shipments (commercial shipments and internal consumption) of finished violet 23 (presscake and dry color) produced in their U.S. establishments, to major end-use application markets. For U.S. producers of finished violet 23, the volume of 2003 U.S. shipments are allocated to end-use application markets as follows: inks *** percent, textiles *** percent, plastics *** percent, coatings *** percent, and other applications *** percent.[23]

For importers of the Chinese finished pigment, 2003 U.S. shipments of imported Chinese finished violet 23 were allocated to major end-use markets as follows: inks *** percent, textiles *** percent, plastics *** percent, coatings *** percent, and other applications *** percent.[24]

For importers of the Indian finished pigment, 2003 U.S. shipments of imported Indian finished violet 23 were allocated *** percent to *** end-use market.

Manufacturing Process

There are five separate chemical reactions required to synthesize the crude pigment.[25] Carbazole is reacted with diethylsulfate and potassium hydroxide to produce ethyl carbazole (EC) (the ethylation reaction) that is reacted with nitric acid to produce nitro-ethyl-carbazole (NEC) (the nitration reaction). NEC is then reduced with either sodium sulfide/sulfur or hydrogen/catalyst to form amino-ethyl-carbazole (AEC) (the reduction reaction). AEC is then reacted with chloranil to form "di-anil" (the

[20] Chinese respondents' postconference brief, pp. 6-7.
[21] Hearing transcript (Mr. Parekh), pp. 125-126, and Indian respondents' posthearing brief, pp. 5-9.
[22] Hearing transcript (Mr. Faulkner), p. 20.
[23] U.S. producers' questionnaire response (question II-20) and app. E.
[24] Importers' questionnaire responses (question II-11) and app. E.
[25] The synthesis of crude violet 23 is discussed in the *Pigments Handbook*, petition exh. 2-c, pp. 2-3.

condensation reaction) that is heat-treated with a catalyst, either p-toluene-sulfonyl-chloride or benzene-sulfonyl-chloride, to form the crude pigment (the ring closure reaction). All of these reactions are carried out in solvents, such as xylene and o-dichlorobenzene. Other solvents, such as methanol and isopropyl alcohol, are used to displace the reaction solvents in the final purification steps and to facilitate water washing of the crude pigment.

The differences between the physical form of crude violet 23 and finished violet 23 (presscake or dry color) are notable. Before crude violet 23 can be used in any application, it must be further refined, having its physical and chemical properties (but not its chemical structure) modified and improved because crude violet 23 is usually obtained in the form of masses of very large crystals characterized by very hard texture, low strength, and poor brightness, indicating the presence of coarse particles that are difficult to disperse.[26]

Crude pigment is produced in the United States only by NFC. As mentioned above, the reactions used to produce it are carried out in solvents and use several different vessels, each designed and constructed for the specific reactions and operations to be performed. In addition to the reaction chemistry, there are several other chemical unit operations required to produce the pigment, including washing, purification, filtering, solvent recovery, waste water treatment, and drying. Support facilities include steam production, cooling water, vacuum service, waste-water treatment, environmental venting, and capability for the safe handling of hazardous chemicals used to produce the pigment.

The production processes used in China and India are believed to be similar to that of NFC. One major exception, however, is ***.[27]

Crude violet 23 is converted to presscake and dry color in an attrition process referred to as "salt grinding."[28] The physical inputs required to produce presscake are water, salt, diethylene glycol, caustic soda, and hydrochloric acid. This process results in a presscake that can be dried and pulverized to produce dry color.[29]

Clariant's production process ***. According to Clariant, this "***." ***.[30]

Interchangeability and Customer and Producer Perceptions

Petitioners and Clariant argue that domestic crude, presscake, and dry color are fungible with imports of the crude, presscake, and dry color from China and India.[31] Chinese respondents argue that the quality of the Chinese material is higher and therefore is not fungible with the domestic product.[32] Indian respondents argue that the quality of the Indian material is inferior and therefore is not fungible with the domestic product. Indian respondents stated that they sell only to the water-based inks market in the United States (a low-end segment of the ink industry from which domestic producers are largely absent),

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[26] W. Carr, "Improving the Physical Properties of Pigments," *Pigment Handbook*, (vol. III, January 1973), Peter A. Lewis (ed.), p. 30.

[27] Petition, pp. 8-9.

[28] The production of presscake and dry color is discussed in the *Pigment Handbook*, petition, exh. 2-c, pp. 2, 3, 6, and 7.

[29] Ibid, p. 10.

[30] ***.

[31] Clariant's postconference brief, p. 26, and petitioners' postconference brief, p. 12.

[32] Chinese respondents' postconference brief, response to Commission's staff questions, response by ***, p. 4. *** was not able to qualify *** for its *** and was able to qualify the Chinese material from ***. *** reported that lower priced Chinese violet 23 created new uses in ***. Furthermore, according to ***, due to its lower price and improved quality since 2001, Chinese violet 23 could meet demanding quality requirements of *** and enabled growth in usage within existing applications. ***. ***, importers' questionnaire response (sections III-B-13 and III-B-15). However, the petitioners maintain that the ***. Petitioners' postconference brief, exh. 1, p. 7.

and that Indian product is not suitable for use in plastics, solvent ink, paint, et cetera.[33] As mentioned in the section entitled *Cumulation Considerations* in Part IV of the report, U.S., Chinese, and Indian finished violet 23 compete in at least the inks market, and domestic producers have complained about import competition for other applications in terms of losing sales and revenue. Domestically produced crude violet 23 is not interchangeable with domestically produced finished violet 23. Crude violet 23 has no use or intended purpose other than as an intermediate to produce finished violet 23 in the forms of presscake or dry color. Crude violet 23 is usually obtained in the form of masses of very large crystals characterized by very hard texture, low strength, and poor brightness, indicating the presence of coarse particles that are difficult to disperse. Before crude violet 23 can be used in any application, it must be further refined, having its physical and chemical properties (but not its chemical structure) modified and improved; particle size must be reduced and classified to uniformity to achieve a softer texture, high strength, bright, uniformly dispersable finished pigment.[34]

U.S. producers reported in their questionnaire responses that domestically produced violet 23 is frequently or always interchangeable with both Chinese and Indian violet 23, and most reporting U.S. importers and purchasers indicated that domestically produced violet 23 is sometimes or frequently interchangeable with the Chinese and Indian products. Additional information received on the issue of interchangeability is presented in the section entitled *Substitutability Issues* in Part II of this report.

Channels of Distribution

U.S. producers sold crude and finished violet 23 *** to end users during the period for which data were gathered. Imports of Chinese crude violet 23 were sold *** to end users in 2001, then end users received *** percent in 2002, *** percent in 2003, and *** percent during interim 2004. Imports of Chinese finished violet 23 (presscake and dry color) were sold *** to end users in 2001 and 2002, then end users received *** percent of presscake and *** percent of presscake in 2003, and *** percent of presscake and *** percent of dry color during interim 2004. There were no imports of crude violet 23 from India during the period for which data were gathered. Sales of imported of Indian violet 23 presscake were allocated as follows: *** percent of presscake to end users in 2001 and 2002, (***). Imports of Indian violet 23 dry color were sold as follows: *** percent to end users and *** percent to distributors in 2001, *** percent to end users and *** percent to distributors in 2002, *** percent to end users and *** percent to distributors in 2003, *** percent to end users and *** percent to distributors during interim 2003, and *** percent to end users and *** percent to distributors in interim 2004. Imports of crude violet 23 from all other sources were sold *** percent to end users and *** percent to distributors in 2001, and *** to end users in 2002, 2003, and the 2003 and 2004 interim periods. Imports of finished violet 23 from all other sources ***, and *** percent were sold to end users during the period for which data were gathered.

Price

Information with respect to pricing of three violet 23 products is presented in Part V of this report, *Pricing and Related Information.* Prices of domestically produced finished violet 23 are well above those for crude violet 23.

With regard to unit values, presented in Part III, unit values for U.S. producers' commercial shipments of crude violet 23 declined irregularly from $*** per pound in 2001 to $*** per pound in

[33] Hearing transcript (Mr. Parekh), p. 121; Indian respondents' posthearing brief, p. 3.

[34] W. Carr, "Improving the Physical Properties of Pigments," *Pigment Handbook*, (vol. III, January 1973), Peter A. Lewis (ed.), p. 30.

2003, and were $*** per pound in January-June 2004.[35] Average unit values for U.S. producers' commercial domestic shipments of finished violet 23 declined from $*** per pound in 2001 to $*** per pound in 2003, and were $*** per pound in January-June 2004.

Semi-finished Domestic Like Product Analysis

A "semi-finished" product analysis may be used in determining whether products at different stages of processing should be included in the same domestic like product. In a semi-finished products analysis, the Commission typically examines: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) the significance and extent of the processes used to transform the upstream into the downstream articles. In these investigations, crude violet 23 is an upstream product that is further processed into the finished violet 23 downstream product of presscake which is in turn processed into the finished violet 23 downstream product of dry color.

Petitioners and Clariant contend that crude violet 23 has no independent uses from presscake and dry color violet 23. Indeed, all domestically produced crude violet 23 is used in the production of presscake and dry color. NFC is the only U.S. producer of crude violet 23, and *** of its crude violet 23 has been toll-produced for Sun for use in the production of presscake and dry color.[36] Chinese respondents acknowledge that crude violet 23 is only used for the production of finished violet 23.[37]

Chinese and Indian respondents state that whereas crude violet 23 is a chemical intermediate used in the conversion to finished violet 23, presscake and dry color are marketed as finished products to the industries that incorporate violet 23 as colorant into their downstream products. Thus, they argue, crude and finished violet 23 have separate markets, even though they share ultimate end uses as a colorant.[38] The market for domestically produced crude violet 23 consists *** of Sun, whereas the market for finished violet 23 consists of firms that produce downstream products such as inks, coatings, and textiles. There are also internal transfers of finished violet 23 *** for the production of inks.

Petitioners and Clariant contend that crude violet 23 embodies and imparts to presscake and dry color essential characteristics and functions that can be achieved in no other way, although they concede that crude violet 23 has very hard texture, low strength, and poor brightness compared to finished violet 23, indicating the presence of coarse pigment particles that are difficult to disperse.[39] Chinese and Indian respondents concede that crude and finished violet 23 have the same chemical structure, but argue that they have different physical characteristics due to their physical form. They argue that crude violet 23 is an intermediate input whereas presscake and dry color are finished colorant products that can be incorporated into coloring processes.[40]

Value is added in the production phase between crude and finished violet 23, although crude violet 23 is the most costly input used to produce finished violet 23. During the period examined, the overall value added provided by producers of finished violet 23 on a weighted-average basis is ***

[35] NFC's tolling fees. Also see Part V, p. V-5, fn. 7.
[36] ***.
[37] Chinese respondents' postconference brief, p. 4.
[38] Indian respondents' posthearing brief, p. 6.
[39] Petition, p. 33, exh. 2.c; conference transcript (Mr. Schmidt), p. 29; Clariant's postconference brief, pp. 8-9.
[40] Chinese respondents' postconference brief, pp. 4-5; conference transcript (Ms. Lee), pp. 86-87; and Indian respondents' posthearing brief, p. 6.

percent exclusive of SG&A expenses and *** percent inclusive of SG&A expenses.[41] However, as Chinese respondents contend, finished violet 23 sells at much higher prices than crude violet 23 because the multi-stage production process for finished violet 23 involves substantial costs above the cost of acquiring or producing crude violet 23.[42] Prices for crude and finished (presscake and dry color) violet 23 are presented in tables V-I (crude), V-II (presscake), and V-III (dry color) of Part V of this report.

Crude violet 23 is subjected to a process known as "salt grinding" that, after washing and filtration, produces presscake. Some presscake is dried to make dry color, the most common form of the pigment used in the U.S. market. Petitioners note that the grinding of crude to finished violet 23 in the forms of presscake and dry color is strictly a physical process that reduces the particle size of the pigment, making it useful for coloring paints, inks, plastics, and other materials. Clariant contends that the process of transforming crude violet 23 into finished violet 23 is more than simple physical processing, to the extent that ***. It contends that this process, like the transformation of crude indigo slurry into indigo, is part of the continuum of processes in the production of the final product.[43] Chinese and Indian respondents contend that the production of finished violet 23 involves a multi-stage production process.[44]

[41] See Part VI of this report for information on value added.
[42] Chinese respondents' postconference brief, p. 5.
[43] Clariant's postconference, p. 11.
[44] Chinese respondents' postconference brief, p. 5; Indian respondents' posthearing brief, p. 6.

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

CHANNELS OF DISTRIBUTION AND MARKET SEGMENTATION

In the U.S. market, the majority of domestic and imported violet 23 is sold to end users. During 2003, data reported by U.S. producers and importers indicate that the majority of their domestic shipments of finished violet 23 were commercial sales, primarily to the ink, plastics, coatings, and textile industries.

Violet 23 is sold in three forms: crude, presscake, and dry color. The crude form is used to produce the presscake form of violet 23. The presscake form is used to produce the dry color form of violet 23 as well as to produce aqueous dispersions used in the packaging and textile industries. The dry color form is also used to produce dispersions, as well as inks, paints, and plastic articles. The market is not very vertically delineated, with 10 of 21 responding purchasers[1] noting that they compete for sales to their customers with the producers and/or importers from which they purchase violet 23.

At the hearing, the Indian respondent testified that in the U.S. market, Alpanil's and Pidilite's violet 23 is only suitable for water-based press ink applications, and that most domestically-produced violet 23 destined for this application is captively consumed.[2] He testified that Indian-produced violet 23 is only qualified for water-based press ink applications in the European market but that in the Indian home market, it is sold for other applications as well.[3] He did note, however, that there may be "one or two kilos" of Indian product that have been sold for use in coatings, plastics, or textiles.[4] In their posthearing brief, Indian respondents included letters from purchasers stating that violet 23 from India is only used in low-end aqueous ink applications and can't be used in more demanding applications.[5] Petitioners and producer Clariant disagree with this assessment, noting that the web sites of AMI, Alpanil, and Pidilite all state violet 23's applications include paint, plastics, and/or textiles.[6] Indian respondents included a letter in their posthearing brief, however, ***.[7]

Sun was noted as being a price leader by nine purchasers, while Clariant was cited by five. However, four of the nine that mentioned Sun noted that Sun was responding to market pressure. Importers Ciba Specialty Chemicals Corp. (Ciba), which imports ***, and Toyo Color America LLC (Toyo), which imports ***, were noted as leaders by two purchasers, but one purchaser (***) added that neither Ciba nor Toyo drives the price for violet 23. China was mentioned as a price leader by three purchasers and India was mentioned as a price leader by two purchasers, but these purchasers were ***.

No producers, importers, or purchasers sell or buy violet 23 over the internet, though one importer lists it on its website. However, other changes have occurred in the marketing and product range of violet 23. Three of five producers and eight of 18 responding importers noted significant changes in the marketing or product range of violet 23 since 2001. The most-often-cited changes were decreased prices, improved quality, and increased marketing of violet 23 through importers.

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[1] Responses were received from 25 purchasers in total. Of these purchasers, 11 identified themselves as ink end users, seven as distributors, three as coatings end users, three as other end users, two as plastics end users, two as converters, two as textile end users, and two as "other." Some purchasers identified themselves in more than one category. Four of six distributors sell to the ink industry.

[2] Hearing transcript (Mr. Parekh), p. 121.

[3] Ibid., pp. 167-168.

[4] Ibid., p. 134.

[5] Indian respondents' posthearing brief, app. 1.

[6] Petitioners' posthearing brief, apps. 5-8, and producer Clariant's posthearing brief, p. 9.

[7] Indian respondents' posthearing brief, app. 1.

SUPPLY AND DEMAND CONSIDERATIONS[8]

U.S. Supply

Based on available information, U.S. producers of violet 23 have the ability to respond to changes in prices with moderate changes in the quantity of shipments of U.S.-produced violet 23 to the U.S. market. The main factors contributing to this degree of responsiveness are excess capacity and *** inventories of finished violet 23. The elasticity of domestic supply is likely to be in the range of 2 to 4.[9]

Industry Capacity

Data reported by U.S. producers indicate that there is excess capacity with which to expand production of violet 23 in the event of price changes. Capacity for crude violet 23 increased from *** pounds per year in 2001 to *** pounds per year in 2002 and stayed at that level in 2003; capacity was constant at *** pounds in the interim periods. Domestic capacity for finished violet 23 decreased *** from *** pounds per year in 2001 to *** pounds per year in 2003 and declined further in interim 2003, from *** pounds during interim 2003 to *** pounds during interim 2004. Domestic capacity utilization for crude violet 23 first declined, then rose during the period examined - from *** percent in 2001 to *** percent in 2002, and then to *** percent in 2003. Capacity utilization for crude violet 23 rose from *** percent in interim 2003 to *** percent in interim 2004. For finished violet 23, capacity utilization increased from *** percent in 2001 to *** percent in 2002 but then dropped to *** percent in 2003. Between the interim periods, capacity utilization for finished violet 23 decreased *** - from *** percent in the first half of 2003 to *** percent in the first half of 2004.

Inventory Levels

While U.S. producers' inventories of crude violet 23 as a ratio to their total shipments were *** during the period examined (between *** and *** percent of U.S. shipments), the ratios of inventories of finished violet 23 were ***. Inventories of finished violet 23 increased from *** percent of U.S. producers' total shipments of finished violet 23 in 2001 to *** percent in 2003, and decreased from *** percent to *** percent in the interim period. These data indicate that U.S. producers have some ability to use inventories of finished violet 23 as a source of increased shipments to the U.S. market.

Sun noted producing ***. Specifically, violet 23 ***. As a result, Sun ***.[10]

Export Markets

There were *** exports of crude violet 23 during the period examined. Exports of finished violet 23 represented a moderate share of the quantity of domestic producers' total shipments of finished violet 23, accounting for *** percent of total shipments in 2001, *** percent in 2002, and *** percent in 2003. In interim 2004, exports accounted for *** percent of total shipments, up from *** percent in interim 2003. These numbers suggested that U.S. producers may have some ability to divert shipments to or from alternate markets in response to changes in the prices of violet 23, as ***.

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[8] Reported data on Chinese and Indian production capacity, production, capacity utilization, inventories, and exports of violet 23 are shown in detail in Part VII of this report.

[9] Petitioners assert that this estimate is "too broad, and should be two or lower." Petitioners' prehearing brief, p. 25.

[10] ***.

U.S. Demand

The overall demand for violet 23 is likely to be inelastic, i.e., it is unlikely to change significantly in the short run in response to changes in price, and is likely to be in the range of -0.3 to -0.8.[11] The main factor contributing to the low degree of price sensitivity is the lack of directly substitutable products.

Demand Characteristics

Questionnaire responses reveal that U.S. producers, importers, and purchasers mostly agree that overall demand for violet 23 in the United States has remained essentially unchanged during the period examined, with some indicating an overall increase, and fewer noting a decrease. Available information indicates that, on a quantity basis, U.S. consumption of finished violet 23 increased irregularly from *** pounds in 2001 to *** pounds in 2002 and *** pounds in 2003. Interim data reveal a *** percent increase in consumption in the first six months of 2004 as compared to the same period in 2003, from *** pounds to *** pounds. On a value basis, however, consumption decreased from $*** in 2001 to $*** in 2002 and $*** in 2003. Consumption on a value basis did increase in the interim period, however - from $*** to $***, a ***-percent rise.

Demand for violet 23 is derived from the demand for printing inks, plastics, coatings, and textiles, which in turn depends on such industries as advertising, packaging, and clothing. The largest use of violet 23 is in the production of printing inks. Petitioners estimate that 38 percent of violet 23 consumption is in solvent/oil-based inks, 29 percent is in water-based inks, 16 percent in the coatings market, 10 percent in the plastics market, and the remaining 7 percent in all other markets.[12] The National Association of Printing Ink Manufacturers estimated in 2004 that 46 percent of packaging inks are water-based.[13] Indian respondents claim, however, that they have "confirmed with NAPIM . . . that water-based inks constitute only about 5 percent of the total U.S. market for inks."[14] Petitioners estimate that the water-based inks market constitutes 30 percent of the U.S. violet 23 market, and producer Clariant estimates that the water-based ink market accounts for *** percent of the entire market for violet 23.[15] During the period examined, U.S. demand for inks decreased as demand for printed products contracted except, reportedly, for ***.[16] According to Sun, there was a slight upswing in demand in 2003 due to a somewhat improved U.S. economy.[17] Among producers, three noted that demand has been unchanged since January 2001, and two noted that demand has increased, with *** submitting that "fashion trends" are responsible for the increase.[18] Twelve importers described demand as being unchanged, while five (including ***) reported demand increasing and two reported demand decreasing. Two of the five reporting increasing demand stated that the falling cost of violet 23 was the cause of the increase and two noted the general upswing in the economy as the cause. Eight of 18 responding purchasers noted that demand for their final products has not changed since January 2001, while four noted increasing demand

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[11] Petitioners agree with staff that demand is inelastic, but assert that it should be closer to zero. Petitioners' prehearing brief, p. 25.

[12] These estimates are based on percentages for the global market for organic pigments. Petitioners' posthearing brief, app. 2, p. 2.

[13] Ibid, app. 2, exh. B.

[14] Indian respondents' posthearing brief, p. 3.

[15] Producer Clariant's posthearing brief, app. 1, p. 8.

[16] Chinese respondents' postconference brief, p. 39, ***, and ***.

[17] Conference transcript (Mr. Faulkner), p. 26, and hearing transcript (Mr. Faulkner), pp. 60-61.

[18] ***.

and five noted decreasing demand.[19] Accordingly, these purchasers also responded that this had an effect on their demand for violet 23.

No producers, and only two of 25 importers and two of 24 purchasers, noted any new applications having been developed for violet 23 since the beginning of 2001. Importer *** noted that lower priced Chinese violet 23 enabled new uses in ***, while importer *** described the violet 23 it imported to be well-suited for its customer's new ink system. ***.[20] *** also described growth in the same market.

Many purchasers noted changing the mix of the country of origin of the violet 23 they purchase. Eight bought more from China at the end of the period of study than at the beginning, while two bought less. Two purchasers increased their purchases from India, while one decreased its purchases. Three bought more from the United States (or U.S. suppliers) while five bought less. Two made fewer purchases of Japanese violet 23, two decreased their purchases of European violet 23, one bought less violet 23 of Korean origin, and one made fewer purchases of violet 23 from Mexico. One purchaser indicated buying more from the Netherlands.

Eight of 25 responding purchasers noted making significant changes in their purchasing patterns in the last three years, mostly based on quality, price, and availability. Five bought more violet 23 from offshore (some noted specifically Chinese violet 23); two discontinued their purchases from China; and one (***) entered the flush market.

Substitute Products

Questionnaire responses from U.S. producers, importers, and purchasers reveal that *** responding U.S. producers, 8 of 12 responding importers, and 18 of 19 responding purchasers believe that there are no direct substitute products for violet 23. Producer *** reported that quinacridone violet and PTMA violet may be used in niche applications. Importer *** reported that violet 3 and violet 19 are possible substitutes, while *** also reported violet 19, *** reported violet 3, and *** reported violet 37 as a possible substitute in inks. Regarding violet 3, *** reported that it could be used as a substitute in ink production, but has poor technical properties and is a different shade. Regarding violet 19, *** reported that it could be used as a substitute in coatings and plastics production, but is a different shade. Purchaser *** stated that there is no direct substitution for the fade resistance or chemical resistance properties that violet 23 possesses. However, if those are not important to a firm, there are several options that could be substitutes for violet 23.

At the conference, respondents mentioned several alternatives to violet 23, such as alkaloid blue, vinyl cyanine blue, and methyl violet, including violet 1 and violet 3. Chinese respondents assert that an increase in the price of violet 23 will cause purchasers to switch to these alternative pigments and thus reduce overall demand for violet 23 in the U.S. market.[21] Importer ***, though identifying no direct substitutes in its questionnaire response, was the only importer to state that changes in the prices of substitutes will cause changes in demand for violet 23 through alterations in some formulations if the relative price of violet 23 becomes too great. According to petitioners, no pigments are as blue, bright, or clean as violet 23, and substitution is not practical in most applications.[22] Technical properties may

[19] One purchaser, ***, responded that demand was both up and down, in accordance with sales. This information was not included in the above discussion.

[20] ***. ***.

[21] Conference transcript (Mr. Perry), pp. 9-10.

[22] Conference transcript, pp. 21 (Mr. Faulkner) and 38 (Mr. Dickson).

inhibit substitutability as well.[23] Further, petitioners stated that these proposed substitute products are much lower in price, therefore any substitution based on price should have already occurred.[24] Only two of 10 purchasers noted that changes in the price of substitute products would affect the demand for violet 23.

Cost Share

According to responding U.S. producers and importers, the violet 23 that they sell in the U.S. market is used in the production of various types of coatings, inks, plastics, and textiles. According to ***, the crude form of violet 23 accounts for approximately *** percent of the value of the finished presscake form.[25] According to Clariant, crude violet 23 accounts for approximately *** percent of the final value of the presscake form and more than *** percent of the final value of the dry color form of the product.[26] For coatings, ink, plastics and textiles, the input cost share of violet 23 depends heavily on what shade of a product is being produced, as all three can be tinted a large variety of colors.

*** estimates that violet 23 accounts for between *** and *** percent of the cost of coatings, whereas *** puts that estimate at *** percent. Purchaser *** estimates that it accounts for *** percent of the cost of paint, whereas two other purchasers listed estimates for five different products, with figures ranging between *** and *** percent for one and between *** and *** percent for the other. Estimates for the cost share accounted for by violet 23 in the production of ink also varied largely. For example, purchaser *** estimated that violet 23 accounts for *** percent of the cost of finished ink, whereas *** listed five inks in which violet 23 accounts for between *** and *** percent of the cost of the finished ink. *** and ***, in their responses to Commission questionnaires, have estimated that violet 23 accounts for between *** and *** percent, and *** percent, respectively, of the cost of producing plastics that contain violet 23. However, purchasers *** place the figure at *** percent for color concentrates and *** percent for ***, respectively. Purchaser *** reported that violet 23 accounts for *** of the cost of pigmented acrylic fiber.

In its posthearing brief, Sun estimates the range of violet 23 dry pigment costs as a percent of raw material costs for major end use products as follows: finished ink, *** percent; textiles, *** percent; plastics (masterbatch), *** percent; coatings, *** percent. These estimates are of the percent of raw materials costs, not of the percent of total end product costs.[27] *** estimates cost shares for all major products made using presscake or dry color (i.e., inks, textiles, plastics, coatings) as follows: printing inks, *** percent; plastics, *** percent; automotive coatings, *** percent; and paints, *** percent.[28]

The majority of producers (*** of five), importers (21 of 23), and purchasers (18 of 24) noted that the price of violet 23 does not depend on its end-use application. Producer *** noted that automotive coatings prices were higher because of the rigorous qualification process. Importer *** noted the textile market as being a more competitive market. Purchaser *** detailed that each category requires different quality attributes of the violet 23 that it purchases, making potential price differences of up to *** percent. *** also noted a difference of *** to *** percent between crude and dry color. *** reported lower prices for low-end applications. Purchaser *** even noted that different grades from the same supplier could vary *** to *** percent.

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[23] Hearing transcript (Mr. Faulkner), pp. 62-63.

[24] Conference transcript (Mr. Schmidt), pp. 39-40.

[25] *** questionnaire response.

[26] Clariant's postconference brief, p. 10.

[27] Petitioners' posthearing brief, app. 1, p. 13.

[28] Clariant's posthearing brief, attach. 1, p. 8.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported violet 23 depends upon such factors as relative prices, quality, and conditions of sale. Based on available data, staff believes that there is a moderate-to-high degree of substitution between domestic violet 23 and subject imports, though Chinese violet 23 has a higher degree of substitution for domestic violet 23 than Indian violet 23 has.

Table II-1 summarizes U.S. producers' and importers' responses regarding the perceived degree of interchangeability between violet 23 produced in the United States and in other countries. Table II-2 summarizes U.S. producers' and importers' responses regarding the perceived importance of differences in factors other than price between violet 23 produced in the United States and in other countries.

In its questionnaire response, *** stated that while all violet 23 products may appear to be similar, the imports from India and China may have environmental defects. Some importers and purchasers also stated in their questionnaire responses that the Chinese and Indian products may differ in shade, strength, consistency of performance in manufacturing, gloss, transparency, viscosity stability, and even delivery times from the U.S.-produced product.[29] *** noted that Indian violet 23 can only be used in low-end applications like aqueous ink for corrugated boxes and textile inks due to ***. *** noted that

Table II-1
Violet 23: Perceived degree of interchangeability between violet 23 produced in the United States and in other countries in sales of violet 23 in the U.S. market, as reported by U.S. producers, importers, and purchasers

Country pair	Number of U.S. producers					Number of U.S. importers					Number of U.S. purchasers[3]				
	A[1]	F	S	N	O	A	F	S	N	O	A	F	S	N	O
U.S. vs. China	1	4	---	---	---	2	8[2]	8[2]	2	3	2	6	8	2	5
U.S. vs. India	1	4	---	---	---	---	6	5	2	11	---	4	5	3	12
China vs. India	1	4	---	---	---	1	5	2	---	11	1	5	2	---	12
U.S. vs. nonsubject	1	4	---	---	---	1	6	3	---	11	1	3	3	2	12
China vs. nonsubject	1	3	---	---	1	---	5	4	1	11	---	5	2	1	10
India vs. nonsubject	1	3	---	---	1	---	5	3	1	11	---	2	2	2	12

[1] Responses of "Always" ***.
[2] One importer noted both "Frequently" and "Sometimes," and its responses are included in both columns .
[2] Though not providing any comparisons, purchaser *** noted that if violet 23 meets its specifications and passes its tests, any violet 23 is interchangeable.

Note.-- A = Always, F = Frequently, S = Sometimes, N = Never, O = No familiarity.

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

[29] Petitioners stated that the quality of the Chinese and Indian violet 23 products is mixed and depends upon the supplier, but that the quality from both countries has generally improved over the last four or five years (conference transcript (Mr. Faulkner), p. 84).

Table II-2
Violet 23: Perceived importance of differences in factors other than price between violet 23 produced in the United States and in other countries in sales of violet 23 in the U.S. market, as reported by U.S. producers and importers

Country pair	Number of U.S. producers					Number of U.S. importers				
	A	F	S	N[1]	O	A	F	S	N	O
U.S. vs. China	---	---	3	2	---	4	3	10	2	3
U.S. vs. India	---	---	3	1	1	4	1	7	1	11
China vs. India	---	1	3	1	---	2	1	5	2	11
U.S. vs. nonsubject	---	---	2	1	1	1	2	4	1	12
China vs. nonsubject	---	1	1	1	1	3	2	4	1	10
India vs. nonsubject	---	1	1	1	1	1	2	4	1	12

[1] Responses of "Never" ***.

Note.-- A = Always, F = Frequently, S = Sometimes, N = Never, O = No familiarity.

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

Japanese violet 23 is of a high quality and of a different color shade. Therefore, it does not compete on price.

When asked if different shades of violet 23 command different prices, three of four responding producers, 18 of 25 responding importers, and 15 of 19 responding purchasers responded "No."[30] Producer *** noted that it is sometimes the case, depending on the other qualities of the product. Two importers (***) noted that redder hues could command a higher price. *** noted that its coatings customers prefer a redder blue shade, while its ink customers prefer a mid-blue shade. Purchaser *** stated that bluer shades for the high-end automotive sector command higher prices. Other firms noted that it is not just the shade that makes a difference, but other technical properties of the dye and the market into which it is being sold.

Factors Affecting Purchasing Decisions

While the petitioners assert that price is the most important factor in purchase decisions, some importers stated that quality is the main factor and that only when the quality of violet 23 from competing sources is equal or close to equal does price become a factor. Purchasers were asked to list the top three factors that they consider in choosing a supplier of violet 23. Responses can be found in table II-3. The majority of responding purchasers contact between two and three suppliers before a purchase is made. Thirteen purchasers have added or dropped suppliers since January 2001, and an equal number have not made any changes. Sixteen purchasers are unaware of any new suppliers that have entered the market in the last 3 years, but nine are aware of at least one. Most often cited among these were Chinese suppliers.

[30] Though ***.

Table II-3
Violet 23: Factors considered by purchasers in choosing a supplier

Factor	First	Second	Third
Quality/consistency	19	6	1
Price	4	10	10
Availability	1	4	5
Delivery/reliability	0	2	3
Other[1]	2	3	6

[1] "Other" includes: approved source/standard approved by customer, being a related company, being qualified for coatings, contract, extension of credit, non-Sun supplier, service, supplier's other product lines, technical support, and traditional supplier.

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

In response to a question about how often they buy the lowest-priced violet 23, five of 24 responding purchasers replied that they usually purchase the lowest-priced product; 15 sometimes purchase the lowest-priced product; and four never do. Three purchasers added that the dye must first be qualified or be of a sufficient quality level before they decide whether they buy from the lowest-priced vendor. In all, 22 of 25 responding purchasers require all their suppliers to become certified or pre-qualified with respect to the chemistry, quality, strength, or other performance characteristics before purchasing from a vendor. One firm requires qualification of 90 percent of its vendors, while two do not require any sort of prequalification. Color hue (noted by 18 purchasers) and strength (16) were the two characteristics cited most often in determining the quality of the violet 23 they purchase, with dispersability (eight), consistency (five), stability (four), gloss (four), and opacity/transparency (four) noted by several purchasers as well. The time for qualification varies greatly: some purchasers noted qualification after a few hours of lab tests, while others require significantly longer periods of time - up to three years for one purchaser. Mr. Parekh of Pidilite noted at the hearing that getting qualified is a very technical matter and could take three to four years for his firm. Further, he believes that qualification times may be shorter for large firms like Sun, Clariant, and Ciba due to relatively larger research and development budgets.[31] Petitioners dispute this claim, and note that qualification time should be measured in months, not years.[32] The factors that were most often cited by purchasers when qualifying a new supplier include quality (listed in 21 purchasers' responses), cost (15 purchasers), reliability/delivery (10 purchasers), consistency (eight purchasers), and availability (five purchasers). Eight of 24 responding purchasers reported that domestic or foreign producers failed in their attempts to certify or qualify their violet 23. The firms most often cited as having failed were *** at three purchasers, and also *** from India and ***[33] at two purchasers each.

[31] Hearing transcript (Mr. Parekh), pp. 152-153.

[32] Petitioners' posthearing brief, p. 15. The four purchasers that identified themselves as end users in the ink market and also are familiar with Indian violet 23 (***) estimated that the time it takes to qualify a new supplier is "2-3 weeks," "6 months or more," "2-6 months," and "6 months," respectively. Purchaser *** also purchased Indian violet 23, but did not estimate the time it takes to become qualified.

[33] It is believed that *** violet 23 originates from China. *** purchaser's questionnaire response (section III-13).

Only four of 26 responding purchasers noted buying from one country over other possible sources of supply.[34] Six of 22 responding purchasers noted that certain shades or strengths of violet 23 are only available from certain sources, though none of the six were the same as the four that responded positively to buying specifically from one country over another. Fourteen purchasers have bought violet 23 from one source though a comparable product was available at a lower price from another source. The most common reason for doing so was reportedly because of quality concerns.

At the conference ***, importer Alpha Source stated that its primary customers (e.g., ***) had not used Sun's violet 23 for more than a decade due to quality and performance issues, not because of lower prices for imported violet 23. ***. *** substituting Chinese violet 23 for these other imported sources.[35] [36]

Comparison of Domestic Product, Subject Imports, and Nonsubject Imports

On the whole, purchasers know the origin of the violet 23 they purchase. Fourteen firms are always aware of the country of origin; seven are usually aware; and four sometimes know. Purchasers are less clear on the exact manufacturer of the violet 23 they purchase. Ten firms are always aware of the manufacturer, 12 usually know the manufacturer, and four sometimes know the manufacturer. Their customers are less concerned about the country of origin of the goods the purchasers supply, with eight always interested or aware, five usually interested or aware, eight sometimes interested or aware, and four never interested or aware of the country of origin.

Purchasers were asked how often violet 23 manufactured domestically, in China, in India, and in nonsubject countries meets minimum quality specifications for their or their customers' end uses. Responses to these questions can be found in table II-4. The responses indicate that, on the whole, India has had a more difficult time in meeting the minimum quality requirements than other countries. Purchasers were also asked to compare different countries' violet 23 using 20 factors and list how important most of those factors are in their purchasing decisions. Results can be found in table II-5. Consistent with earlier responses, meeting industry quality standards, consistency, lowest price, and reliability of supply were considered the most important factors. The elasticity of substitution between domestic and imported violet 23 depends upon such factors as quality and conditions of sale. All violet 23 must meet certain industry specifications, but each producer's violet 23 has somewhat dissimilar chemical characteristics. The elasticity of substitution between domestic and Chinese violet 23 is likely to be moderate to high (in the range of 4 to 8), and higher than the elasticity between domestic and Indian violet 23, which is likely in the range of 2 to 4.[37]

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[34] *** only has approved factories in China; *** supports *** whenever possible; *** buys based on quality, availability, end use application, and price; and *** purchases based on quality, availability, chemical characteristics, and, given that those are equal, price.

[35] Conference transcript (Ms. Lee), pp. 96-97. Bracketed information is from ***. ***.

[36] ***. ***.

[37] Petitioners assert that this estimate is "too broad," and it should be "at least 6, if not higher." Petitioners' prehearing brief, p. 24.

Table II-4
Violet 23: Purchasers reporting the frequency of meeting minimum quality standards for domestic and imported violet 23

	Always	Usually	Sometimes	Rarely or never
U.S.	9	6	5	1
China	7	5	2	3
India	1	4	2	4
Nonsubject[1]	8	7	3	0

[1] Nonsubject responses include Europe, Germany, Japan, Mexico, and the Republic of Korea.

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

Table II-5
Violet 23: Importance of purchase factors and comparisons of product by source country, as reported by purchasers

Factor	Importance			U.S. vs China			U.S. vs India			China vs India		
	VI	SI	NI	S	C	I	S	C	I	S	C	I
	Number of firms responding											
Availability in crude form	5	0	18	0	3	0	1	1	0	1	0	0
Availability in dry color form	16	3	6	0	7	0	1	3	0	0	3	0
Availability in presscake form	11	1	14	3	4	1	2	3	0	3	1	0
Delivery terms	17	8	1	4	8	0	3	2	0	2	3	0
Delivery time	22	3	0	7	4	1	4	1	0	3	2	0
Discounts offered	7	12	6	1	7	3	3	2	0	1	2	0
Extension of credit	7	10	9	1	7	3	2	3	0	1	3	0
Lack of environmental defects	---	---	---	1	9	0	0	5	0	2	3	0
Lowest price[1]	24	2	0	2	1	9	1	2	2	1	1	3
Minimum quantity requirements	10	9	7	1	11	0	1	4	0	1	4	0
Packaging	9	13	4	0	12	0	1	4	0	2	3	0
Performance	---	---	---	2	8	2	2	2	1	4	1	0
Product consistency	25	1	0	3	7	2	3	2	0	3	2	0
Quality meets industry standard	26	0	0	3	8	2	3	2	0	2	3	0
Quality exceeds industry standard	11	7	6	5	5	2	3	2	0	4	1	0
Product color or shade	---	---	---	2	7	3	2	3	0	2	3	0
Product range	4	15	7	4	8	0	4	1	0	3	2	0
Reliability of supply	24	2	0	3	7	2	3	2	0	2	3	0
Technical support/service	13	11	2	5	6	1	3	2	0	2	3	0
U.S. transportation costs	6	15	4	2	7	0	3	1	0	1	2	0
Other: Sun-affiliated source	1	0	0	---	---	---	---	---	---	---	---	---

Table continued on next page.

Table II-5--*Continued*
Violet 23: Importance of purchase factors and comparisons of product by source country, as reported by purchasers

Factor	Importance			U.S. vs other			China vs other			India vs other		
	VI	SI	NI	S	C	I	S	C	I	S	C	I
	Number of firms responding											
Availability in crude form	5	0	18	0	3	0	0	0	0	0	0	1
Availability in dry color form	16	3	6	0	12	1	0	8	1	0	5	1
Availability in presscake form	11	1	14	2	6	1	0	2	0	0	2	2
Delivery terms	17	8	1	5	11	1	0	9	1	0	4	2
Delivery time	22	3	0	6	10	0	0	8	2	0	4	3
Discounts offered	7	12	6	1	12	1	0	10	0	0	5	1
Extension of credit	7	10	9	2	12	0	0	9	0	0	5	1
Lack of environmental defects	---	---	---	1	11	0	0	7	0	0	7	0
Lowest price[1]	24	2	0	3	6	6	3	6	1	3	4	0
Minimum quantity requirements	10	9	7	0	15	0	1	9	0	0	6	1
Packaging	9	13	4	1	15	0	0	10	0	0	6	1
Performance	---	---	---	1	12	3	0	9	1	0	4	3
Product consistency	25	1	0	2	12	2	0	9	1	0	5	2
Quality meets industry standard	26	0	0	2	12	2	0	9	1	0	5	2
Quality exceeds industry standard	11	7	6	2	10	3	1	5	2	0	4	3
Product color or shade	---	---	---	1	13	2	0	9	1	0	5	3
Product range	4	15	7	3	10	2	0	7	3	0	5	3
Reliability of supply	24	2	0	1	13	2	0	9	1	0	5	2
Technical support/service	13	11	2	2	14	0	0	7	3	0	4	3
U.S. transportation costs	6	15	4	6	6	0	0	9	0	0	4	2
Other: Sun-affiliated source	1	0	0	---	---	---	---	---	---	---	---	---

[1] A rating of superior means that the price of the country listed first is lower than the price of the imported product.

Note.–VI=very important; SI=somewhat important; NI=not important; S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

Note.–Not all companies gave responses for all factors.

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

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 final subsidy rates and margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of five U.S. producers of violet 23.

U.S. PRODUCERS

Table III-1 lists the five known U.S. firms involved in the production of violet 23 in 2003, their plant locations, positions on the petition, and shares of reported 2003 production. The sole U.S. producer of crude violet 23 is NFC. Finished violet 23 is produced by Sun, which accounted for *** percent of 2003 production, and also by three smaller producers (Allegheny, Barker, and Clariant), and ***, Summit.

Allegheny is ***.[1] Allegheny began production in 2001. It produced mainly *** during the period examined. Beginning in 2002 it had ***. Allegheny has purchased ***.[2] Allegheny purchases about ***. There were no reported corporate relationships between Allegheny and ***.

Table III-1
Violet 23: U.S. producers, their positions on the petition, their production locations, and their shares of reported U.S. production, 2003

Firm	Position on the petition	Production location(s)	Share of crude production (*percent*)	Share of finished production (*percent*)
Allegheny Color Corp. (Allegheny)	Support	Ridgway, PA	0.0	***
Barker Fine Color (Barker)[1]	Support	Ludlow, KY	0.0	***
Clariant Corp. (Clariant)[2]	Support	Coventry, RI	0.0	***
Nation Ford Chemical Co. (NFC)	Petitioner	Fort Mill, SC	100.0	***
Summit Specialty Chemicals, LLC (Summit)[3]	***	Fort Lee, NJ	0.0	***
Sun Chemical Corp. (Sun)[4]	Petitioner	Cincinnati, OH;	0.0	***
		Goosecreek, SC	0.0	***

[1] *** until it went out of business at the end of 2003.
[2] ***.
[3] ***.
[4] ***.

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

[1] According to Allegheny, ***.

[2] ***.

Barker ***. Barker purchased ***. Barker produced only *** during the period examined. Barker ***. Barker also ***.[3]

Clariant is owned by ***. Clariant produced crude violet 23 in its plant in Fair Lawn, NJ, prior to 1987 when the firm was known as Sandoz. It exited the crude segment of the industry but continued to produce the finished violet 23 at its Rhode Island facility. Clariant ***.

Clariant's production process ***. According to Clariant, this "***."

Clariant's ***.[4] Dry color production accounted for about *** percent of Clariant's production during 2003.

NFC is a small, privately held producer of organic chemicals.[5] It produces three main products at its plant in Fort Mill, SC. These are sulfanilic acid, solvent dyes, and violet 23 in the form of crude pigment. NFC toll-produces the crude for Sun, which uses it to produce finished pigment in the form of presscake and dry color.

NFC was asked by Sun to begin production of the crude pigment in 1987 when Clariant (then known as Sandoz) discontinued production at its plant in Fair Lawn, NJ. As NFC lacked the resources needed to begin production, Sun helped in developing NFC's production process, provided financing for additional equipment, and provided on-site technical help during the startup phases. Sun also purchases the key raw materials used by NFC at no cost to NFC.[6] Currently, NFC operates under a ***.[7] Sun satisfied its crude input requirements from NFC as follows: ***.[8] ***.[9] NFC is the only producer of crude violet 23 in the United States.

Summit is a privately held company which *** to ***. Summit ***.[10] Summit ***. Summit claims that it sees ***.[11]

Sun is one of the world's leading producers of organic pigments and dispersions for use in the coloring of printing inks, plastics, paints, cosmetics, and textiles. The Colors Group, headquartered in Cincinnati, OH, operates five pigment manufacturing sites in the United States -- Cincinnati, OH; Staten Island, NY; Newark, NJ; Muskegon, MI; and Bushy Park, SC. Two other facilities, located in Amelia, OH and New Brunswick, NJ, are dedicated to the production of pigment dispersions.[12] Violet 23 is produced at the Cincinnati, OH and Bushy Park, SC plants. Sun has purchased ***.

Sun is ***. Sun is also affiliated through ***.[13] Sun acquired the Bushy Park, SC, facility in February 2003 from Bayer Corp. (Bayer). The Bushy Park plant produces both presscake and dry color pigment at *** unit values (ranging from ***). ***.

---

[3] ***.

[4] ***.

[5] ***.

[6] Conference transcript (Mr. Dickson), pp. 15-16.

[7] NFC further stated that realistically there is no one else NFC can sell to because Clariant has their own crude production, and there is no real opportunity for NFC to sell crude violet 23 in Europe or in the Far East competing with the Chinese and Indians. Hearing transcript (Mr. Dickson), p. 38.

[8] Sun's U.S. producers' questionnaire response (question II-17).

[9] Ed Faulkner, Sun, email to Commission staff, November 16, 2004, and petition, p. 10.

[10] ***.

[11] Ibid.

[12] Conference transcript (Mr. Faulkner), pp. 20-21.

[13] Petitioners' postconference brief, p. 7.

Sun produces both presscake and dry color, with about *** percent of the volume of its 2003 U.S. finished shipments being ***. Sun ***. Sun also had ***. Its ***.[14] According to Sun, it made a decision in ***.[15]

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on the U.S. producers' capacity, production, and capacity utilization are presented in table III-2.

Table III-2
Violet 23: U.S. production capacity, production, and capacity utilization, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Crude production decreased in 2002 as ***. Crude production increased in 2003 and again in January-June 2004 to *** percent capacity utilization when ***.[16]

In general, pigment plants have high fixed costs that require production to run at typically more than 80 percent to be profitable. NFC has a normal target of production running at *** percent of capacity. The extra capacity allows flexibility to adjust upward should NFC gain additional business.[17]

Capacity utilization varied *** among firms producing the finished pigment.[18] U.S. producers' capacity to produce finished violet 23 was *** apparent U.S. consumption of finished violet 23 in each year and period for which data were collected in the investigations.

U.S. producers were asked whether they produced any products other than violet 23 on the same equipment and machinery used to produce violet 23. Allegheny responded that it produces ***. Barker stated that ***. Clariant reported ***. NFC reported that ***. Sun produces ***. The only downtime incurred when changing production between products ***. The limits on production capabilities are ***.

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORTS

Table III-3 presents data on NFC's U.S. shipments of crude violet 23 during the period examined. ***. The volume and value of NFC's U.S. shipments decreased in 2002 and increased in 2003 and in

[14] Sun ***.

[15] ***.

[16] Ibid., and ***.

[17] Petitioners' posthearing brief, app. 1, p. 10.

[18] Allegheny began production in 2001 with a ***-percent capacity utilization rate and ramped up to a ***-percent rate by January-June 2004. Barker began the period with a ***-percent rate and declined to *** percent by January-September 2003 before the business closed at year-end 2003. Bushy Park's capacity utilization rate fluctuated upward during 2001-03; from *** percent in 2001, to *** percent in 2002, and *** percent in 2003. Bushy Park's capacity utilization rate fell over the interim periods, from *** percent during interim 2003 to *** percent during interim 2004. Clariant's capacity utilization rate decreased irregularly from *** percent in 2001 up to *** percent in 2002, then back to *** percent in 2003. Clariant's capacity utilization rate rose during the interim periods from *** percent during January-June 2003 to *** percent during January-June 2004. Sun's capacity utilization rate declined steadily from *** percent in 2001 to *** percent in 2003. Sun's capacity utilization rate declined from *** percent during interim 2003 to *** percent during interim 2004.

January-June 2004. Unit values decreased in 2002, increased in 2003, and remained relatively constant between January-June 2003 and January-June 2004.

Table III-3
Crude violet 23: U.S. producer's U.S. shipments, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table III-4 presents data on U.S. producers' shipments of finished violet 23. The volume of such shipments increased in 2002, decreased in 2003, and increased somewhat between January-June 2003 and January-June 2004. The manner in which the data were obtained and presented eliminates any double-counting of presscake used in the production of dry color, and eliminates any double-counting of toller/tollee shipments. Unit values of finished violet 23 decreased during 2001-03 and increased in January-June 2004.

Table III-4
Finished violet 23: U.S. producers' shipments, by types, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Among the firms producing finished pigment, *** unit values were similar in 2003, and *** unit values were about ***. ***. That is consistent with ***.[19]

***. It ships ***.[20]

CAPTIVE PRODUCTION

Section 771(7)(C)(iv) of the relevant statute states that–

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,

[19] Conference transcript (Mr. Dickson), pp. 52-53 and ***.

[20] ***.

then the Commission, in determining market share and the factors affecting financial performance . . ., shall focus primarily on the merchant market for the domestic like product.[21]

Over the period of investigation, internal shipments of presscake accounted for between *** and *** percent of the volume of U.S. producers' total shipments of presscake and between *** and *** percent of the volume of U.S. producers' total shipments of dry color. Allegheny reported ***; Clariant reported ***; and Sun reported ***. Sun ***.

The First Statutory Criterion

The first criterion of the captive production provision concerns whether the domestic like product that is internally transferred for processing into that downstream article enters the merchant market for the domestic like product. No violet 23 (either crude or finished) transferred internally for further processing is known to have been sold in the merchant market in the form of violet 23.

The Second Statutory Criterion

The second criterion of the captive production provision concerns whether the domestic like product is the predominant material input in the production of the downstream article that is captively produced. Principal downstream products for which violet 23 is captively consumed are ***. The share of the raw material cost of *** accounted for by presscake is estimated at approximately *** percent by *** and *** percent by ***.[22] *** estimates its cost shares (raw material as a percent of finished product) for all products made from internally consumed presscake or dry color (***) at *** percent.[23] Estimates of the cost shares of finished violet 23 in ink vary widely; additional information on this issue is presented in the section entitled U.S. Demand (Cost Share) of Part II of this report.

The Third Statutory Criterion

The third criterion of the captive production provision concerns whether the production of the domestic like product sold in the merchant market is generally used in the production of the downstream article that is internally transferred for processing (captively produced). Volume data are available on this issue. Table III-5 presents U.S. internal consumption of presscake for dry color production and table III-6 presents U.S. shipments of domestically produced finished violet 23 (presscake and dry color) by end-use application. The tables indicate that in 2003 presscake was ***. Dry color was ***.

Table III-5
Finished violet 23 (presscake): U.S. producers' internal consumption for dry color production, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

[21] 19 U.S.C. § 1677(7)(C)(iv).

[22] Petitioners' posthearing brief, app. 1, p. 13; Clariant's posthearing brief, attach. 1, p. 8.

[23] Petitioners' posthearing brief, app. 1, p. 13.

Table III-6
Finished violet 23: Captive and commercial U.S. shipments (in *1,000 pounds* of 100-percent pure pigment), by end use, 2003

* * * * * * *

U.S. PRODUCERS' PURCHASES

*** U.S. producers (***) purchased violet 23 from U.S. importers during some or all of the period 2001-June 2004 (table III-7).[24] ***.[25] The reason *** gave for purchasing *** was "***," and the reason that *** gave for purchasing *** was "***."

Table III-7
Violet 23: U.S. producers' purchases of subject imports, and ratios of purchases to production of finished violet 23, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Table III-8 presents data on the U.S. producers' inventories during the period. The *** finished inventories are accounted for by ***. ***.[26]

Table III-8
Violet 23: U.S. producers' end-of-period inventories, by types, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Tables III-9 and III-10 show the U.S. producers' employment-related data during the period examined. The production processes for the crude and the finished pigment are not labor intensive.

Table III-9
Crude violet 23: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Allegheny's labor used to produce violet 23 is ***. The firm used *** labor to produce ***. Barker used *** employees to produce *** as it used to produce violet 23. The level of technical expertise needed to produce violet 23 at Clariant is ***. Clariant reported producing ***. The level of

[24] *** U.S. producers directly imported subject violet 23 during the period examined, ***.

[25] ***.

[26] ***.

technical expertise required to manufacture crude violet 23 at NFC is ***. Sun produces ***. The level of technical expertise needed to produce violet 23 at Sun ranges from ***.

Table III-10
Finished violet 23: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

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

U.S. IMPORTERS

The Commission sent questionnaires to 51 firms believed to be importers from China or India of violet 23 in crude, presscake, or dry color form, as well as to 11 potential U.S. producing firms. Questionnaire responses were received from 28 companies, including *** and from most of the large importers from China (based on information provided by U.S. Customs and Border Protection (Customs)).[1] These 28 firms imported the subject merchandise during January 2001-June 2004. Sixteen firms imported from China,[2] seven imported from India,[3] and six imported from other sources,[4] with some firms importing from more than one source.

Table IV-1 lists all responding U.S. importers and their quantity of imports, by source, in 2003.[5] Questionnaire respondents were located in Connecticut, Delaware, Georgia, Illinois, Iowa, Massachusetts, Michigan (2), New Jersey (10), New York (3), North Carolina, Ohio, Pennsylvania, South Carolina (2), and Texas (2). No U.S. importers reported entering the subject product into or withdrawing from foreign trade zones or bonded warehouses or use of the temporary importation under bond (TIB) program.

Table IV-1
Violet 23: Reported U.S. imports, by importer and by source of imports, 2003

* * * * * * *

U.S. IMPORTS

Data on U.S. imports of violet 23 presented in this section of the report are from responses to Commission questionnaires. Although violet 23 is provided for separately in official U.S. import statistics, respondents contend that the volume data reported in those statistics may be overstated.[6]

---

[1] In addition to the 28 responses, the Commission received responses from *** indicating that they did not import violet 23 during the period examined. ***.

[2] *** imported crude violet 23 from China; *** imported finished violet 23 from China; only *** imported both crude and finished violet 23 from China.

[3] No respondents imported crude violet 23 from India. *** imported finished violet 23 from India.

[4] *** imported crude violet 23 from nonsubject sources; *** imported finished violet 23 from nonsubject sources; only *** imported both crude and finished violet 23 from nonsubject sources.

[5] Based on responding importers' data, *** percent of the volume of U.S. shipments of Chinese crude violet 23, *** percent of imports of presscake from China, and *** percent of dry color imports from China were to distributors in 2003 and *** percent of the volume of U.S. shipments of imports from India of crude or presscake and *** percent of dry color shipments from India in 2003 were to distributors. *** percent of U.S. shipments of imports of Chinese crude violet 23, *** percent of presscake from China, *** percent of dry color from China and *** percent of dry color imports from India were to end users; U.S. shipments of reported 2003 imports from countries other than China and India (in this case Germany, France, and Japan) were *** percent to end users for dry color.

[6] Chinese respondents contended that quantity figures are overstated in official import statistics, which results in an understatement of unit values. Official statistics combine data for violet 23 crude, presscake, and dry color. Presscake is a paste that is suspended in water, and may be approximately 40 percent dry weight and 60 percent water. It is industry practice to report the dry weight of merchandise in sales documentation; however, shipping documents, such as packing lists and bills of lading, may report total weight. Shanco's conference testimony

Because of this possibility, coupled with the fact that questionnaire data enable (1) crude and finished (presscake and dry color) violet 23 to be presented separately (which is not possible using official statistics) and (2) the use of importers' U.S. shipment data to calculate apparent U.S. consumption, questionnaire data are used for imports of violet 23 crude, presscake, and dry color. Responding firms' imports of violet 23 account for an average of approximately *** percent of the value of official violet 23 import statistics from China, *** percent of the value of official violet 23 import statistics from India, and *** percent of the value of official violet 23 import statistics from all other sources in 2003. Official Commerce statistics are presented in appendix D for comparison.

Table IV-2 presents data on U.S. imports of violet 23 crude, presscake, and dry color. The table shows that the volume of U.S. imports of violet 23 from China increased throughout the period examined, while the value increased irregularly. The volume of U.S. imports of violet 23 from India decreased irregularly during 2001-03, then increased during interim 2004 as compared with the level of interim 2003, whereas the value of U.S. imports of violet 23 from India decreased steadily during 2001-03, then increased during interim 2004 as compared with the level of interim 2003. Both volume and value of imports of violet 23 from nonsubject countries decreased during 2001-03, then increased during interim 2004 as compared with the level of interim 2003.

Table IV-2
Violet 23: U.S. imports, by sources and type, 2001-03, January-June 2003, and January-June 2003

* * * * * * *

NEGLIGIBILITY CONSIDERATIONS

In an antidumping investigation, subject imports from one country that correspond to a domestic like product and account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition, shall be deemed negligible. In a countervailing duty investigation involving developing countries such as India, the statute refers to a 4-percent threshold. Based on official statistics, India's share of the volume of total imports for the period November 2002 through October 2003, compared with total imports for the period, was 2.84 percent. The ratio of the volume of imports from India, ***, as compared to total imports (including crude violet 23) for the period was *** percent based on questionnaire data. Official statistics, however, greatly understate the volume of imports and exports reported in questionnaire responses for India. Based on questionnaire data for *** for the same period, the ratio of the volume of imports from India as compared to total finished violet 23 questionnaire imports for the period was *** percent (table IV-3). According to questionnaire responses, there were no imports of crude violet 23 from India between November 2002 and October 2003. Imports of finished violet 23 (presscake and dry color), for the negligibility period, by month and source, are presented in table IV-4.

confirmed the misreporting of the total weight of shipments (presscake pigment plus water) on its Customs forms, rather than just the weight of the dry presscake. Conference transcript (Ms. Lee), pp. 88-89, and Chinese respondents' postconference brief, pp. 15-17.

Table IV-3
Violet 23: U.S. imports and exports from India, by month and source, November 2002-October 2003

Month	Questionnaire data				Commerce data	
	Exports from India	Imports from India[1]	Finished imports from all sources	Total imports from all sources	Imports from India	Total imports from all sources
	In 1,000 pounds of 100-percent pure pigment				*In 1,000 pounds*	
November 2002	***	***	***	***	0	72
December 2002	***	***	***	***	1	69
January 2003	***	***	***	***	0	104
February 2003	***	***	***	***	1	57
March 2003	***	***	***	***	2	72
April 2003	***	***	***	***	4	90
May 2003	***	***	***	***	1	122
June 2003	***	***	***	***	1	108
July 2003	***	***	***	***	11	191
August 2003	***	***	***	***	1	125
September 2003	***	***	***	***	0	26
October 2003	***	***	***	***	11	124
Total	***	***	***	***	33	1,160

[1] All imports from India were finished violet 23 only.

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

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

Table IV-4
Finished violet 23 (presscake and dry color): U.S. imports, by month and source, November 2002-October 2003

* * * * * * *

CRITICAL CIRCUMSTANCES

On March 23, 2004, petitioners alleged that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of violet 23 from China. On November 17, 2004, Commerce made final determinations that critical circumstances exist for two exporters from China (Haidi and Hanchem).

When Commerce makes an affirmative final critical circumstances determination, the Commission is required to determine, for each domestic industry for which it makes an affirmative determination of present material injury by reason of subject imports, "whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping order to be issued."[7] The statute further provides that in making this determination:

[7] 19 U.S.C. § 1673d(b)(4)(A)(i).

the Commission shall consider, among other factors it considers relevant –

> (I) the timing and the volume of the imports,
> (II) a rapid increase in inventories of the imports, and
> (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[8]

Petitioners contend that the Commission should make a final affirmative determination of critical circumstances and that the Commission should consider official Commerce statistics as the best data available for evaluating monthly imports from China for purposes of assessing critical circumstances.[9] They contend that imports of violet 23 from China surged in various months following the filing of the petition and prior to the issuance of Commerce's preliminary determination in June 2004.[10]

Respondent Nantong Haidi Chemical Co., Ltd. (Haidi) contends that the Commission should make a final negative determination of critical circumstances, and that whether the Commission analyzes data on exports from China for Haidi and Hanchem for the period June 2003 through November 2003 (the six months prior to the filing of the petition) compared with data for the period December 2003 through May 2004, or data provided by U.S. importers from Haidi and Hanchem for those periods, the increases between the six-month periods are modest and compared with data from prior cited cases are insufficient to justify an affirmative finding of critical circumstances by the Commission.[11] It contends that the volume of imports from Haidi and Hanchem and their share of apparent U.S. consumption are not sufficiently large that they are likely to undermine seriously the remedial effect of the antidumping duty order.[12] It also contends that the combined inventories of the two U.S. importers of product of Haidi and Hanchem declined subsequent to the filing of the petition, both absolutely and relative to their combined U.S. commercial shipments.[13]

Monthly exports of violet 23 to the United States from November 2002 to June 2004 from questionnaire responses of the firms on which Commerce made final affirmative critical circumstances determinations are presented in table IV-5. Data on total monthly U.S. imports of violet 23 from China based on official Commerce statistics are presented later in this part of the report in the section entitled "Cumulation Considerations (Simultaneous Presence in the Market)."

Table IV-5
Violet 23: Exports from China to the United States by specific exporters, monthly, November 2002-June 2004

* * * * * * *

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) the degree of fungibility, including specific customer requirements and other quality related questions; (2) presence of sales or offers to sell in the

[8] 19 U.S.C. § 1673d(b)(4)(A)(ii).

[9] Petitioners' prehearing brief, pp. 28-30.

[10] Ibid., p. 29.

[11] Haidi's posthearing brief, pp. 3 and 4.

[12] Ibid., p. 4.

[13] Ibid., p. 4 and 5.

same geographical markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Channels of distribution are discussed in Parts I and II of this report; fungibility, geographical markets, and presence in the market are discussed below.

Fungibility

Table IV-6 presents reported U.S. commercial shipments and U.S. importers' U.S. shipments by end-use application. The data indicate that during the period of investigation U.S.-produced finished violet 23 (presscake and dry color), as well as imports from China and India, were present, in varying degrees, in the inks end-use segment of the finished violet 23 market. In addition, U.S.-produced and imported Chinese dry color were present in the plastics and coatings end-use segments of the violet 23 market. Appendix E, table E-1 presents details of data concerning U.S. shipments of finished violet 23 by end use. Additional discussion of fungibility is presented in Part II.

Table IV-6
Finished violet 23 (presscake and dry color): U.S. shipments of domestically produced and imported products, by end use, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Geographical Markets

Finished violet 23 products produced in the United States are shipped nationwide. While imports of violet 23 from the subject countries may enter specific Customs districts, the violet 23 is then generally sold nationwide. Table IV-7, based on unadjusted Commerce statistics for the period 2001 through June 30, 2004, presents U.S. import quantities of violet 23, by country, according to the customs districts through which they entered.

Based on official U.S. import statistics, the principal U.S. customs districts of entry for violet 23 imported from China during January 2001-June 2004 were New York, NY; Charlotte, NC; Cleveland, OH; and Chicago, IL. The principal U.S. customs districts of entry for violet 23 imported from India were Charleston, SC, and Charlotte, NC. There was at least some overlap in imports of violet 23 from both China and India in the U.S. customs districts of Charleston, SC; Charlotte, NC; Chicago, IL; Cleveland, OH; Los Angeles, CA; New York, NY; and Philadelphia, PA.

Table IV-7
Violet 23: U.S. imports by sources and by customs districts, 2001-03, and January-June 2004

Customs district	China				India				All other			
	2001	2002	2003	J-J 2004	2001	2002	2003	J-J 2004	2001	2002	2003	J-J 2004
	Quantity (*1,000 pounds*)											
Boston, MA	0	0	0	0	0	0	0	0	77	81	122	60
Buffalo, NY	0	8	113	0	0	0	0	0	0	3	2	2
New York, NY	208	127	181	131	18	3	4	3	38	21	19	6
Philadelphia, PA	6	15	22	0	6	0	4	7	0	0	2	1
Charlotte, NC	33	170	73	67	25	10	21	1	8	0	0	0
Charleston, SC	34	11	31	41	0	33	1	5	70	122	127	71
Savannah, GA	9	30	38	9	0	0	0	0	0	0	0	0
Miami, FL	0	1	0	0	0	0	0	0	0	0	0	0
New Orleans, LA	0	0	0	0	0	0	0	0	(1)	(1)	0	0
Detroit, MI	0	0	0	0	0	0	0	0	29	1	0	0
Chicago, IL	17	13	209	12	9	7	0	0	75	1	67	91
Cleveland, OH	28	119	52	1	0	1	2	0	211	238	59	0
St. Louis, MO	0	0	0	11	0	0	0	4	0	0	0	0
Houston-Galveston, TX	0	1	0	0	0	0	0	0	0	0	0	0
Laredo, TX	2	0	0	0	0	0	0	0	13	77	14	30
Los Angeles, CA	24	6	23	47	2	7	3	1	3	0	1	21
Anchorage, AK	0	0	0	0	0	0	0	0	0	(1)	0	0
Total	361	501	742	318	59	61	35	21	524	544	414	281

[1] Less than 500 pounds.

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

Channels of Distribution

U.S. producers sold crude and finished violet 23 *** to end users during the period for which data were gathered. Subject imports of crude and finished violet 23 were sold both to end users and distributors during the period for which data were gathered. Imports of Chinese crude violet 23 were sold *** to end users in 2001, then end users received *** percent in 2002, *** percent in 2003, and *** percent during interim 2004. Imports of Chinese finished violet 23 (presscake and dry color) were sold

*** to end users in 2001 and 2002, then end users received *** percent of presscake and *** percent of presscake in 2003, and *** percent of presscake and *** percent of dry color during interim 2004. There were no imports of crude violet 23 from India during the period for which data were gathered. Sales of imported of Indian violet 23 presscake were allocated as follows: *** percent of presscake to end users in 2001 and 2002 (***). Imports of Indian violet 23 dry color were sold as follows: *** percent to end users and *** percent to distributors in 2001, *** percent to end users and *** percent to distributors in 2002, *** percent to end users and *** percent to distributors in 2003, *** percent to end users and *** percent to distributors during interim 2003, and *** percent to end users and *** percent to distributors in interim 2004.

Simultaneous Presence in the Market

Violet 23 produced in the United States was present in the market throughout the period for which data were collected. Table IV-8 presents U.S. imports of violet 23 monthly during calendar year 2003 and January-June 2004. Based on official U.S. import statistics, there were U.S. imports of violet 23 from China and India in each month during January 2003-June 2004, with the exception of imports from India in September 2003 and February 2004.

Table IV-8
Violet 23: U.S. imports, by source and month, January 2003-June 2004

Month	China	India	All other sources	Total
		Quantity (*1,000 pounds*)		
January 2003	67	1	37	104
February 2003	22	1	33	57
March 2003	39	2	31	72
April 2003	59	4	27	90
May 2003	83	1	39	122
June 2003	51	1	56	108
July 2003	164	11	16	191
August 2003	110	1	13	125
September 2003	17	0	9	26
October 2003	44	11	69	124
November 2003	37	1	27	65
December 2003	48	2	57	107
January 2004	81	5	17	103
February 2004	43	0	46	90
March 2004	28	2	38	68
April 2004	102	1	54	158
May 2004	25	6	58	89
June 2004	38	8	68	114

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

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of violet 23 are based on U.S. producers' and importers' shipments as reported in responses to the Commission's questionnaires. Tables IV-9, IV-10, IV-11, and IV-12 present data on apparent U.S. consumption of violet 23 crude, finished presscake, finished dry color, and total finished, respectively.

Table IV-9
Crude violet 23: U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent consumption, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-10
Finished violet 23 (presscake only): U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent consumption, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-11
Finished violet 23 (dry color only): U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent consumption, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-12
Finished violet 23 (presscake and dry color): U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent consumption, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

U.S. MARKET SHARES

Data on market shares in the U.S. market for violet 23 crude, finished presscake, finished dry color, and total finished (presscake and dry color) are presented in tables IV-13, IV–14, IV-15, and IV-16, respectively.

Table IV-13
Crude violet 23: Apparent consumption and market shares, by sources, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-14
Finished violet 23 (presscake only): U.S. consumption and market shares, by sources, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-15
Finished violet 23 (dry color only): Apparent consumption and market shares, by sources, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-16
Finished violet 23 (presscake and dry color): Apparent consumption and market shares, by sources, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of subject imports to U.S. production of violet 23, crude and finished, is presented in tables IV-17 and IV-18. Aggregate subject crude imports (all from China) were equivalent to *** percent of U.S. production during 2001. This level increased to *** percent during 2002 before decreasing to *** percent in 2003. Aggregate subject crude imports as a ratio to U.S. production of crude violet 23 decreased during the 2004 interim period. Aggregate subject finished (presscake and dry color) imports from China were equivalent to *** percent of U.S. production during 2001. This level increased to *** percent during 2002 and further to *** percent during 2003 and increased to *** percent during the January-June interim 2004 period as compared with *** percent in interim 2003. U.S. imports from China accounted for the bulk of the increase in the aggregate ratio during the period for which data were gathered.

Table IV-17
Crude violet 23: Ratio of U.S. imports to U.S. production, by sources, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-18
Finished violet 23: Ratio of U.S. imports to U.S. production, by sources, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

U.S. Inland Transportation

Transportation costs of violet 23 for delivery within the United States vary from firm to firm but tend to account for a small percentage of the total cost of the product. For the five U.S. producers that responded to this question, these costs accounted for between *** and *** percent of the total cost of violet 23, with three noting *** percent or less. For the 24 importers that provided usable responses to this question, 11 noted that these costs account for up to 1 percent of the total cost of the product, six noted that they account for between 1 and 2 percent, five noted that they account for between 2 and 5 percent, and three noted that they account for between 7 and 10 percent of the total cost of the product.[1]

All domestic producers (except NFC, which produces *** crude violet 23 for Sun) sell on a nationwide basis. Importers are less homogeneous, with nine selling nationwide, four selling to three regions of the country, two selling to two regions, and 12 selling to just one region. Of the responding importers of Chinese violet 23, three sell on a nationwide basis, seven to the Midwest, six to the Southeast, five to the Northeast, two to the Mid-Atlantic, and one each to the Southwest and West Coast. Of the responding importers of Indian violet 23, two sell on a nationwide basis, two sell to the Midwest, and one sells to each of the Northeast, Southeast, and West Coast.

Producers and importers were also requested to provide information on average lead times and estimates of the percentages of their shipments that were made within specified distance ranges. Producers *** sell only out of inventory and *** only produce violet 23 to order. *** sells *** percent of its violet 23 from inventory. Producers noted that the lead time for orders filled out of inventory is two to five days, while orders that are produced take two weeks to two months. For importers of violet 23 from China, eight sell only out of inventory, five sell only on an order basis, and three mix their sales between the two. For importers of violet 23 from India, three sell only out of inventory, two sell only on an order basis, and one mixes its sales between the two. All four responding importers of Indian violet 23 and seven of 10 responding importers of Chinese violet 23 had lead times of a week or less if selling from inventory, whereas the majority of importers selling on an order basis reported lead times of two to three months for violet 23 from both India and China.[2]

For the five U.S. producers that provided usable responses regarding shipment distances, an average of 22.0 percent of shipments occurred within 100 miles; 64.0 percent occurred within 101 to 1,000 miles; and 14.0 percent occurred at distances over 1,000 miles. For the 14 importers that provided usable responses regarding shipment distances of violet 23 from China, an average of 43.6 percent of shipments occurred within 100 miles; 37.5 percent occurred within 101 to 1,000 miles; and 18.9 percent occurred at distances over 1,000 miles. The five importers that provided usable responses regarding shipment distances of violet 23 from India reported somewhat more distant customers: an average of 40.0 percent of shipments occurred within 100 miles; 16.0 percent occurred within 101 to 1,000 miles; and 44.0 percent occurred at distances over 1,000 miles.

[1] One importer noted transportation costs of exactly 2 percent.

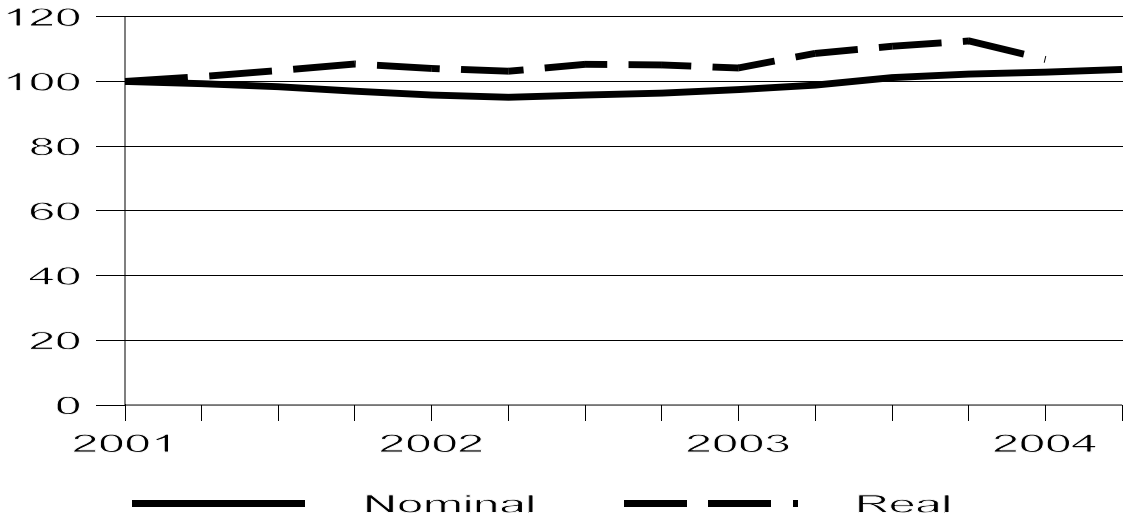
[2] Importer *** reported lead times of 3 to 5 days for made-to-order violet 23 from India, and importer *** reported lead times of 1 to 2 weeks for made-to-order violet 23 from China.

Exchange Rates

The nominal value of the Chinese yuan relative to the U.S. dollar has remained virtually unchanged since the first quarter of 1997 at 8.28 yuan per dollar. Producer price data for China are not available; therefore, real exchange rates cannot be calculated.

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Indian rupee depreciated approximately five percentage points relative to the U.S. dollar between the first quarter of 2001 and the second quarter of 2002, but then appreciated approximately nine percentage points by the second quarter of 2004. The real value appreciated irregularly by approximately 13 percentage points through the first quarter of 2004 before depreciating in the second quarter of 2004 by approximately six percentage points (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 2001-June 2004



Source: International Monetary Fund, *International Financial Statistics*, May and September 2004.

PRICING PRACTICES

Pricing Methods

Questionnaire responses indicate that most U.S. producers and importers of violet 23 in the United States determine prices on a transaction-by-transaction basis based on current market conditions, with the majority of firms reportedly selling on a spot basis.[3] [4] Those suppliers that did report the use of

[3] Four U.S. producers engage in transaction-by-transaction negotiations. *** also has set price lists and negotiates prices for a set period of time. *** is the only producer that does not sell on a transaction-by-transaction basis. Twenty importers price on a transaction-by-transaction basis; three use a set price list; two price via contract negotiations; one prices via a set price markup; and one lets its customer determine pricing.

[4] One U.S. producer (***) and eight of 22 importers with useable data reported at least some contractual sales during 2003. *** sales involved long-term contracts. Among importers, ***, ***, ***, ***, ***, ***, ***, and *** reported that at least some sales involved short-term contracts (those between three months and one year in length)

(continued...)

contracts to sell violet 23 generally reported using short-term (multiple deliveries for 3 to 12 months) contracts except for NFC's crude sales to Sun, which are via a contract that has remained in effect since 1988. NFC's contract with Sun does not prohibit NFC from selling to others, but it requires NFC to remain competitive with other sources of crude violet 23, with tolling fees renegotiated each year.[5] Responding firms' answers regarding whether price and quantity are fixed, the existence of meet-or-release provisions, and whether prices can be renegotiated during the contract period were mixed with no clear trends.

Sales Terms and Discounts

The majority of responding firms reported no formal discount policy; however, several firms did report some volume-based discounts for individual customers. U.S. producers and importers showed general consistency on the issue of payment terms and price basis, with most firms reporting that payment is required within 30 days. All producers except *** and 20 of 25 responding importers sell violet 23 on a delivered basis.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of sales of three violet 23 products to unrelated U.S. customers. These data were used to determine the weighted-average price in each quarter. Data were requested for the period January 2001 through June 2004. The products for which pricing data were requested are as follows:

Product 1. - Carbazole violet pigment 23 in crude pigment form

Product 2. - Carbazole violet pigment 23 in presscake form

Product 3. - Carbazole violet pigment 23 in dry powder pigment (dry color) form

Five U.S. producers and 23 importers 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 importers accounted for virtually all (*** percent) of the quantity of U.S. producers' commercial U.S. shipments of crude violet 23 in 2003, as well as *** percent of the U.S. shipments of imports of crude violet 23 from China in that year. (There were no reported imports of crude violet 23 from India.) Pricing data reported by U.S. producers accounted for *** percent of U.S. producers' commercial U.S. shipments of finished violet 23 in 2003.[6] Pricing data reported by U.S. importers of Chinese finished violet 23 accounted for *** percent of commercial shipments of Chinese finished violet 23 in 2003.[7] For finished violet 23 imported from India, pricing data cover *** percent of commercial shipments reported by importers.

Quarterly pricing data on these three products were also sought from purchasers of violet 23. These data are presented in appendix F. Though these data do not necessarily provide a comparison of the pricing of the first transaction occurring in the United States - because they mix import transactions

[4] (...continued)
during 2003.

[5] Hearing transcript (Mr. Dickson), pp. 13 and 38-41.

[6] Specifically, they accounted for *** percent of the shipments of domestic product 2 (presscake) and *** percent of the shipments of domestic product 3 (dry color) in 2003.

[7] Specifically, they accounted for *** percent of the shipments of Chinese product 2 (presscake) and *** percent of the shipments of Chinese product 3 (dry color) in 2003.

with first, second, or even later sales via distributors in the United States - they do provide another way to look at general pricing trends in the industry.

Price Comparisons

Data on selling prices and quantities of products 1 through 3 sold by the U.S. producers and importers of Chinese and Indian violet 23 are shown in tables V-1 through V-3 and figures V-2 through V-4, respectively.[8]

Crude Violet 23 (Product 1)

As shown in table V-1 and figure V-2, no price comparisons for crude violet 23 between the United States and subject countries were possible. *** reported price data *** and thus cannot be used to calculate margins of underselling or overselling.[9] There were no reported price data for product 1 from India. Tolling fees for this product from the United States between the first and last available quarters dropped ***, whereas the quarterly price for crude violet 23 from China rose *** percent (though it declined *** percent if the second quarter of 2004 is omitted).

Presscake (Product 2)

As shown in table V-2 and figure V-3, price comparisons for product 2 between the United States and China were possible in a total of 14 quarters. The Chinese product was priced below the U.S. product in all quarters, with underselling margins ranging from 22.2 to 50.4 percent and averaging 36.3 percent. Prices for U.S.-produced product 2 fell irregularly between the first quarter of 2001 and the second quarter of 2004, with price increases in the fourth quarter of 2001 and 2002. Margins in general decreased over the period examined, as the price of domestically produced presscake fell faster than Chinese and Indian presscake over the period of study, or by *** percent compared to 20.5 and 22.0 percent, respectively. There were eight quarters of data for presscake from India, which undersold domestic presscake by between 12.1 and 27.3 percent and averaging 20.9 percent.

Dry color (Product 3)

As shown in table V-3 and figure V-4, price comparisons for product 3 between the United States and China were possible in a total of 14 quarters. In all quarters the Chinese product was priced below the U.S. product, with margins ranging from 46.3 to 54.8 percent and averaging 50.8 percent. Prices for U.S.-produced product 3 generally fell between the first quarter of 2001 and the second quarter of 2003, but have rebounded somewhat since then. Margins between domestically produced and Chinese violet 23 were relatively stable over the period examined. Prices fell by *** percent for domestically produced violet 23 and by *** percent for Chinese violet 23 between the beginning and end of the period examined.

[8] F.o.b. selling prices were requested of all producers and importers. Because almost the entire industry quotes on a delivered basis, some prices reported prices are actually delivered prices. *** indicated that it originally reported delivered prices but has corrected these figures to be on a f.o.b. basis. Due to the very low costs of transporting violet 23 within the United States, there would be little discrepancy with the reported values. For example, inland transportation was reported to be around *** cents per pound. ***.

[9] NFC, the only U.S. producer of the crude form of violet 23, makes the product for Sun ***. Thus, margins of underselling/(overselling) for product 1 between the domestic product and subject imports are not shown in this report. ***.

Table V-1
Crude violet 23 (product 1): Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, by quarters, January 2001-June 2004

* * * * * * *

Table V-2
Finished violet 23 (presscake, product 2): Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling, by quarters, January 2001-June 2004

Period	United States		China			India		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	Per pound	*Pounds of 100-percent pure pigment*	*Per pound*	*Pounds of 100-percent pure pigment*	*Percent*	*Per pound*	*Pounds of 100-percent pure pigment*	*Percent*
2001:								
January-March	$***	***	$***	***	***	$***	***	***
April-June	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***
2002:								
January-March	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***
October-December	***	***	14.65	26,385	***	***	***	***
2003:								
January-March	***	***	16.09	25,061	***	---	---	---
April-June	***	***	13.97	20,509	***	---	---	---
July-September	***	***	14.19	14,532	***	---	---	---
October-December	***	***	13.94	36,331	***	---	---	---
2004:								
January-March	***	***	12.19	43,317	***	---	---	---
April-June	***	***	***	***	***	---	---	---

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

Table V-3
Finished violet 23 (dry color, product 3): Weighted-average f.o.b. prices and quantities as reported by U.S. producers and importers, and margins of underselling, by quarters, January 2001-June 2004

Period	United States		China			India		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	Per pound	*Pounds of 100-percent pure pigment*	*Per pound*	*Pounds of 100-percent pure pigment*	*Percent*	*Per pound*	*Pounds of 100-percent pure pigment*	*Percent*
2001:								
January-March	$***	***	$***	***	***	$20.81	13,935	***
April-June	***	***	***	***	***	22.18	22,393	***
July-September	***	***	***	***	***	***	***	***
October-December	***	***	19.74	14,770	***	21.09	14,126	***
2002:								
January-March	***	***	17.95	20,621	***	***	***	***
April-June	***	***	17.07	44,258	***	***	***	***
July-September	***	***	17.01	23,976	***	***	***	***
October-December	***	***	17.14	36,961	***	18.03	17,155	***
2003:								
January-March	***	***	15.57	46,883	***	16.90	11,189	***
April-June	***	***	16.53	36,425	***	***	***	***
July-September	***	***	15.76	32,260	***	16.86	20,042	***
October-December	***	***	15.27	36,421	***	16.85	23,344	***
2004:								
January-March	***	***	16.52	45,101	***	***	***	***
April-June	***	***	16.71	60,628	***	***	***	***

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

Figure V-2
Crude violet 23 (product 1): * and weighted-average f.o.b. import prices, by quarters, January 2001-June 2004**

* * * * * * *

Figure V-3
Finished violet 23 (presscake, product 2): Weighted-average f.o.b. prices, as reported by U.S. producers and importers, by quarters, January 2001-June 2004

* * * * * * *

Figure V-4
Finished violet 23 (dry color, product 3): Weighted-average f.o.b. prices, as reported by U.S. producers and importers, by quarters, January 2001-June 2004

* * * * * * *

Price comparisons for product 3 between the United States and India were possible in all 14 quarters. In all quarters the Indian product was priced below the U.S. product, with margins ranging from 42.3 to 54.1 percent and averaging 47.3 percent. Prices for Indian violet 23 fell by *** percent between the first quarter of 2001 and the second quarter of 2004.

LOST SALES AND LOST REVENUES

In the preliminary phase of these investigations, *** provided information on alleged lost sales and lost revenues due to imports of violet 23 from China. Producers *** provided information on alleged lost sales and lost revenues in the final phase of these investigations.[10] No allegations were reported specifically against product from India. The reported allegations of lost sales and lost revenues total approximately $*** and involve approximately *** pounds of violet 23, of which $*** and *** pounds were confirmed or partially confirmed by purchasers.[11] The lost revenue and lost sales allegations by *** are reported in tables V-4 and V-5, respectively. Additional information provided by purchasers follows. Additional lost sales and lost revenue allegations were made by *** in the final phase of the investigations. *** lost sale allegations are reported in table V-6.

Table V-4
Violet 23: Lost revenue allegations against China by *

* * * * * * *

Table V-5
Violet 23: Lost sales allegations against China by *

* * * * * * *

Table V-6
Violet 23: Lost sales allegations by *

* * * * * * *

***.[12]

* * * * * * *

[10] ***.

[11] ***.

[12] ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Five companies reported financial results on their crude or finished violet 23 operations. The financial information presented in this section of the report is based on U.S. GAAP and represents calendar-year periods. Staff conducted verifications of the final-phase questionnaire data reported by NFC and Sun.[1]

Crude Violet 23

Income-and-loss data on crude violet 23 are presented in table VI-1 and on a unit basis in table VI-2. NFC is the only U.S. producer that converts primary raw materials into crude violet 23 and is therefore the only company included in the above-referenced tables.

*** NFC's crude violet 23 was consumed by Sun pursuant to a tolling agreement. ***.[2]

NFC *** the period presented in this report.[3] The primary factors causing NFC's *** in 2002 was a simultaneous reduction in average unit tolling revenue and volume.[4] After 2002, NFC's *** due to a higher tolling fee and increased volume.

Table VI-1
Crude violet 23: Financial results for calendar years 2001-03, January-June 2002, and January-June 2003

* * * * * * *

Table VI-2
Crude violet 23: Financial results (*per pound*) for calendar years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Finished Violet 23

Income-and-loss data on finished violet 23 are presented in table VI-3 and on a unit basis in table VI-4. Table VI-5 presents selected company-specific data on finished violet 23.

The majority of financial results on finished violet 23 reflect the operations of Sun (Cincinnati) and Sun (Bushy Park) which together ranged from *** percent to *** percent of total revenue during the period for which data were collected.[5] Lower full-year period-to-period revenue was largely the result of *** commercial sales values *** decreased. While operations on finished violet 23 were *** at the

---

[1] Changes to the questionnaire data of NFC and Sun pursuant to their respective verifications are reflected in this report.

[2] ***.

[3] ***.

[4] ***.

[5] Sun (Cincinnati) and Sun (Bushy Park) were both part of Sun's Color Group, subsequently changed to the Performance Pigments Group. ***.

Table VI-3
Finished violet 23: Financial results for calendar years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table VI-4
Finished violet 23: Financial results (*per pound*) for calendar years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table VI-5
Finished violet 23: Selected financial information, by firms, for calendar years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

beginning of the period, *** lower average unit cost of goods sold (COGS) *** in 2002.[6] While overall operations on finished violet 23 remained *** throughout the rest of the period, Sun (Cincinnati)'s *** in interim 2004 was due to higher average unit COGS.[7]

During the period examined the overall value added provided by producers of finished violet 23, on a weighted-average basis, was *** percent exclusive of SG&A expenses and *** percent inclusive of SG&A expenses. The first figure represents conversion costs (direct labor and other factory costs) incurred by producers of finished violet 23 divided by the total cost of finished violet 23, i.e., the cost of imported crude violet 23, tolling raw materials, tolling fee, and conversion costs. The second figure adds SG&A expenses to both the numerator and denominator of the value-added calculation.[8]

The Commission's preliminary views in these investigations noted that there appeared to be an inverse relationship between the U.S. producers' financial results on finished violet 23 and imports of crude violet 23.[9] As discussed below, this appears generally to reflect changes in the relative share of lower-priced imported crude violet 23 as compared to higher-priced domestic toll-produced crude violet 23.[10]

As noted previously, finished violet 23 COGS is made up of different components: toll-produced crude violet 23 and related raw materials, imported subject crude violet 23, imported nonsubject crude 23, and

---

[6] As reported to the Commission for the preliminary determination and based on financial information that was not verified, operations on finished violet 23 were *** in 2000 with *** of *** percent. Higher average unit revenue in 2000 largely explains the industry's *** in that year.

[7] ***.

[8] It should be noted that value added is not a static number and ***. The period-by-period average value added for converting crude violet 23 into finished violet 23 (the sum of direct labor plus other factory costs (i.e., conversion costs) divided by total COGS) was *** percent in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004. The alternative calculation (the sum of conversion costs and SG&A divided by the sum of total COGS and SG&A) results in value added of *** percent in 2001, *** percent in 2001, *** percent in 2002, *** percent in interim 2003, and *** percent in interim 2004.

[9] *Carbazole Violet Pigment 23 from China and India, Investigations Nos. 701-TA-437 and 731-TA-1060 and 1061 (Preliminary)*, USITC Pub. 3362, January 2004, p. 24, fn. 151.

[10] In response to questions from Commissioner Miller, a Sun company official explained that the relative share of imported crude violet 23 increased in 2002 in an attempt to become more cost competitive. When it was determined that this strategy would not work, Sun increased its purchases of toll-produced domestic crude violet 23 and reduced its share of imported crude violet 23. See hearing transcript (Mr. Schmidt), pp. 84–86.

conversion costs (direct labor and other factory costs) to process crude violet 23 (whether imported or toll produced) into finished violet 23.

In 2002, NFC's tolling fee was reduced *** along with its overall volume, while the cost of the purchased raw material (e.g., carbazole) provided to NFC by Sun ***.[11] In the same year, import shipments of subject and nonsubject crude violet 23 ***: the lower cost imported crude violet 23 (from China) increased its share of total imports, while the average cost of nonsubject imported crude violet 23 decreased. In addition to direct cost savings resulting from lower crude violet 23 prices, lower tolling fees, and ***, Sun also reportedly reduced manufacturing costs by changing several elements of its manufacturing process.[12] While these changes are reflected to some degree in lower manufacturing costs, the overall decline in the cost of finished crude violet 23 can reasonably be attributed in large part to reduced imported crude violet 23 prices, the reduced tolling fee, and ***.

The notable declines in average unit revenue shown in table VI-4 were ultimately matched by an even larger percentage decline in average unit COGS. This resulted in a *** increase in overall *** on finished violet 23 operations in 2002. In addition to lower average unit revenue after 2002, operating income declined somewhat in subsequent periods as imports as a share of the total cost of finished violet 23 declined. Thus, from a cost perspective the existence of an inverse relationship between the financial results on finished violet 23 and imports of crude violet 23 appears to be logical.

Consolidated (Crude and Finished) Violet 23

Consolidated income-and-loss data on crude violet 23 are presented in table VI-6. The consolidation represents activity on finished violet 23 with an adjustment to total cost of goods sold for NFC's profit or loss on crude violet 23 tolling activity.

Table VI-6
Consolidated (crude and finished) violet 23: Financial results for calendar years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

CAPITAL EXPENDITURES AND R&D EXPENSES

Data on capital expenditures and research and development (R&D) expenses are shown in table VI-7. ***. According to a Sun company official, " . . . the {2003} capital expenditure is the waste water upgrade we had to make at our Cincinnati plant and the primary mission of that upgrade was we had to meet local copper regulations that had been put on by the Cincinnati MSD, which is the local Metropolitan Sewer District . . .".[13]

Table VI-7
Violet 23: Capital expenditures and R&D expenses, calendar years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

[11] While NFC converts primary raw materials like carbazole into crude violet 23, it does not pay for these primary raw materials and as such their cost is not reflected in the tolling fee. ***.

[12] ***. Verification report at pp. 3 and 4. At the hearing, a Sun company official also discussed these changes (hearing transcript (Mr. Schmidt), p. 89). In petitioners' posthearing brief (attachment 2), it was also noted that ***.

[13] Conference transcript (Mr. Schmidt), p. 70.

ASSETS AND RETURN ON INVESTMENT

The value of assets and return on investment are shown in table VI-8. No previous violet 23 investigation has been conducted by the Commission. Comparative financial information for NAICS code 325132 (synthetic organic dye and pigment manufacturing) is not reported by the Risk Management Association (RMA) and is therefore not presented.

Table VI-8
Violet 23: Value of assets and consolidated return on investment, calendar years 2001-03

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of violet 23 from China and/or India on their firms' growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments. Their responses are shown in appendix G.

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 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 CHINA

Tables VII-1 and VII-2 present data for reported Chinese production and shipments of crude and finished violet 23, respectively. The Commission requested data from 19 Chinese firms believed to produce violet 23 (seven of whom were listed in the petition).[1] The Commission received questionnaire responses from four producers of violet 23 in China (Hangzhou Baihe Chemical Co., Ltd. ("Baihe"); Nantong Haidi Chemicals Co., Ltd. ("Haidi"); Nantong Longteng Chemical Co., Ltd. ("Longteng"); and Wuxi Xinguang Chemical Industry Co., Ltd. ("Wuxi")) and from five non-producing exporters (Aesthetic ColorTech (Shanghai) Co., Ltd. ("Aesthetic"); GoldLink Industries Co., Ltd. ("GoldLink"); JECO Pigment China Co. Ltd. ("JECO (China)"); Tianjin Hanchem International Trading Co., Ltd. ("Hanchem"); and Trust Chem Co., Ltd. ("Trust")). *** is *** the largest of the reporting firms. The responding producers indicated that they accounted for in aggregate approximately *** percent of the production of violet 23 in China in 2003.

Haidi *** plans to add, expand, or shut down production capacity or production of violet 23 in China; ***. Haidi *** produce products other than violet 23 on the same equipment and machinery used in the production of violet 23 and reported that *** percent of its total sales in its most recent fiscal year were accounted for by sales of violet 23. Haidi reported *** inventories of violet 23 in the United States since 2001 and that *** sell violet 23 over the internet. Haidi reported ***.

Table VII-1
Crude violet 23: Data for the reporting firms in China, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

* * * * * * *

Table VII-2
Finished violet 23 (presscake and dry color): Data for the reporting firms in China, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

* * * * * * *

[1] The Commission requested data from: (1) China Jiangsu Machinery & Equipment Import and Export (Group) Corp.; (2) China National Chemical Construction Zhejiang Co.; (4) China Jiangsu International Economic Technical Corp.; (5) GoldLink Industries; (6) Hangzhou Baihe Chemical Co., Ltd.; (7) Hangzhou Star-up Pigment Co., Ltd.; (8) JECO Pigment China Co., Ltd. (JECO (China)); (9) Jiangsu Haimen Industrial Chemicals Factory; (10) KoFA International Ltd.; (11) Nantong Haidi Chemicals Co., Ltd.; (12) Nantong Longteng Chemical Co., Ltd.; (13) Nantong Xinying Chemical Industry Co., Ltd.; (14) Oriental Color Corp., Ltd.; (15) Round-the-World Corp., Ltd.; (16) Sinochem Ningbo Import/Export Co., Ltd.; (17) Trust Chem Co., Ltd.; (18) Wuxi Xinguang Chemical Industry Co., Ltd.; and (19) Yancheng Jianghai Chemical Group Co., all of which are believed to be producers or exporters of violet 23 in China. Although contact with each company listed above was verified at least twice, the Commission received questionnaire responses from only Aesthetic, Haidi, Hanchem, and JECO (China).

THE INDUSTRY IN INDIA

Tables VII-3 and VII-4 present data for reported production and shipments of violet 23 in India. The Commission requested data from fourteen firms believed to produce violet 23 (all of which were listed in the petition).[2] The Commission received questionnaire responses from three producers of violet 23 in India (Alpanil Industries ("Alpanil"), AMI Pigments Pvt. Ltd. ("AMI"), and Pidilite Industries Ltd. ("Pidilite")). None of these three firms reported either their estimated shares of crude and/or finished violet 23 production in India nor their estimated shares of crude and/or exports to the United States of violet 23 from India in 2003. In fact, they accounted for approximately *** percent of the volume of U.S. imports of violet 23 in 2003 as reported in the official statistics of the Department of Commerce (see app. D). According to a representative of Pidilite, these three Indian respondents are the only known manufacturers of violet 23 in India.[3] In addition to exports to the United States, the responding Indian producers also reported violet 23 exports to markets in ***.

*** reported plans to add, expand, curtail, or shut down production capacity and/or production of violet 23 in India ***. Alpanil,[4] AMI, and Pidilite reported that *** of their total sales in the most recent fiscal year were sales of violet 23. *** reported production of products other than violet 23 on the same equipment and machinery used in the production of violet 23, inventories of violet 23 in the Untied States since 2001, or sales of violet 23 over the internet. *** reported the basis of its projections as ***. ***.

Table VII-3
Crude violet 23: Data for the reporting firms in India, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

* * * * * * *

Table VII-4
Finished violet 23 (presscake and dry color): Data for the reporting firms in India, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of violet 23 from China and India are shown in table VII-5.

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[2] Staff attempted to contact 14 possible Indian producers of violet 23 and has verified contact with nine Indian producers of violet 23 at least twice: (1) Adhik Chemicals Pvt. Ltd.; (2) Alpanil Industries; (3) AMI Pigments Pvt. Ltd.; (4) Deepak Chemicals Group; (5) Navpad Pigments, Pvt. Ltd.; (6) Nirvip Dyes & Chemicals Pvt. Ltd.; (7) P.G. Chemicals Pvt. Ltd.; (8) Pidilite Industries Ltd.; and (9) the Ratnavir Group of companies. Of the remaining firms, one firm (Western Chemicals Industries (P) Ltd.) had no fax or email contact information and staff was unable to establish contact with two firms (the Hemani Group of Industries and Meghmani Organics Ltd.) from information provided in the petition or from the companies' websites. Meghmani subsequently *** (email from ***, Meghmani, to Commission staff, December 3, 2004). Staff also unsuccessfully attempted to contact three further manufacturers and/or exporters of violet 23 in India (Gujarat Dyestuff Mfg., Ideal Dye Chemical Industries, and Priya Ltd.).

[3] Hearing transcript (Mr. Parekh), p. 146.

[4] Alpanil Industries states its annual capacity of violet 23 as ***. Alpanil states that it exports "***" and further cites its use of "***." Alpanil is part of the Meghmani Group of Industries which includes Meghmani Organics Ltd.

Table VII-5
Violet 23: U.S. importers' end-of-period inventories of imports, by source and type, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO JUNE 30, 2004

The Commission requested importers to indicate whether they imported or arranged for the importation of violet 23 from China or India after June 30, 2004. Of the 28 responding importers, four reported imports of violet 23 from China or India subsequent to June 30, 2004. Importers and the quantity of violet 23 imported subsequent to June 30, 2004, are shown in the tabulation below.

* * * * * * *

DUMPING IN THIRD-COUNTRY MARKETS

There are no known violet 23 third-country market import relief investigations or existing antidumping duty orders on the product from China or India.[5]

[5] Importers' questionnaire responses, (question I-10); conference transcript, pp. 62 (Messrs. Dorris and Zamoyski) and 133 (Mr. Perry).

APPENDIX A

FEDERAL REGISTER NOTICES

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: David J. Clark, Acting Chief, Branch of Geographic Sciences, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION: 1. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on May 6, 2004: The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 13, Township 47 North, Range 58 East, Mount Diablo Meridian, Nevada, under Group No. 812, was accepted May 4, 2004.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on June 10, 2004: The supplemental plat, showing a subdivision of lot 1, sec. 12, T. 19 S., R. 60 E., Mount Diablo Meridian, Nevada, was accepted June 8, 2004.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

3. The Supplemental Plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on June 24, 2004: The supplemental plat, showing a subdivision of lots 7 and 8, sec. 11, T. 21 S., R. 62 E., Mount Diablo Meridian, Nevada, was accepted June 22, 2004.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

4. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: July 14, 2004.

David J. Clark,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 04–16776 Filed 7–22–04; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–149 (Second Review)]

Barium Chloride From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (the Act),[2] that revocation of the antidumping duty order on barium chloride from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on February 2, 2004 (69 FR 4979), and determined on May 7, 2004, that it would conduct an expedited review (69 FR 28947, May 19, 2004).

The Commission transmitted its determination in this review to the Secretary of Commerce on July 1, 2004. The views of the Commission are contained in USITC Publication 3702 (July 2004), entitled *Barium Chloride From China: Investigation No. 731–TA–149 (Second Review).*

Issued: July 20, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–16905 Filed 7–22–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–437 (Final) and 731–TA–1060 and 1061 (Final)]

Carbazole Violet Pigment 23 From China and India

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–437 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–1060 and 1061 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from India and less-than-fair-value imports from China and India of carbazole violet pigment 23 provided for in subheading 3207.17.90 of the Harmonized Tariff Schedule of the United States.[1]

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

DATES: *Effective Date:* June 24, 2004.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor ((202) 205–3354), 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 these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in India of carbazole violet pigment 23, and that such products from China and India are being sold in the United States

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

[2] 19 U.S.C. 1675(c).

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''carbazole violet 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of *diindolo [3,2-b:3′,2′-m]triphenodioxazine, 8,18-dichloro-5, 15-diethy-5,15-;dihydro-*, and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$. The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.*, pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of these investigations.''

at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 21, 2003, by Nation Ford Chemical Co., Fort Mill, SC, and Sun Chemical Corp., Fort Lee, NJ.

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

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

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 27, 2004, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on November 10, 2004, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 29, 2004. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 3, 2004, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 3, 2004. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 17, 2004; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 17, 2004. On December 3, 2004, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 7, 2004, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent 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 Commission's rules, each document filed by a party to the investigations must be served on all other parties to the 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 207.21 of the Commission's rules.

Issued: July 20, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–16867 Filed 7–22–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–326 (Second Review)]

Frozen Concentrated Orange Juice from Brazil

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on frozen concentrated orange juice from Brazil.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on frozen concentrated orange juice from Brazil would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: July 6, 2004.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–892]

Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from the People's Republic of China

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: November 17, 2004.

SUMMARY: We determine that carbazole violet pigment 23 (CVP–23) from the People's Republic of China (PRC) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

FOR FURTHER INFORMATION CONTACT: Tisha Loeper–Viti or Marin Weaver at (202) (202) 482–7425 or (202) 482–2336, respectively; AD/CVD Operations, Office 8, China/NME Unit, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Case History

The preliminary determination in this investigation was published on June 24, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbazole Violet Pigment 23 from the People's Republic of China*, 69 FR 35287 (June 24, 2004) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

We conducted verification of the questionnaire responses of GoldLink Industries Co., Ltd. (GoldLink), Nantong Haidi Chemical Co., Ltd. (Haidi), Trust Chem Co., Ltd. (Trust Chem) and Tianjin Hanchem Int'l Trading Co., Ltd. (Hanchem)[1] from August 2 through August 24, 2004. The petitioners[2] filed surrogate value information and data on August 10, 2004, and the respondents collectively filed surrogate value information and data on August 17, 2004.

On October 8, 2004, the respondents, the petitioners, Clariant Corporation (Clariant) and Colors LLC (Colors), domestic interested parties, filed case briefs. The respondents, the petitioners, and Clariant filed rebuttal briefs on October 13, 2004. Colors requested a public hearing on July 26, 2004. It retracted its request for a public hearing on October 13, 2004.

Scope of Investigation

The merchandise covered by this investigation is carbazole violet pigment 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of *diindolo [3,2–b:3',2'-m]triphenodioxazine, 8,18–dichloro–5, 15–diethy–5,15–dihydro-*, and molecular formula of $C_{34}H_{22}C_{12}N_4O_2$.[3] The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.*, pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the investigation.

The merchandise subject to this investigation is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI is April 1, 2003, through September 30, 2003. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, November 2003). *See* 19 CFR 351.204(b)(1).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the *Appendix* to this notice and addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (CRU), room B–099 of the main Department building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at http://ia.ita.doc.gov. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Non–Market Economy

The Department has treated the PRC as a non–market economy (NME) country in all its previous antidumping investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Non–Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 7765 (February 18, 2003); and *Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate From the People's Republic of China*, 68 FR 46577 (August 6, 2003). In accordance with section 771(18)(C) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. No party in this investigation has sought revocation of the NME status of the PRC. Therefore, pursuant to section 771(18)(C) of the Act, the Department will continue to treat the PRC as an NME country.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base normal value (NV) on the NME producer's factors of production, valued in a market economy at a comparable level of development that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the *Normal Value* section, below. For further details, see the *Preliminary Determination*.

Separate Rates

In our *Preliminary Determination*, we found that GoldLink, Haidi, and Trust Chem met the criteria for the application of a separate, company–specific antidumping duty rate. We have not received any other information since the preliminary determination which would warrant reconsideration of our separates rates determination with respect to these companies. For a complete discussion of the Department's determination that the respondents are

[1] Hanchem was established subsequent to the period of investigation (POI) out of the U.S. sales department of a company named Tianjin Heng An Trading Co., Ltd. (Heng An). During the POI, sales of subject merchandise to the United States were made by Heng An. We have determined that it is appropriate to treat Heng An and Hanchem as a single entity for the purposes of the margin calculations for this antidumping duty investigation and for the application of the antidumping law.

[2] The petitioners are Sun Chemical Corporation and Nation Ford Chemical Company.

[3] Please note that the bracketed section of the product description, *[3,2-b:3',2'-m],* is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature. *See* December 4, 2003, amendment to petition at 8.

entitled to a separate rate, see the *Preliminary Determination*.

The PRC–Wide Rate

In the *Preliminary Determination*, we found that the use of the PRC–wide rate was appropriate for other exporters in the PRC based on our presumption that those exporters who did not submit a response to the Department's questionnaire, and hence failed to demonstrate entitlement to a separate rate, constitute a single enterprise under common control by the Chinese government. We applied adverse facts available to determine the single antidumping duty rate, the PRC–wide rate, applicable to the PRC exporters that comprise this single enterprise. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706, 25707 (May 3, 2000). In addition, while information provided by Hanchem and verified by the Department supports Hanchem's claim that it is not part of the PRC entity, we applied as adverse facts available to Hanchem the same rate as that applied to the PRC entity due to Hanchem's verification failure. To calculate the PRC–wide rate, we relied on information in the petition, as amended, which we were able to corroborate.

Since the preliminary determination, we have obtained new information regarding several surrogate values and the respondents' consumption factors. Based on this new information, we find we are no longer able to corroborate the petition margin. See Memorandum to Laurie Parkhill, Antidumping Duty Investigation of Carbazole Violet Pigment 23 from the People's Republic of China (PRC) Recalculated PRC–Wide Rate (November 8, 2004). Instead, we have recalculated the PRC–wide rate using information otherwise available. The PRC–wide rate is, for the final determination, 217.94 percent.

Surrogate Country

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

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the *Preliminary Determination* as a result of verification, see the *Changes Since the Preliminary Determination* section, below. *See also* Memorandum from Marin Weaver and Christopher Welty, International Trade Compliance Analysts to the File: Antidumping Investigation of Carbazole Violet Pigment 23 from the PRC - Verification of Nantong Haidi Chemical Co., Ltd., dated September 30, 2004; Memorandum from Marin Weaver and Christopher Welty, International Trade Compliance Analysts to the File: Antidumping Investigation of Carbazole Violet Pigment 23 from the People's Republic of China - GoldLink Industries, Inc., dated September 29, 2004; Memorandum from Marin Weaver and Christopher Welty, International Trade Compliance Analysts to the File: Antidumping Investigation of Carbazole Violet Pigment 23 from the People's Republic of China - Verification of Tianjin Hanchem International Trading Co., Ltd., dated September 28, 2004; Memorandum from Marin Weaver and Christopher Welty, International Trade Compliance Analysts to the File: Antidumping Investigation of Carbazole Violet Pigment 23 from the PRC - Verification of Nantong Longteng Chemical Co., Ltd., dated September 29, 2004; Memorandum from Marin Weaver and Christopher Welty, International Trade Compliance Analysts to the File: Antidumping Investigation of Carbazole Violet Pigment 23 from the PRC - Verification of Jiangsu Multicolor Fine Chemical Co., Ltd., dated October 1, 2004; Memorandum from Marin Weaver and Christopher Welty, International Trade Compliance Analysts to the File: Antidumping Investigation of Carbazole Violet Pigment 23 from the People's Republic of China - Verification of Trust Chem Co., Ltd., dated September 28, 2004; Memorandum from Marin Weaver and Christopher Welty, International Trade Compliance Analysts to the File: Antidumping Investigation of Carbazole Violet Pigment 23 from the PRC - Calculation of Jiangsu Multicolor Fine Chemical Co., Ltd.'s Utility and Labor Factors of Production, dated September 30, 2004.

Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made certain adjustments to the calculation methodologies used in the preliminary determination. These adjustments are discussed in detail in the Issues and Decision Memorandum and in the Memorandum to Laurie Parkhill, Director, China/NME Group, Office 8, from Tisha Loeper–Viti, International Trade Compliance Analyst, Re: Factors of Production Valuation for Final Determination, dated November 8, 2004 (Factors of Production Memorandum).

Critical Circumstances

On June 18, 2004, at the Preliminary Determination, we made a preliminary finding of critical circumstances with respect to Haidi, and Hanchem on the basis of massive imports of the subject merchandise over a relatively short period. We received comments from interested parties on this issue, and they are discussed in detail in the accompanying Issues and Decision Memorandum at Comment 2. Based on our final determination of sales at less than fair value, pursuant to section 735(a)(3)(A)(i) and (B), we determine that critical circumstances exist with respect to Haidi and Hanchem. *See* Memo from Jeffrey A. May, Deputy Assistant Secretary for Import Administration to James J. Jochum, Assistant Secretary for Import Administration, Antidumping Duty Investigation of Carbazole Violet Pigment 23 from the People's Republic of China Final Determination on Critical Circumstances.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of entries of subject merchandise from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after June 24, 2004, (the date of publication of the *Preliminary Determination* in the **Federal Register**). For Haidi and Hanchem, we will instruct CBP to suspend liquidation of unliquidated entries that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the date publication of the preliminary determination. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average amount by which NV exceeds the U.S. price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Final Determination of Investigation

We determine that the following weighted–average percentage margins exist for the period April 1, 2003, through September 30, 2003:

Manufacturer/exporter	Weighted–Average Margin
GoldLink Industries Co.,Ltd.	5.51%
Nantong Haidi Chemical Co., Ltd.	44.50%
Trust Chem Co., Ltd.	27.19%
Tianjin Hanchem International Trading Co.	217.94%
PRC–Wide Rate.	217.94%

The PRC–wide rate applies to all entries of the merchandise under investigation except for entries from the four exporters listed above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

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

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: November 8, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix Decision Memorandum

I. ISSUES RELATED TO MULTIPLE RESPONDENTS

Comment 1: Financial Ratios
Comment 2: Critical Circumstances
Comment 3: Surrogate Value Sources
Comment 4: HTS Classification
Comment 5: Chemical Concentration Levels
Comment 6: Ethyl Alcohol
Comment 7: Hydrochloric Acid and Nitric Acid
Comment 8: Calcium Chloride
Comment 9: Ethyl Bromide
Comment 10: Ethanolamine Solvent
Comment 11: Steam
Comment 12: Electricity
Comment 13: Import Brokerage and Terminal Charges

II. ISSUES SPECIFIC TO INDIVIDUAL RESPONDENTS

Comment 14: Multicolor Tolling
Comment 15: Application of Adverse Facts Available to Multicolor
Comment 16: Application of Adverse Facts Available to Haidi
Comment 17: Haidi Factors of production
Comment 18: Application of Adverse Facts Available to Trust Chem
Comment 19: Application of Adverse Facts Available to Hanchem
Comment 20: Application of Adverse Facts Available to Longteng
Comment 21: General Issues Raised by Colors LLC

[FR Doc. E4–3197 Filed 11–16–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–838]

Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India

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

DATES: Effective November 17, 2004.

FOR FURTHER INFORMATION CONTACT: Lyn Johnson or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5287 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

The Department of Commerce (the Department) has conducted this antidumping investigation in accordance with section 735 of the Tariff Act of 1930, as amended (the Act). We have determined that carbazole violet pigment 23 (CVP–23) from India is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins for sales at LTFV are shown in the ''Final Determination Margins'' section of this notice.

Background

The preliminary determination of sales at LTFV in this investigation was issued on June 24, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbazole Violet Pigment 23 From India,* 69 FR 35293 (June 24, 2004) (*Preliminary Determination*).

Since the *Preliminary Determination* the following events have occurred. From August 23 through August 27, 2004, we conducted verification of Pidilite Industries Ltd. (Pidilite), and from August 30 through September 2, 2004, we conducted verification of Alpanil Industries (Alpanil). On October 1, 2004, we received a joint case brief from Alpanil and Pidilite and a case brief from the Clariant Corporation (Clariant), a domestic interested party. On October 6, 2004, we received a joint rebuttal brief from Alpanil and Pidilite, a rebuttal brief from Clariant, and a rebuttal brief from the petitioners (Sun Chemical Corporation and Nation Ford Chemical Company).

Period of Investigation

The period of investigation (POI) is October 1, 2002, through September 30, 2003, which corresponds to the four most recent fiscal quarters prior to the month of filing of the petition.

Scope of Investigation

The merchandise covered by this investigation is CVP–23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of *diindolo [3,2-b:3′,2′-m]triphenodioxazine, 8,18-dichloro-5, 15-diethy-5, 15-dihydro-,* and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$.[1] The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.* pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the investigation.

The merchandise subject to this investigation is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the

[1] The bracketed section of the product description, [*3,2-b:3′,2′-m*], is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature. *See* December 4, 2003, amendment to petition at 8.

United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the November 8, 2004, ''Issues and Decision Memorandum'' from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration (*Decision Memorandum*). Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in Import Administration's Central Records Unit at Room B099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Verification

In accordance with section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures which included the examination of original source documents provided by respondents. *See* the September 20, 2004, memorandum from Susan Lehman entitled ''Sales Verification Report: Antidumping Duty Investigation of Carbazole Violet Pigment 23 From India, Pidilite Industries Ltd.'' (Pidilite Verification Report) and the September 23, 2004, memorandum from Yang Jin Chun entitled ''Antidumping Duty Investigation of Carbazole Violet Pigment 23 From India: Sales Verification Report for Alpanil Industries.'' (Alpanil Verification Report).

Changes Since the Preliminary Determination

We have made the following changes to our margin calculations since the preliminary determination:

Alpanil

(1) Based on findings during verification, the Department requested that Alpanil submit updated home-market and U.S. sales listings. *See* the September 10, 2004, memorandum from Yang Jin Chun to the File. It did so on September 21, 2004. Except for the requested changes involving level of trade, we implemented all other corrections and findings which resulted from verification by using Alpanil's updated home-market and U.S. sales listings. *See* the Alpanil Verification Report for a list and description of these changes. *See also* the November 8, 2004, memorandum from Yang Jin Chun entitled ''Antidumping Duty Investigation of Carbazole Violet Pigment 23 From India: Final Determination Analysis Memorandum for Alpanil Industries.''

(2) Regarding levels of trade, we no longer find that there are two levels of trade in the home-market. Instead we determine that all home-market sales were made at a single level of trade which is equivalent to the U.S. level of trade. *See* Comment 2 of the *Decision Memorandum* for a discussion of this issue.

Pidilite

Based on findings during verification, the Department requested that Pidilite submit updated home-market and U.S. sales listings. *See* the September 10, 2004, memorandum from Susan Lehman to the File. It did so on September 29, 2004. We incorporated all of the corrections and findings which resulted from verification by using Pidilite's updated home-market and U.S. sales listings. *See* the Pidilite Verification Report for a list and description of these changes. *See also* the November 8, 2004, memorandum from Susan Lehman entitled ''Antidumping Duty Investigation of Carbazole Violet Pigment 23 From India: Final Determination Analysis Memorandum for Pidilite Industries Ltd.''

Continuation of Suspension of Liquidation

Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from India, entered, or withdrawn from warehouse, for consumption on or after June 24, 2004, the date of publication of our preliminary determination. CBP shall require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below, adjusted for export subsidies found in the final determination of the companion countervailing duty investigation of this merchandise. Specifically, consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit or posting of a bond equal to the amount by which the normal value exceeds the EP, as indicated below, less the amount of the countervailing duty determined to constitute an export subsidy. Accordingly, for cash deposit purposes, we are subtracting from the applicable cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination for each respondent (*i.e.*, 17.57 percent for Alpanil, 17.02 percent for Pidilite). After the adjustment for the cash deposit rates attributed to export subsidies, the resulting cash deposit rates will be 9.66 percent for Alpanil, 52.21 percent for Pidilite. We also calculated a weighted-average all-others cash deposit rate of 28.66 percent after adjusting Alpanil's and Pidilite's cash deposit rates for export subsidies. See the All-Others Rate memorandum to the file from Lyn Johnson dated November 8, 2004. These instructions suspending liquidation will remain in effect until further notice.

Final Determination Margins

The weighted-average margins are as follows:

Producer/exporter	Weighted-average margin percentage
Alpanil Industries	27.23
Pidilite Industries Ltd	69.23
All Others	45.98

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose to interested parties within five days of the date of publication of this notice the calculations performed in the final determination.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination of sales at LTFV. As our final determination is affirmative, and in accordance with section 735(b) of the Act, the ITC will determine within 45 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or

canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

November 8, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Issues Appendix

Comment 1—Duty Revenue
Comment 2—Level of Trade
Comment 3—Reporting Errors

[FR Doc. E4–3198 Filed 11–16–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–804, A–570–851, A–533–813, A–560–802]

Continuation of Antidumping Duty Orders on Certain Preserved Mushrooms From Chile, the People's Republic of China, India, and Indonesia

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

ACTION: Notice of continuation of antidumping duty orders on certain preserved mushrooms from Chile, the People's Republic of China, India, and Indonesia.

SUMMARY: The Department of Commerce (''the Department'') has determined that revocation of the antidumping duty orders on certain preserved mushrooms (''mushrooms'') from Chile, the People's Republic of China (''China''), India, and Indonesia, would likely lead to continuation or recurrence of dumping. On November 1, 2004, the International Trade Commission (''ITC''), pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty orders on certain preserved mushrooms from Chile, China, India, and Indonesia would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the antidumping duty orders on mushrooms from Chile, China, India, and Indonesia.

DATES: Effective November 17, 2004.

Contact Information: Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2003, the Department initiated, and the ITC instituted, sunset reviews of the antidumping duty orders on mushrooms from Chile, China, India, and Indonesia, pursuant to section 751(c) of the Act.[1] As a result of its review, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order revoked.[2] On November 1, 2004, the ITC determined pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on mushrooms would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of Orders

The products subject to these orders are imported certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under the orders are the species *Agaricus bisporus* and *Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars, in a suitable liquid medium including, but not limited to, water, brine, butter or butter sauce. Included within the scope of these orders are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing. Also included within the scope of these orders, as of June 19, 2000, are marinated, acidified, or pickled mushrooms containing less than 0.5 percent acetic acid. Excluded from the scope of these orders are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; and (4) frozen mushrooms. The merchandise subject to these orders were previously classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive. As of January 1, 2002, the HTSUS codes are as follows: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 0711.51.0000.

Determination

As a result of the determinations by the Department and ITC that revocation of these antidumping duty orders would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on mushrooms from Chile, China, India, and Indonesia. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year reviews of these orders not later than October 2009.

The five-year (''sunset'') reviews and notice are published in accordance with sections 751(c), 752 and 777(i)(1) of the Act.

[1] *See Initiation of Five-year (''Sunset'') Reviews*, 68 FR 62280 and 68 FR 62322 (November 3, 2003).

[2] *See Certain Preserved Mushrooms from Chile, India, Indonesia and The People's Republic of China; Final Results of Expedited Sunset Reviews of Antidumping Duty Orders*, 69 FR 11384 (March 10, 2004).

[3] *See Certain Preserved Mushrooms from Chile, China, India, and Indonesia*, 69 FR 63408 (November 1, 2004), and USITC Publication 3731, Investigation Nos. 731–TA–776–779 (November 1, 2004) (Review).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–839]

Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 From India

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

SUMMARY: The Department of Commerce (the Department) has reached a final determination that countervailable subsidies are being provided to producers/exporters of carbazole violet pigment 23 (CVP–23) from India. For information on the estimated countervailable subsidy rates, please see the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: November 17, 2004.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Addilyn Chams-Eddine, Office of AD/CVD Operations, Office VI, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3964 and (202) 482–0648 respectively.

SUPPLEMENTARY INFORMATION:

Case History

The petition in this investigation was filed November 21, 2003, by Nation Ford Chemical and Sun Chemical Company (collectively, the petitioners). On December 11, 2003, we initiated the investigation. *See Notice of Initiation of Countervailing Duty Investigation: Carbazole Violet Pigment 23 (CVP–23) from India*, 68 FR 70778 (December 19, 2003). On April 27, 2004, the Department published its affirmative preliminary determination and, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), we aligned the final determination in this countervailing duty investigation with the final determination in the antidumping duty investigation of CVP–23 from India. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Carbazole Violet Pigment 23 from India*, 69 FR 22763 (April 27, 2004) *(Preliminary Determination)*.

Since the *Preliminary Determination*, the following events have occurred. Alpanil Industries Ltd. (Alpanil) provided a response on April 30, 2004, for its trading company, Meghmani Organics Ltd. (Meghmani), and its use of the subsidy programs under investigation. We issued supplemental questionnaires to the Government of India (GOI) on May 11, 2004, and to Alpanil and Pidilite Industries Ltd. (Pidilite) on May 18, 2004. The GOI filed its response on May 25, 2004, and Alpanil and Pidilite filed their responses on June 7, 2004. On June 14, 2004, Alpanil submitted additional information that was inadvertently omitted from its June 7, 2004, response. In the Department's June 23, 2004, memorandum to the file, we noted our request to Alpanil to provide Meghmani's tax return filed during the POI. Alpanil provided this information in its June 30, 2004, submission.

From July 12 through July 31, 2004, the Department conducted verification of the questionnaire responses provided by the GOI, Alpanil and Pidilite. The Department issued the GOI and Pidilite verification reports on September 29, 2004. *See* Memorandum to the File from Sean M. Carey to Dana Mermelstein, *Countervailing Duty Investigation of Carbazole Violet Pigment 23 (CVP–23) from India: Verification of the Government of India's (GOI) Subsidy Programs*; Memorandum to the File from Addilyn P. Chams-Eddine to Barbara E. Tillman, *Countervailing Duty Investigation of Carbazole Violet Pigment 23 from India: Verification of the Pidilite Industries Ltd., located in Mumbai, India*. The Alpanil verification report was issued on October 8, 2004. *See* Memorandum to the File from Sean M. Carey and Addilyn Chams-Eddine to Dana Mermelstein, *Countervailing Duty Investigation of Carbazole Violet Pigment 23 from India: Verification of Alpanil Industries Ltd.* In addition, on October 8, 2004, we issued a memorandum containing our preliminary analysis of the Central Value Added Tax Program (CENVAT) which we had listed in the *Preliminary Determination* as a program for which additional information was needed. *See* Memorandum to the File from Barbara E. Tillman, Director, Office of AD/CVD Enforcement VI, to Jeffrey A. May, Deputy Assistant Secretary, Import Administration, *Countervailing Duty Investigation of Carbazole Violet Pigment-23 from India: Preliminary Analysis of the Central Value Added Tax (CENVAT) Program*, (*CENVAT Memorandum*).

On October 7, 2004, case briefs were filed by Alpanil and Pidilite, by the petitioners, and by Clariant, a domestic producer which supports the petition. On October 12, 2004, these parties filed rebuttal briefs. We allowed parties a separate opportunity to file comments and rebuttal comments on our *CENVAT Memorandum*. No parties provided direct comments, however, the GOI provided rebuttal comments on October 18, 2004. The Department allowed parties an opportunity to respond to the GOI's rebuttal brief. No parties provided comments.

Period of Investigation

The investigation covers all producers/exporters of subject merchandise in India for the period April 1, 2002, through March 31, 2003.

Scope of the Investigation

The merchandise covered by this investigation is CVP–23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of *diindolo [3,2-b:3′,2′-m] triphenodioxazine, 8,18-dichloro-5,15-diethy-5,15-dihydro-*, and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$.[1] The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wetcake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.*, pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the investigation.

Analysis of Comments Received

All issues raised by the interested parties in their case and rebuttal briefs, and comments on our *CENVAT Memorandum* are addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*) dated November 8, 2004, which is hereby adopted by this notice. A list of the issues which parties have raised is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU). This public memorandum also contains the recommended adverse facts available program rates and the total countervailable subsidy rate for the non-responding company, AMI. A complete version of the *Decision Memorandum* is available at *http://www.ia.ita.doc.gov* under the heading **Federal Register** Notices. The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have

[1] The bracketed section of the product description, [3,2-b:3′,2′-m], is not business propietary information. In this cae, the brackets are simply part of the chemical nomenclature. *See* December 4, 2003, amendment to petition (supplementary petition) at 8.

determined individual rates for Alpanil, Pidilite and AMI Pigments Pvt. Ltd. (AMI). Because AMI's rate is based on partial facts available rather than on total facts available, we are including its rate in the calculation of the ''all others'' rate in accordance with section 705(c)(5)(A)(i) of the Act. To calculate the ''all others'' rate, we weight-averaged the individual company rates by each company's respective sales of subject merchandise made to the United States during the POI. These rates are summarized in the table below:

Producer/ exporter	Net subsidy rate (percent ad valorem)
Alpanil Industries Ltd	17.57
Pidilite Industries Ltd	17.33
AMI Pigments Pvt. Ltd	33.61
All Others	20.55

In accordance with our preliminary affirmative determination, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of CVP–23 from India, which were entered or withdrawn from warehouse, for consumption on or after April 27, 2004, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for merchandise entered on or after August 26, 2004, but to continue the suspension of liquidation of entries made between April 27, 2004, through August 25, 2004.

If the International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

November 8, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix I: Issues and Decision Memorandum

Summary

[FR Doc. E4–3196 Filed 11–16–04; 8:45 am]

BILLING CODE 3510–DS–P

Minnesota.

G. John Heyer,

General Counsel.

[FR Doc. 04–26157 Filed 11–24–04; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes from the Procurement List services previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 26, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION:

Deletions

On March 26, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 15786–87) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services

Service Type/Location: Janitorial/Custodial, Carl Albert Federal Building and U.S. Courthouse, McAlester, Oklahoma.
NPA: None currently authorized.
Contract Activity: General Services Administration.
Service Type/Location: Janitorial/Custodial, J. Marvin Jones Federal Building & U.S. Courthouse, Amarillo, Texas.
NPA: None currently authorized.
Contract Activity: GSA, PBS.
Service Type/Location: Janitorial/Custodial, U.S. Federal Building, Courthouse and Post Office, Batesville, Arkansas.
NPA: None currently authorized.
Contract Activity: General Services Administration.
Service Type/Location: Janitorial/Custodial, U.S. Federal Building, Courthouse and Post Office, Pine Bluff, Arkansas.
NPA: None currently authorized.
Contract Activity: General Services Administration.
Service Type/Location: Janitorial/Custodial, U.S. Federal Building, Gallup, New Mexico.
NPA: None currently authorized.
Contract Activity: GSA, PBS.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04–26159 Filed 11–24–04; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–892]

Notice of Correction to the Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From the People's Republic of China

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

ACTION: Correction to final determination of sales at less than fair value.

EFFECTIVE DATE: November 26, 2004.

FOR FURTHER INFORMATION CONTACT: Tisha Loeper-Viti or Marin Weaver at (202) 482–7425 or (202) 482–2336, respectively; AD/CVD Operations, Office 8, China/NME Unit, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

Background: On November 17, 2004, the Department of Commerce (the Department) published in the **Federal Register** the final determination of sales at less than fair value of carbazole violet pigment 23 from the People's Republic of China (PRC). *See Carbozole Violet Pigment 23 from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 69 FR 67304 (November 17, 2004). The Department has discovered a typographical error in the molecular formula of the Scope of Investigation section.

We now correct the final determination of sales at less than fair value of carbazole violet pigment 23 from the PRC as noted above. As a result of this correction, the molecular formula should read $C_{34}H_{22}Cl_2N_4O_2$.

This amended determination is issued and published in accordance with sections 751 and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: November 19, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E4–3342 Filed 11–24–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review and Intent To Revoke, in Part

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

ACTION: Notice of initiation and preliminary results of antidumping duty changed circumstances review and intent to revoke order, in part.

SUMMARY: In accordance with 19 CFR 351.216(b), SteelSummit International (SteelSummit), a U.S. importer of the subject merchandise and an interested party in this proceeding, filed a request for a changed circumstances review of the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. In response to this request, the Department of Commerce is initiating a changed circumstances review and issuing a notice of preliminary intent to revoke in part the order on certain corrosion-resistant carbon steel flat products from Japan with respect to nickel-plated steel foil. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 26, 2004.

APPENDIX B

CALENDAR OF THE PUBLIC HEARING

CALENDAR OF THE PUBLIC HEARING

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

Subject: Carbazole Violet Pigment 23 from China and India

Inv. Nos.: 701-TA-437 and 731-TA-1060 and 1061 (Final)

Date and Time: November 10, 2004 - 9:30 a.m.

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

OPENING REMARKS:

Petitioners (**Gregory C. Dorris**, Pepper Hamilton LLP)
Respondents (**Lizbeth R. Levinson**, Garvey Schubert Barer, LLP)

In Support of the Imposition of Antidumping and Countervailing Duties:

Pepper Hamilton LLP
Washington, DC
on behalf of

Nation Ford Chemical Company ("NFC")
Sun Chemical Corporation ("Sun")

John A. Dickson, CEO, NFC
Edwin B. Faulkner, Director, Product Management and Communications, Performance Pigments Group, Sun
Stephen J. Schmidt, Senior Manager, Global Purchasing Department, Sun

Gregory C. Dorris – OF COUNSEL

Barnes, Richardson & Colburn
Washington, DC
on behalf of

Clariant Corporation ("Clariant")

Andrew Zamoyski, Manager, Pigment and Additives Division, Clariant

Matthew T. McGrath – OF COUNSEL
Stephen W. Brophy

In Opposition to the Imposition of Antidumping and Countervailing Duties:

Garvey Schubert Barer, LLP
Washington, DC
on behalf of

Pidilite Industries Ltd.
Alpanil Industries

Narendra Parekh, Joint Managing Director, Pidilite Industries Ltd.

Lizbeth R. Levinson – OF COUNSEL

REBUTTAL/CLOSING REMARKS

Petitioners (**Matthew T. McGrath**, Barnes, Richardson & Colburn)
Respondents (**Lizbeth R. Levinson**, Garvey Schubert Barer, LLP)

APPENDIX C

SUMMARY DATA

Table C-1
Crude violet 23: Summary data concerning the U.S. market, 2001-03, January-June 2003, and January-June 2004

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Table C-2
Finished violet 23: Summary data concerning the U.S. market, 2001-03, January-June 2003, and January-June 2004

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Table C-3
Violet 23: Summary data concerning the U.S. market, 2001-03, January-June 2003, and January-June 2004

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APPENDIX D

COMMERCE DATA

Table D-1
Violet 23: U.S. imports, based on official Commerce statistics, 2001-03, January-June 2003, and January-June 2004

Country	2001	2002	2003	January-June	
				2003	2004
Quantity (*1,000 pounds*)					
China	361	501	742	322	318
India	59	61	35	9	21
Subtotal subject	420	562	776	330	339
France	85	25	0	0	1
Germany	134	95	139	76	65
Japan	284	264	142	69	111
Mexico	13	77	14	11	30
United Kingdom	3	80	110	65	73
All other	5	3	8	2	1
Total	944	1,106	1,190	553	620
Value (*$1,000*)[1]					
China	3,535	4,636	4,700	2,477	3,124
India	964	801	469	127	282
Subtotal	4,498	5,438	5,170	2,604	3,406
France	1,585	546	0	0	12
Germany	2,381	11,790	2,508	1,409	1,154
Japan	5,070	2,667	1,391	704	960
Mexico	265	1,020	226	184	489
United Kingdom	33	500	715	416	551
All other	112	41	68	29	18
Total	13,945	12,009	10,079	5,345	6,590

Table continued on next page.

Table D-1--*Continued*
Violet 23: U.S. imports, based on official Commerce statistics, 2001-03, January-June 2003, and January-June 2004

Country	2001	2002	2003	January-June	
				2003	2004
			Unit value (*per pound*)		
China	$9.80	$9.25	$6.34	$7.70	$9.81
India	16.36	13.07	13.53	14.65	13.35
Average subject	10.72	9.67	6.66	7.88	10.03
France	18.63	22.01	([2])	([2])	23.57
Germany	17.71	18.76	18.00	18.61	17.85
Japan	17.66	10.12	9.78	10.17	8.65
Mexico	20.83	13.23	15.99	17.21	16.47
United Kingdom	11.22	6.26	6.48	6.41	7.57
All other	21.37	13.05	8.62	12.89	22.78
Average	14.78	10.86	8.47	9.66	10.62

[1] Landed, duty-paid.
[2] Not applicable.

Note: Unit values were calculated on unrounded figures.

Source: Compiled from official statistics of the Department of Commerce (HTS 3204.17.9040).

APPENDIX E

U.S. SHIPMENTS BY END USE

Table E-1
Finished violet 23: U.S. producers' and U.S. importers' U.S. shipments, by source, type, and end use segment, 2001-03, January-June 2003, and January-June 2004

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APPENDIX F

PURCHASER PRICE DATA

Table F-1
Crude violet 23 (product 1): Weighted-average f.o.b. prices and quantities as reported by purchasers, and margins of underselling/(overselling), by quarters, January 2001-June 2004

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Table F-2
Finished violet 23 (product 2, presscake): Weighted-average f.o.b. prices and quantities as reported by purchasers, and margins of underselling/(overselling), by quarters, January 2001-June 2004

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Table F-3
Finished violet 23 (product 3, dry color): Weighted-average f.o.b. prices and quantities as reported by purchasers, and margins of underselling/(overselling), by quarters, January 2001-June 2004

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APPENDIX G

EFFECTS OF IMPORTS OF VIOLET 23 FROM CHINA AND/OR INDIA ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, OR THE SCALE OF CAPITAL INVESTMENTS

The Commission requested U.S. firms to describe any actual or anticipated negative effects, since January 1, 2001, of imports of violet 23 from China and/or India on their growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments. Responses are shown below.

Actual Negative Effects

* * * * * * *

Anticipated Negative Effects

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