

# 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China and India

Investigation Nos. 731-TA-1146-1147 (Preliminary)

Publication 3998

May 2008

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

## COMMISSIONERS

**Daniel R. Pearson, Chairman**  
**Shara L. Aranoff, Vice Chairman**  
**Deanna Tanner Okun**  
**Charlotte R. Lane**  
**Irving A. Williamson**  
**Dean A. Pinkert**

---

Robert A. Rogowsky  
*Director of Operations*

---

### *Staff assigned*

Nathanael Comly, *Investigator*  
Stephen Wanser, *Industry Analyst*  
James Fetzer, *Economist*  
David Boyland, *Accountant*  
June Brown, *Attorney*  
Mara Alexander, *Statistical Specialist*  
  
Douglas Corkran, *Supervisory Investigator*

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

# U.S. International Trade Commission

Washington, DC 20436  
[www.usitc.gov](http://www.usitc.gov)

## 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China and India

Investigation Nos. 731-TA-1146-1147 (Preliminary)



Publication 3998

May 2008



**CONTENTS**

	<i>Page</i>
<b>Determination</b> .....	1
<b>Views of the Commission</b> .....	3
<b>Part I: Introduction</b> .....	I-1
Background .....	I-1
Statutory criteria and organization of the report .....	I-1
Statutory criteria .....	I-1
Organization of report .....	I-2
U.S. market summary .....	I-2
Summary data and data sources .....	I-3
Previous and related investigations .....	I-3
Nature and extent of alleged sales at LTFV .....	I-3
The subject merchandise .....	I-3
Commerce’s scope .....	I-3
Tariff treatment .....	I-4
The domestic like product .....	I-4
Overview .....	I-4
Description and applications .....	I-6
Manufacturing processes .....	I-6
Marketing .....	I-7
Price .....	I-8
<b>Part II: Conditions of competition in the U.S. market</b> .....	II-1
U.S. market characteristics .....	II-1
Supply and demand considerations .....	II-1
U.S. supply .....	II-1
U.S. demand .....	II-3
Substitutability issues .....	II-4
Factors affecting purchasing decisions .....	II-5
Comparisons of domestic products and subject imports .....	II-5
Comparisons of domestic products and nonsubject imports .....	II-7
Comparisons of subject imports and nonsubject imports .....	II-8
Comparisons of subject products from the subject countries .....	II-8
<b>Part III: U.S. producers’ production, shipments, and employment</b> .....	III-1
U.S. producers of HEDP .....	III-1
U.S. capacity, production, and capacity utilization .....	III-2
U.S. producers’ shipments .....	III-3
U.S. producers’ inventories .....	III-4
U.S. producers’ imports and purchases .....	III-4
U.S. employment, wages, and productivity .....	III-4
<b>Part IV: U.S. imports, apparent U.S. consumption, and market shares</b> .....	IV-1
U.S. importers .....	IV-1
U.S. imports .....	IV-1
The question of negligible imports .....	IV-4
Cumulation considerations .....	IV-4
Apparent U.S. consumption and market shares .....	IV-4
Ratio of imports to U.S. production .....	IV-6

# CONTENTS

	<i>Page</i>
<b>Part V: Pricing and related information</b> .....	V-1
Factors affecting prices .....	V-1
Raw material costs .....	V-1
Transportation costs to the U.S. market .....	V-1
U.S. inland transportation costs .....	V-1
Exchange rates .....	V-1
Pricing practices .....	V-1
Pricing methods .....	V-1
Sales terms and discounts .....	V-3
Price data .....	V-3
Price trends .....	V-4
Price comparisons .....	V-4
Lost sales and lost revenues .....	V-5
<b>Part VI: Financial experience of the U.S. producer</b> .....	VI-1
Background .....	VI-1
Operations on HEDP .....	VI-1
Capital expenditures, research and development expenses, assets, and return on investment .....	VI-4
Capital and investment .....	VI-4
Actual negative effects .....	VI-4
Anticipated negative effects .....	VI-4
<b>Part VII: Threat considerations and <i>Bratsk</i> information</b> .....	VII-1
The industry in China .....	VII-2
The industry in India .....	VII-5
U.S. imports subsequent to December 31, 2007 .....	VII-6
U.S. importers' inventories .....	VII-6
Antidumping duty orders in third-country markets .....	VII-7
Information of nonsubject sources .....	VII-8
"Bratsk" considerations .....	VII-8
Nonsubject source information .....	VII-8
<b>Appendixes</b> .....	
A. <i>Federal Register</i> notices .....	A-1
B. List of conference witnesses .....	B-1
C. Summary data .....	C-1
D. Price data for nonsubject countries .....	D-1

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been identified with asterisks ( \*\*\*) in this report.

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1145-1146 (Preliminary)

1-HYDROXYETHYLIDENE-1,1-DIPHOSPHONIC ACID (HEDP) FROM CHINA AND INDIA

## DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and India of 1-hydroxyethylidene-1, 1-diphosphonic acid (HEDP), provided for in subheading 2931.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

## COMMENCEMENT OF FINAL PHASE INVESTIGATION

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

## BACKGROUND

On March 19, 2008, a petition was filed with the Commission and Commerce by Compass Chemical International LLC, Huntsville, TX, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of 1-hydroxyethylidene-1,1-diphosphonic acid from China and India. Accordingly, effective March 19, 2008, the Commission instituted antidumping duty investigation Nos. 731-TA-1146-1147 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of March 26, 2008 (73 FR 16058). The conference was held in Washington, DC, on April 9, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

---

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





## IEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find a reasonable indication that an industry in the United States is materially injured by reason of imports of 1-hydroxyethylidene-1, 1-diphosphonic acid (HEDP) from China and India that are allegedly sold in the United States at less than fair value.

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

### II. BACKGROUND

Compass Chemical International LLC (“Compass”) filed an antidumping duty petition on March 19, 2008, regarding allegedly unfairly traded imports of HEDP from China and India. Headquartered in Huntsville, Texas, Compass produces HEDP at its facility in Smyrna, Georgia, which it acquired in July 2006.<sup>3</sup> Representatives of Compass appeared at the staff conference accompanied by counsel, and Compass filed a postconference brief. Also appearing at the staff conference and filing postconference briefs were representatives of Aquapharm Chemicals Pvt. Ltd. (an Indian producer, exporter, and importer of HEDP), Buckman Laboratories, Inc. (an end user), and Zibex, Inc. (a distributor), accompanied by their counsel (hereinafter, “Indian Respondents”); a representative of Uniphos, Inc. (an HEDP importer); and counsel representing Chinese HEDP producers Jiangsu Jianghai Chemical Group Co., Ltd., Changzhou Kewei Fine Chemical Co., Ltd., Wujin Fine Chemical Factory Co., Ltd., and Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory (collectively, the Ad Hoc Water Treatment Chemical Producers Committee; hereinafter, “Chinese Respondents”).

### III. DOMESTIC LIKE PRODUCT

#### A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the

---

<sup>1</sup> 19 U.S.C. §§ 1671b(a), 1673b(a); see, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

<sup>3</sup> Petition at 2.

Commission first defines the “domestic like product” and the “industry.”<sup>4</sup> 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.”<sup>5</sup> 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.”<sup>6</sup>

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.<sup>7</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>8</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>9</sup> Although the Commission must accept the determination of Commerce as to the scope of the allegedly unfairly traded imported merchandise,<sup>10</sup> the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>11</sup> The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.<sup>12</sup>

---

<sup>4</sup> 19 U.S.C. § 1677(4)(A).

<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(10).

<sup>7</sup> See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>8</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>9</sup> Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

<sup>10</sup> See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421 at 9 (Fed. Cir. April 25, 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

<sup>11</sup> Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

<sup>12</sup> Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1990).  
(continued...)

## **B. Product Description**

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

all grades of aqueous, acidic (non-neutralized) concentrations of 1-hydroxyethylidene-1, 1-diphosphonic acid, also referred to as hydroxyethylidenediphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The CAS (Chemical Abstract Service) registry number for HEDP is 2809-21-4. The merchandise subject to these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2931.00.9043. It may also enter under HTSUS subheading 2811.19.6090. While HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of these investigations is dispositive.<sup>13</sup>

## **C. Analysis and Conclusion**

Compass asks the Commission to define a single domestic like product, consisting of all HEDP consistent with the scope. No party objects to the Petitioner's proposed definition. We considered whether the domestic like product should be expanded to include chemical products similar to HEDP. As we explain below, we define the domestic like product as all HEDP, coextensive with the scope of these investigations.

*Physical Characteristics and Uses.* HEDP belongs to a class of chemicals known as phosphonates, which are added to water to increase the solubility of certain ions and to inhibit the precipitation of certain mineral compounds. Other phosphonates include ATMP and other AMPs (aminomethylenephosphonates), as well as PBTC (2-Phosphabutane-1, 2, 4-tricarboxylic acid). A second group of chemicals, known as polyphosphates, has similar uses. As "chelating agents," certain phosphonates and polyphosphates are used to treat water systems by inactivating metal ions in the water.<sup>14</sup> The polyphosphates include SHMP (sodium hexametaphosphate).<sup>15</sup>

HEDP possesses a unique chemical formula and physical properties. It is water-soluble, white or pale yellow in color, has a chloride level of less than 0.1 percent, and is generally sold commercially in a 60-percent aqueous solution. With respect to similar products, while PBTC and all AMPs are liquid like HEDP, polyphosphates are generally solids. ATMP contains almost 1 percent chloride, and other AMPs contain as much as 15 percent, whereas HEDP, PBTC, and the polyphosphates contain less than 0.1 percent chloride. While HEDP and PBTC are nearly colorless and are chlorine stable, AMPs are amber and darker in color and polyphosphates are generally white solids, and neither AMPs nor polyphosphates are chlorine (or hypochlorite, i.e., bleach) stable.<sup>16</sup>

In addition to differences in physical and chemical properties, the other phosphonates and polyphosphates differ from HEDP with respect to use. Among these products, only HEDP is suitable for

---

<sup>12</sup> (...continued)

Int'l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

<sup>13</sup> 73 Fed. Reg. 20023 (April 14, 2008).

<sup>14</sup> Confidential Report ("CR") at I-6, Public Report ("PR") at I-4-5.

<sup>15</sup> CR at I-6-8, PR at I-4-6; Petition at 3-6.

<sup>16</sup> Petition at 22-24.

all the following uses: industrial water treatment, such as cooling and boiler water treatment, to prevent the formation of scales that can foul heat transfer surfaces; in municipal water systems, to prevent the precipitation of iron and manganese oxides from turning the water red or black; to inhibit scale in desalination; in swimming pool applications, for stain and scale control; in industrial and institutional detergents and cleansers and personal care products; and for peroxide bleach stabilization. Due to its hydrolytic stability and ability as a scale inhibitor, HEDP is preferred over polyphosphates, such as SHMP, in industrial water treatment. Among the phosphonates, PBTC and other AMPs cannot be used in boiler water treatment, PBTC cannot be used in desalination and for peroxide stabilization, and, according to Petitioner, HEDP is the only phosphonate used in municipal water treatment and for personal care products, specifically bar soap preservation.<sup>17</sup>

*Interchangeability.* All HEDP is inherently technical grade, meaning there is no food grade. All domestically produced HEDP is certified by the National Sanitation Foundation (“NSF”) under its Standard 60 as a potable or drinking water additive, based on the product’s purity and its manufacturing process.<sup>18</sup> As indicated above, different physical and chemical properties limit the interchangeability of HEDP with the polyphosphates and other phosphonates. For example, polyphosphates do not possess hydrolytic stability or chlorine stability and degrade under many of the high temperature conditions in which phosphonates are used. Because of its instability in the presence of chlorine, its darker color, and its higher chlorine level, ATMP is not completely interchangeable with HEDP. Other AMPs are not fully interchangeable with HEDP as calcium carbonate scale inhibitors because of their sensitivity to chlorine, higher level of chlorides, and darker color. According to Petitioner, there are no real substitutes for HEDP in municipal water treatment, swimming pool stain and scale control and as a bar soap preservative.<sup>19</sup>

*Channels of distribution.* HEDP and the other phosphonates, as well as polyphosphates, are all sold in the same channels of distribution: to distributors or resellers; to compounders or formulators who blend the chemical product with other components to form a complete treatment system; and occasionally to end users. Distributors and compounders both buy in bulk tank truck quantities or in truckload drum quantities. End-users generally buy directly from producers when they have a bulk requirement.<sup>20</sup>

*Common Manufacturing Facilities, Production Processes, and Production Employees.* HEDP is generally manufactured in glass-lined reactors, using as the raw material either phosphorus acid or phosphorus trichloride. Both processes generate acetic acid as the co-product.<sup>21</sup> Compass uses the same production employees to make both HEDP and ATMP, but the equipment is generally dedicated to the manufacture of HEDP, which employs a two-reactor system, whereas other phosphonates require only one reactor.<sup>22</sup>

*Producer/Customer Perceptions.* Producers and customers generally perceive HEDP as having distinct physical, chemical, and functional properties such that polyphosphates, ATMP and other AMPs

---

<sup>17</sup> Petition at 6-7, 22-24.

<sup>18</sup> Petition at 5.

<sup>19</sup> CR at II-6, PR at II-4; Petition at 22-24.

<sup>20</sup> CR at I-9-11, PR at I-7; Petition at 25.

<sup>21</sup> CR at I-8-9, PR at I-6-7.

<sup>22</sup> Petition at 26-27.

and phosphonates are not viable substitutes. Customers select HEDP for its performance or cost-performance advantages over other phosphonates and polyphosphates.<sup>23</sup>

*Price.* There are price differences between HEDP and the other phosphonates and polyphosphates due to differences in the manufacturing process and the cost of raw materials. For example, PBTC is more expensive to manufacture because of higher cycle times and raw material costs; therefore, its selling price is higher than that for HEDP.<sup>24</sup>

Thus, the evidence supports defining the like product as HEDP, coextensive with the scope. While other phosphonates and polyphosphates can be used in some of the same applications as HEDP, overlap in end uses is limited because of HEDP's unique chemical, physical, and functional properties. None of these products can be used in all of the applications in which HEDP is used. The general perception among customers, as well as producers, is that the products are not generally interchangeable. While ATMP is made using the same employees as HEDP, the reactor equipment is dedicated to the manufacture of HEDP alone. Differences in the manufacturing processes and raw materials used result in differences in the prices of HEDP as compared to the other products. While HEDP generally moves in the same channels of distribution as the other phosphonates and polyphosphates, this factor alone does not warrant expanding the like product.

In light of these facts and in the absence of any contrary arguments, we define the domestic like product as coextensive with the scope and consisting of all HEDP.

#### **IV. DOMESTIC INDUSTRY**

The domestic industry is defined 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.”<sup>25</sup> 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.<sup>26</sup>

##### **A. Domestic Producers**

The evidence gathered in this preliminary phase indicates that Compass is currently the sole domestic producer of HEDP. In July 2006, Compass acquired its HEDP manufacturing facility in Smyrna, Georgia, from Lynx Chemical Group, which is no longer in business. From 2005 through June 2006, Lynx was the sole U.S. producer of HEDP, and \*\*\*.<sup>27</sup> Given our definition of the domestic like product as HEDP, we find that the domestic industry includes all domestic producers of HEDP during the period examined.<sup>28</sup>

---

<sup>23</sup> CR at II-6, PR at II-4; Petition at 25-26.

<sup>24</sup> Petition at 27.

<sup>25</sup> 19 U.S.C. § 1677(4)(A).

<sup>26</sup> 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).

<sup>27</sup> CR at III-4-5, PR at III-2-3.

<sup>28</sup> Because Compass's acquisition of the HEDP facility occurred in July 2006, staff included in the period examined not only data for full years 2005, 2006, and 2007, but also for the periods July-December 2006 and July-December 2007.

## **B. Related Parties**

The related parties provision of the statute requires the Commission to determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 19 U.S.C. § 1677(4)(B). That provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.<sup>29</sup> Applying the provision involves two steps. First, the Commission must determine whether a domestic producer meets the definition of a related party.<sup>30</sup> Second, if a producer is a related party, the Commission may exclude it from the domestic industry if “appropriate circumstances” exist.<sup>31</sup>

Compass meets the definition of a related party, but no party argues that appropriate circumstances exist for its exclusion under the related parties provision. In 2007, Compass merged with Cathay Pigments USA, Inc., to form Cathay Industries (USA), which is a wholly-owned subsidiary of Cathay Pigments (Holdings) Ltd. (“Cathay”). Compass’s parent also owns \*\*\*. Compass is therefore affiliated with a Chinese exporter of HEDP through its parent, Cathay.<sup>32</sup> In addition, Compass, which was solely an importer of HEDP before it acquired the Smyrna, Georgia, facility, continued to import HEDP from China even after it acquired the facility and began domestic production of HEDP.

---

<sup>29</sup> 19 U.S.C. § 1677(4)(B).

<sup>30</sup> The statute defines related parties in terms of direct or indirect control:

### (B) RELATED PARTIES. –

(i) If a producer of a domestic like product and an exporter or importer of the subject merchandise are related parties, or if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.

19 U.S.C. § 1677(4)(B). A producer and an exporter or importer shall be considered to be related parties if the producer directly or indirectly controls the exporter or importer, the exporter or importer directly or indirectly controls the producer, a third party directly or indirectly controls the producer and the exporter or importer, or the producer and the exporter or importer directly or indirectly control a third party. 19 U.S.C. § 1677(4)(B)(ii). Direct or indirect control exists when “the party is legally or operationally in a position to exercise restraint or direction over the other party.” 19 U.S.C. § 1677(4)(B).

<sup>31</sup> 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and
- (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int’l Trade 1992), aff’d mem., 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Open-End Spun Rayon Singles Yarn from Austria, Inv. No. 731-TA-751 (Prelim.), USITC Pub. 2999 at 7 n.39 (Oct. 1996). These latter two considerations were cited as appropriate factors as well in Allied Mineral Products, Inc. v. United States, Slip Op. 04-139 at 6 (Ct. Int’l Trade Nov. 12, 2004).

<sup>32</sup> CR/PR at Table III-1, CR at III-4, PR at III-3.

Compass's status as an importer of subject product and arguably its affiliation with a Chinese exporter of HEDP make it a related party under the statute.

Despite importing \*\*\* quantities of subject merchandise, Compass's primary interest has shifted to domestic production. Compass began domestic production in the second half of 2006 and increased its domestic production from \*\*\* pounds in 2006 to \*\*\* pounds in 2007.<sup>33</sup> Meanwhile, Compass's imports of subject merchandise fell from \*\*\* pounds in 2006 to \*\*\* pounds in 2007, and it reportedly ceased importing subject merchandise in the first quarter of 2008.<sup>34</sup> The ratio of Compass's subject imports to its U.S. production fell from \*\*\* percent in 2006 to \*\*\* percent in 2007, consistent with Compass's shift in focus from imports to U.S. production.<sup>35</sup> Compass reported that it continued to import because the \*\*\*.<sup>36</sup> Compass asserts, however, that its goal in acquiring the Lynx facility was to supply its customers with domestic product rather than imports.<sup>37</sup> While Compass's imports from China decreased by \*\*\* percent in 2007, imports from China by all other importers increased by \*\*\* percent over the same period.<sup>38</sup>

In these investigations, although Compass's subject imports during the period were considerable, they did decline, and Compass most recently has reportedly ceased all imports and appears committed to its domestic production, having invested in excess of \$2 million in capital improvements at its plant site.<sup>39</sup> Moreover, where the sole domestic producer is also a related party, the Commission previously has found that appropriate circumstances do not exist to exclude that producer (essentially leaving no domestic industry) under the related parties provision.<sup>40</sup>

We therefore find that the domestic industry consists of all U.S. producers of HEDP, with Compass and its predecessor being the sole domestic producer during the period examined, and do not find it appropriate to exclude any producer under the related parties provision.

---

<sup>33</sup> CR/PR at Table III-5.

<sup>34</sup> CR/PR at Table III-5; Conference Tr. at 23. Compass also purchased a \*\*\* amount of subject imports in 2007 (\*\*\* pounds), reportedly \*\*\*. CR at III-11, PR at III-4.

<sup>35</sup> CR/PR at Table III-5.

<sup>36</sup> Compass's Importer's Questionnaire Response at II-4.

<sup>37</sup> Conference Tr. at 21.

<sup>38</sup> CR at IV-6-7, PR at IV-4, CR/PR at Table IV-3.

<sup>39</sup> CR at III-4, n.7, PR at III-2, n.7; Conference Tr. at 21-22.

<sup>40</sup> See Tetrahydrofurfuryl Alcohol from China, Inv. No. 731-TA-1046 (Preliminary), USITC Pub. 3620 (August 2003) at n.20 ("As it has been the sole domestic producer throughout the POI, however, appropriate circumstances do not exist to exclude it from the domestic industry."). See also, Industrial Nitrocellulose from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia, Inv. Nos. 731-TA-96 and 439-445 (Review), USITC Pub. 3342 (August 2000) at 8 (sole domestic producer not excluded); Drafting Machines from Japan, Inv. No. 731-TA-432 (Review), USITC Pub. 3252 (November 1999) at 5.

## V. CUMULATION<sup>41</sup>

### 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 cumulate subject imports 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 the domestic like product in the U.S. market.<sup>42</sup> In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including by reference to specific customer requirements and other quality-related questions;
- (2) the presence of sales or offers to sell subject imports from different countries and the domestic like product in the same geographic markets;
- (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 and domestic like product are simultaneously present in the market.<sup>43</sup>

Although no single factor is necessarily determinative, and the list of factors is not exhaustive, these factors are intended to provide the Commission with a framework for determining whether the

---

<sup>41</sup> Pursuant to Section 771(24) of the Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than three 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. 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i)(i). For purposes of deciding negligibility, the Commission is authorized to make “reasonable estimates on the basis of available statistics” of pertinent import levels. 19 U.S.C. § 1677(24)(C); see also The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 186 (1994) (“SAA”).

No party argued that subject imports from China or India are negligible. Petitioner asserted that the only other source of imports of HEDP into the U.S. market during the period examined was the United Kingdom, and the evidence gathered in this preliminary phase does not indicate other sources of non-subject imports. CR at IV-3, n.4, PR at IV-1, n.4.

Because the HTS subheadings for HEDP also include non-subject merchandise, staff relied on importer questionnaire data for the import statistics presented in the staff report. These data indicate that in 2007, the most recent 12-month period preceding the filing of the petition for which data were available, subject imports from China accounted for \*\*\* percent of total HEDP imports and subject imports from India accounted for \*\*\* percent of total HEDP imports. CR at IV-8, PR at IV-4. Clearly, then, subject imports from each country were well above the three percent negligibility threshold under the statute, and we find that subject imports from China and India are not negligible.

<sup>42</sup> 19 U.S.C. § 1677(7)(G)(i).

<sup>43</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).



subject imports compete with each other and with the domestic like product.<sup>44</sup> <sup>45</sup> Only a “reasonable overlap” of competition is required.<sup>46</sup>

## **B. Parties’ Arguments**

*Petitioner.* Compass argues for cumulation of subject imports from China and India. With respect to fungibility, Compass characterizes HEDP as a commodity product, not a “specialty chemical.” It argues that importer questionnaire responses all indicated that the Chinese and Indian products are “sometimes,” “frequently,” or “always” interchangeable. Petitioner urges the Commission to reject the Indian Respondents’ argument that the NSF certification of the Indian product limits its competition with the Chinese product, pointing out that one of the \*\*\* Chinese producers, Wujin Fine Chemical Factory, is NSF-certified; the percentage of the U.S. market that requires NSF-certified product is relatively small, estimated to range from 5 to 20 percent; and not all imports from India are NSF-certified.<sup>47</sup> With respect to the other cumulation factors, Compass argues that the subject imports were simultaneously present in the U.S. market; the channels of distribution are similar in that the majority of domestically produced HEDP and of subject imports from both countries was sold to compounders in 2007; and there is overlap in geographic markets for the subject imports and the domestic product.<sup>48</sup>

*Chinese Respondents.* The Chinese Respondents argue that cumulation is appropriate and point out that Aquapharm is the only Indian producer that is NSF-certified, that other Indian producers sell HEDP into the U.S. market, and that at least one Chinese producer has become NSF-certified.<sup>49</sup>

*Indian Respondents.* Indian Respondents argue against cumulation on the basis that the majority of HEDP imported into the U.S. market from India is NSF-certified, whereas subject imports from China generally are not NSF-certified. They state that Indian exporter Aquapharm, which accounted for \*\*\* of all HEDP exported from India in 2007, sells 80 percent of its U.S. exports to Buckman Laboratories, which only purchases NSF-certified product. Only NSF-certified HEDP can be used in swimming pool and spa applications, as well as in desalination. According to Indian Respondents, NSF certification of an HEDP plant takes about six months, including the submission to NSF authorities in the United States of samples for testing and an on-site inspection by U.S. officials of the plant abroad. NSF-certified HEDP is “of high quality with only low trace minerals.” Because most Chinese HEDP does not meet the quality levels necessary to obtain NSF certification, it is not interchangeable with Indian HEDP for those customers who require NSF certification. Regardless of the size of the U.S. market requiring NSF

---

<sup>44</sup> See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>45</sup> Commissioner Lane notes that, with respect to fungibility, her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required and that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

<sup>46</sup> The SAA 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); Goss Graphic Systems, 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”); Wieland, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

<sup>47</sup> Petitioner’s Postconference Brief at 10-13.

<sup>48</sup> Petitioner’s Postconference Brief at 8-10.

<sup>49</sup> Chinese Respondents’ Postconference Brief at 8-10.

certification, which is estimated to range from 5 to 20 percent, Indian product is concentrated in this market sector, in which Chinese product does not compete, according to the Indian Respondents.<sup>50</sup>

### **C. Analysis**

In these investigations, the threshold criterion is satisfied because the antidumping duty petition with respect to both of the subject countries was filed on the same day. None of the cumulation exceptions apply.<sup>51</sup> Subject imports from China and India thus are eligible for cumulation. We consequently examine whether there is a reasonable overlap of competition between subject imports from China and India, as well as between subject imports and the domestic like product.

#### **1. Fungibility**

While HEDP, as described above, has a variety of applications, its physical and chemical properties are distinct and do not change according to end use. All HEDP is inherently technical grade, meaning there is no food grade.<sup>52</sup> All domestically produced HEDP is NSF-certified as a potable or drinking water additive, based on the product's purity and its manufacturing process. The largest Indian producer and exporter to the United States, Aquapharm, and one of the \*\*\* Chinese producers, Wujin Fine Chemical Factory, are also NSF-certified.<sup>53</sup> While NSF-certified HEDP may be considered of higher quality, fully traceable, and with fewer impurities, and may be required by certain customers, the portion of the market requiring NSF certification is estimated at only 5 to 20 percent.<sup>54</sup> The Petitioner characterizes HEDP generally as a commodity chemical, noting that NSF-certified product is sold for all applications.<sup>55</sup> Importer questionnaire responses all indicated that the Chinese and Indian product are "sometimes," "frequently," or "always" interchangeable and that the U.S. product is "frequently" or "always" interchangeable with the Indian product and "sometimes," "frequently," or "always" interchangeable with the Chinese product.<sup>56</sup> Buckman, a compounder, and Zibex, a distributor, testified that they purchase both U.S. and Indian product, indicating that the two are interchangeable.<sup>57</sup> In addition, Compass indicated that it often commingles its domestic production with its imports from China and that certain customers are indifferent as to the country of origin of the HEDP they purchase.<sup>58</sup>

Despite the higher proportion of subject imports from India that are NSF-certified, the subject imports from each country appear to be relatively interchangeable with each other and the domestic like product. HEDP is all technical grade, and the portion of the market requiring NSF certification is relatively small. Moreover, NSF-certified product can be used in all applications and is not limited to uses involving potable water, such as municipal water systems, spas and swimming pools. Thus, there

---

<sup>50</sup> Indian Respondents' Postconference Brief at 6-9.

<sup>51</sup> See 19 U.S.C. § 1677(7)(G)(ii).

<sup>52</sup> CR at I-9, PR at I-7; Petition at 5.

<sup>53</sup> CR at 1-10-11, II-8, PR at I-7, II-5, CR/PR at Table VII-1.

<sup>54</sup> Conference Tr. at 32, 106.

<sup>55</sup> Conference Tr. at 143.

<sup>56</sup> CR/PR at Table II-1.

<sup>57</sup> Conference Tr. at 90, 106.

<sup>58</sup> Conference Tr. at 43.

appears to be a reasonable degree of fungibility among the subject imports from each country and the domestic like product.

## **2. Geographic Overlap**

The record indicates that in 2007, most of the U.S. product (\*\*\* percent) was shipped to the Midwest, followed by \*\*\* percent to the Northeast, \*\*\* percent to the Southeast, \*\*\* percent to the Central Southwest, and \*\*\* percent) to the Pacific Coast.<sup>59</sup> These proportions vary somewhat for the subject imports, due to factors such as transportation costs, with a higher percentage of certain imports being shipped to the Pacific Coast, for example. Although the proportions differ, however, subject imports generally serve many of the same geographic markets as the U.S. product. In 2007, the largest single share of subject imports from China (\*\*\* percent) was shipped to the Midwest, followed by \*\*\* percent to the Pacific Coast, \*\*\* percent to the Northeast, \*\*\* percent to the Southeast, \*\*\* percent to the Central Southwest, and \*\*\* percent to the Mountain States. For imports from India, \*\*\* percent was shipped to the Southeast, \*\*\* percent to the Central Southwest, \*\*\* percent to the Midwest, and \*\*\* percent to the Northeast.<sup>60</sup> While these data indicate a somewhat limited geographic overlap between subject imports from China and India with respect to current sales, the Indian Respondents have also acknowledged offers to sell during the period to customers in diverse geographic regions.<sup>61</sup> On balance, therefore, the record indicates a reasonable degree of geographic overlap among the subject imports from each country and the domestic product.

## **3. Channels of Distribution**

Both domestic and imported HEDP are sold \*\*\* to distributors and to compounders or formulators, who blend HEDP with other components and sell it to an end user, such as an oil refinery or a steel producer. A \*\*\* proportion of HEDP is sold directly to end users, such as electric utilities.<sup>62</sup> According to questionnaire responses, the U.S. producer shipped \*\*\* HEDP to end users in 2007, and its shipments to compounders increased from \*\*\* percent of U.S. shipments in 2005 to \*\*\* percent in 2007, with \*\*\* to distributors in each year of the period examined. For subject imports from China, shipments to compounders decreased from \*\*\* percent of U.S. shipments in 2005 to \*\*\* percent in 2007, and shipments to distributors increased from \*\*\* percent in 2005 to \*\*\* percent in 2007, with the remainder to end users. For subject imports from India, shipments to compounders decreased from \*\*\* percent of U.S. shipments in 2005 to \*\*\* percent in 2007, and shipments to distributors increased from \*\*\* percent in 2005 to \*\*\* percent in 2006, and then fell to \*\*\* percent in 2007.<sup>63</sup> The record thus indicates a reasonable overlap in the channels of distribution for subject imports from China and India and the domestic like product.

---

<sup>59</sup> U.S. Producer's Questionnaire Response at IV-11.

<sup>60</sup> CR/PR at Table IV-4.

<sup>61</sup> Indian Respondents' Postconference Brief at 5, Ex. 2.

<sup>62</sup> CR/PR at II-1, Table I-3; Conference Tr. at 80-81.

<sup>63</sup> CR/PR at II-1.

#### 4. Simultaneous Presence

The record indicates that domestic shipments of HEDP, as well as HEDP produced in China and India, were present in the U.S. market throughout the period for which data were collected.<sup>64</sup>

#### 5. Conclusion

For all of the above reasons, we conclude that there is a reasonable overlap of competition between subject imports from China and India and between subject imports from both countries and the domestic like product. We therefore cumulatively assess the volume and effects of subject imports for purposes of determining whether there is a reasonable indication of material injury to the domestic industry by reason of subject imports.

### VI. **REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS OF HEDP FROM CHINA AND INDIA**

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.<sup>65</sup> In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>66</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>67</sup> In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>68</sup> 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.”<sup>69</sup> For the reasons stated below, we determine that there is a reasonable indication that the domestic industry producing HEDP is materially injured by reason of subject imports from China and India.

---

<sup>64</sup> CR/PR at Table C-1.

<sup>65</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

<sup>66</sup> 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 ... {and} explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B); see also, e.g., Angus Chem. Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

<sup>67</sup> 19 U.S.C. § 1677(7)(A).

<sup>68</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>69</sup> 19 U.S.C. § 1677(7)(C)(iii).

## A. Conditions of Competition and the Business Cycle

The following conditions of competition<sup>70</sup> inform our analysis of whether there is a reasonable indication of material injury by reason of the subject imports.

### 1. Product Considerations

All HEDP is considered technical grade, and there is no food grade.<sup>71</sup> Compass asserts that HEDP is a commodity product,<sup>72</sup> with subject imports and the domestic like product competing mostly on the basis of price. Indian producer Aquapharm characterizes the HEDP it produces, which is all NSF-certified, as a “semi-specialty product.” It notes that it seeks to accommodate its customers’ special needs, providing them logistical, analytical, and applications support for the HEDP they purchase.<sup>73</sup>

Some customers consider HEDP produced in an NSF-certified plant to be of higher quality, with lower trace elements than non-certified HEDP. As noted above, Compass’s production and that of Indian producer Aquapharm and of Chinese producer Wujin Fine Chemical Factory are all NSF-certified.<sup>74</sup> Compass argues that no single chemical product can substitute for HEDP in all of its end uses.<sup>75</sup> Respondents and importers indicated that there are at least some substitutes for HEDP.<sup>76</sup>

The reported share of the total cost of end products accounted for by HEDP is generally low for most products, ranging from 20 to 25 percent for typical applications, such as water treatment and desalination, but accounting for as much as 100 percent for \*\*\*.<sup>77</sup>

### 2. Demand Considerations

As described above, HEDP can be used for several applications, and HEDP demand thus varies according to the demand for these end-use products. Apparent U.S. consumption of HEDP increased

---

<sup>70</sup> The applicability of the captive production provision, which requires the Commission to focus its analysis primarily on the merchant market, 19 U.S.C. § 1677(7)(C)(iv), does not appear to be an issue in these investigations, even though the domestic producer internally consumes some of the HEDP it produces. It does not appear that the threshold criterion of the statute is satisfied here. That criterion requires that “domestic producers internally transfer *significant* production of the domestic like product for the production of a downstream article,” in addition to selling significant production of the domestic like product in the merchant market. 19 U.S.C. § 1677(7)(C)(iv) (emphasis added). In this case, the domestic producer’s internal consumption of HEDP, as a percentage of its total production, ranged from \*\*\* percent in 2005 to \*\*\* percent in 2006 and \*\*\* percent in 2007. See CR/PR at Tables III-2, III-3, n.1. Given the insignificant percentage of HEDP that is internally consumed by the domestic producer, we find the threshold criterion is not met and the captive production provision is therefore not applicable. See, e.g., DRAMs and DRAM Modules from Korea, Inv. No. 701-TA-431 (Preliminary), USITC Pub. 3569 (December 2002) at 14, n.73 (captive production provision not applicable where threshold criterion not met).

<sup>71</sup> CR at I-9, PR at I-7.

<sup>72</sup> Conference Tr. at 143.

<sup>73</sup> Conference Tr. at 86-87.

<sup>74</sup> CR at II-8, PR at II-5.

<sup>75</sup> CR at II-6, PR at II-4; Petition at 22-24.

<sup>76</sup> CR at II-6, PR at II-4.

<sup>77</sup> CR at II-6-7, PR at II-4; Conference Tr. at 53-54, 115-116; \*\*\*.

overall during the period examined in this preliminary phase from \*\*\* pounds in 2005 to \*\*\* pounds in 2007.<sup>78</sup> Compass characterized HEDP as a growth product, with applications such as desalination, municipal water treatment, and swimming pool use expected to continue to drive growth in demand.<sup>79</sup>

Five of ten importers responding to the Commission's questionnaires said demand in the United States has not changed since 2005, while two importers said it had increased, two said it had fluctuated, and one said it had decreased. The U.S. producer and the importers generally agreed that demand outside the United States has increased since 2005.<sup>80</sup>

The Chinese Respondents assert that the availability of HEDP is more important to purchasers than price and that there is a "real question" whether the domestic industry can supply all U.S. demand. They further note that customers want to have alternate sources in the event of supply disruptions due to plant shutdowns because of chemical spills or explosions, adverse weather conditions, and normal work stoppages.<sup>81</sup>

The Indian Respondents emphasize the importance of long-term relationships between customers and suppliers of HEDP. Purchasers of both Indian and U.S. product testified that they value the product being delivered when needed and with the necessary technical support.<sup>82</sup>

We will explore further in any final phase of these investigations the importance of non-price factors, such as availability and reliability of supply, technical support, and long-term relationships, in purchasing decisions.

### **3. Supply Considerations**

There are three sources of supply in the U.S. market: imports of subject merchandise from China and India, non-subject imports from the United Kingdom, and domestically produced HEDP. U.S. producers' share of the quantity and value of apparent U.S. consumption of HEDP decreased overall from 2005 to 2007, while the market share held by subject imports from China and India both increased overall in terms of quantity and value. The domestic industry's market share by quantity was \*\*\* percent in 2005, \*\*\* percent in 2006, and \*\*\* percent in 2007. The market share of subject imports from China by quantity was \*\*\* percent in 2005, \*\*\* percent in 2006, and \*\*\* percent in 2007. The market share of subject imports from India by quantity was \*\*\* percent in 2005, \*\*\* percent in 2006, and \*\*\* percent in 2007. Throughout the period for which data were collected, non-subject imports from the United Kingdom accounted for a substantial share of the U.S. market, at \*\*\* percent by quantity in 2005, \*\*\* percent in 2006, and \*\*\* percent in 2007.<sup>83</sup>

#### **a. The Domestic Producer/Importer**

Compass is the only known current producer of HEDP in the United States. Compass acquired its HEDP manufacturing plant in Smyrna, Georgia, in July 2006 from Lynx Chemical Group, which is no

---

<sup>78</sup> CR/PR at Table C-1.

<sup>79</sup> Conference Tr. at 39 (Failon).

<sup>80</sup> CR at II-5, PR at II-3-4.

<sup>81</sup> Chinese Respondents' Postconference Brief at 2-5.

<sup>82</sup> Conference Tr. at 129-130; Indian Respondents' Postconference Brief at 2, 3-4.

<sup>83</sup> CR/PR at Tables IV-6, C-1.

longer in business. Lynx owned and operated the plant from 2004 through June 2006, when it manufactured HEDP under an agreement with \*\*\*.<sup>84</sup> Although \*\*\*, \*\*\*,<sup>85</sup>

From 2005 through June 2006, when Lynx owned and operated the only HEDP production facility in the United States, Compass was solely an importer of HEDP, and it continued to import after it became a U.S. producer in July 2006.<sup>86</sup> Compass accounted for \*\*\* percent of the quantity of HEDP imported from China in 2005, \*\*\* percent in 2006, and \*\*\* percent in 2007.<sup>87</sup> Subject imports by Compass increased by \*\*\* percent from 2005 to 2006. After it acquired the Smyrna, Georgia, facility, its imports decreased as it increased its domestic production. Between 2006 and 2007, Compass reduced its subject imports from China by \*\*\* percent.<sup>88</sup> As noted earlier, Compass reported no subject imports of HEDP by the end of the first quarter of 2008.<sup>89</sup>

Compass asserts that it desires solely to manufacture HEDP in the United States and to cease importing product from China but cannot cut costs deeply enough to meet the price levels of the dumped imports, particularly for business on the West Coast, where imports are “prevalent” and the delivered costs of the domestic like product are the highest. According to Petitioner, “there is a significant value associated with having a domestic supply of HEDP, i.e., to help meet the growing U.S. demand for industrial and drinking water.”<sup>90 91</sup>

#### **b. Foreign Producers**

The record indicates that Aquapharm, the \*\*\* producer of HEDP in India, accounted for \*\*\* percent of Indian production and \*\*\* percent of imports from India to the United States in 2007. Indian producer Excel Industries Ltd. accounted for most of the remaining exports to the United States from India during the period examined.<sup>92</sup> Aquapharm reported that \*\*\* percent of its total shipments of HEDP in 2007 were to the United States. These shipments were to only two customers, Buckman, a compounder and distributor, and Zibex, a distributor. Aquapharm stated that it had increased its HEDP production capacity over the period in order to meet demand in the European Union and planned to expand its capacity from \*\*\* pounds in 2007 to \*\*\* pounds in 2009 in anticipation of growth in its sales to \*\*\*.<sup>93</sup>

---

<sup>84</sup> CR at III-4-5, n.15, PR at III-2-3, n.15.

<sup>85</sup> CR/PR at IV-1, Tables III-1, n.2, IV-1, n.6.

<sup>86</sup> CR/PR at IV-1.

<sup>87</sup> CR/PR at IV-1.

<sup>88</sup> CR at IV-6-7, PR at IV-4.

<sup>89</sup> Conference Tr. at 23.

<sup>90</sup> Petition at 21. In any final phase investigation, we intend to seek additional information on Compass’s acquisition of the Smyrna facility, including its business plan associated with the purchase of the facility.

<sup>91</sup> The Chinese Respondents assert that, when Compass was solely importing and not producing HEDP, it drove out all the other U.S. producers, destabilized the market, and, with a monopoly on U.S. production, now seeks to limit competition from imports. Chinese Respondents’ Postconference Brief at 2-3.

<sup>92</sup> CR at IV-1, VII-6, PR at IV-1, VII-5.

<sup>93</sup> CR at VII-6-8, PR at VII-5, CR/PR at Table VII-3.

The Commission received questionnaire responses from four Chinese producers, estimated to account for \*\*\* percent of Chinese HEDP production and \*\*\* percent of exports to the United States from China in 2007. Chinese capacity increased by 37.6 percent from 2005 through 2007, and Chinese production increased by 36.0 percent.<sup>94</sup>

The only known non-subject source of HEDP imports during the period examined was the United Kingdom. Imports from the United Kingdom by quantity were \*\*\* pounds in 2005, \*\*\* pounds in 2006, and \*\*\* pounds in 2007.<sup>95</sup> Solutia accounted for \*\*\* percent of imports from the United Kingdom in 2007 and reported \*\*\*.<sup>96</sup> Rhodia, which imports HEDP from \*\*\*, accounted for \*\*\* percent of imports from the United Kingdom in 2005, \*\*\* percent in 2006, and \*\*\* percent in 2007.<sup>97</sup> As noted, from 2005 through June 2006, when Lynx operated the Smyrna, Georgia, HEDP facility, Rhodia marketed Lynx's U.S. production in the United States.

#### **4. Raw Materials**

The primary raw materials used to manufacture HEDP are acetic anhydride and either phosphorus acid or phosphorus trichloride.<sup>98</sup> Compass currently uses phosphorus acid, which it imports from \*\*\* China. Phosphorus acid is less hazardous and therefore environmentally superior to phosphorus trichloride.<sup>99</sup> When Lynx ran the Smyrna, Georgia, plant, it used phosphorus trichloride supplied by Rhodia,<sup>100</sup> but Compass stated that it switched to phosphorus acid in 2007 because \*\*\*.<sup>101</sup>

Petitioner reports that the cost of raw materials used in HEDP production increased by \*\*\* percent from 2005 through 2007.<sup>102</sup> The domestic industry's per unit cost of goods sold, however, which reflects raw material, direct labor, and other factory costs, less HEDP by-product revenue, decreased from 2005 to 2007 and was also lower in 2007 as compared to July-December 2006.<sup>103</sup> We will seek more information in any final phase investigation on how the switch to phosphorus acid as a raw material has affected Compass's operating results.

#### **5. Purchasing Practices**

Suppliers of HEDP indicated that they use a variety of methods to determine the prices they charge for HEDP, including transaction-by-transaction negotiations, set price lists, contracts, and reverse

---

<sup>94</sup> CR at VII-2-4, PR at VII-2-3, CR/PR at Table VII-2.

<sup>95</sup> CR/PR at Table IV-2.

<sup>96</sup> CR/PR at IV-1; Importer's Questionnaire Response of \*\*\*.

<sup>97</sup> CR/PR at IV-1.

<sup>98</sup> CR at VI-4-5, PR at VI-1-2.

<sup>99</sup> CR at III-5, n.15, PR at III-3, n.15.

<sup>100</sup> Conference Tr. at 62-67.

<sup>101</sup> CR at VI-2-5, PR at VI-1-2.

<sup>102</sup> CR/PR at V-1.

<sup>103</sup> CR/PR at Table VI-2. The domestic industry's reported raw material costs for Compass and its predecessor are not directly comparable in that \*\*\*. CR at VI-2-5, PR at VI-1-2.



auctions.<sup>104</sup> The majority of sales by both the U.S. producer and importers are made from inventory.<sup>105</sup> A large portion of HEDP sales in the U.S. market are made through short-term contracts and spot sales. Compass reported that \*\*\* percent of its HEDP sales are made on a short-term (\*\*\*) contract basis, and the rest are made by spot sales. Half of the importers responding to the Commission's questionnaires sell the vast majority of their HEDP on a spot sales basis, and the rest of the importers reported a mix of short-term (one-month to one-year) contract sales and spot sales.<sup>106</sup> We will explore further in any final investigation how the prices of HEDP are negotiated in the U.S. market.

## **B. Cumulated 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."<sup>107</sup> For purposes of the preliminary phase of these investigations, we find that the cumulated subject import volume was significant during the period examined, both in absolute terms and relative to consumption and production in the United States.

In absolute terms, the volume of cumulated subject imports increased during the period from 5.4 million pounds in 2005 to 8.5 million pounds in 2007.<sup>108</sup> U.S. shipments of cumulated subject imports increased by 37.5 percent over the period.<sup>109</sup> The absolute volume of cumulated subject imports declined slightly from 2006 to 2007 from 8.8 million pounds to 8.5 million pounds, due to a decline in the volume of subject imports from China from \*\*\* pounds in 2006 to \*\*\* pounds in 2007.<sup>110</sup>

The share of apparent U.S. consumption held by the cumulated subject imports, by quantity, increased steadily by \*\*\* percentage points over the period, rising from \*\*\* percent in 2005 to \*\*\* percent in 2006 and \*\*\* percent in 2007. During this same period, which saw a rise in total apparent U.S. consumption of \*\*\* percent, the quantity of the U.S. producer's U.S. shipments increased by \*\*\* percent. Consistent with Compass's increase in its domestic production after acquiring the HEDP facility, the U.S. industry's market share by quantity was higher in 2007 (\*\*\*) percent) than in 2006 (\*\*\*) percent), but its market share declined overall from \*\*\* percent in 2005 to \*\*\* percent in 2007.<sup>111</sup> Relative to U.S. production, the volume of cumulated subject imports was equivalent to \*\*\* percent of domestic production in 2005, \*\*\* percent in 2006, and \*\*\* percent in 2007.<sup>112</sup>

From 2005 to 2007, non-subject imports, essentially all from the United Kingdom, were an important presence in the U.S. market, accounting for \*\*\* percent of the market in 2005, \*\*\* percent in

---

<sup>104</sup> CR at V-2, PR at V-1; Conference Tr. at 128 (Zibrida), 143 (McCaul).

<sup>105</sup> CR/PR at V-2.

<sup>106</sup> CR at V-4, PR at V-3.

<sup>107</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>108</sup> CR/PR at Table IV-2.

<sup>109</sup> CR/PR at Tables IV-5, C-1.

<sup>110</sup> CR/PR at Table IV-2. The drop in subject imports from China was \*\*\* attributable to Compass, which reduced its subject imports of Chinese product by \*\*\* percent from \*\*\* pounds in 2006 to \*\*\* pounds in 2007; subject imports from China by all other importers increased by \*\*\* percent from 2006 to 2007. CR/PR at Table IV-3, CR at IV-6-7, PR at IV-4.

<sup>111</sup> CR/PR at Tables IV-6, C-1.

<sup>112</sup> CR/PR at Table IV-7.

2006, and \*\*\* percent in 2007.<sup>113</sup> The absolute volume of imports from the United Kingdom was \*\*\* pounds in 2005, \*\*\* pounds in 2006, and \*\*\* pounds in 2007.<sup>114</sup> While \*\*\* in volume, non-subject imports fell in market share from 2005 to 2007, while the market share held by subject imports increased, as noted above.

Based on the above information, we find, for purposes of this preliminary phase, that the volume of cumulated subject imports was significant during the period examined, both in absolute terms and relative to consumption and production in the United States.

### **C. Price Effects of the Cumulated Subject Imports**

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of 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.<sup>115</sup>

A large portion of HEDP sales in the U.S. market, as noted, are made through short-term contracts and spot sales.<sup>116</sup> Compass characterizes HEDP as a commodity chemical.<sup>117</sup> The record in this preliminary phase indicates that price is a relatively important factor in purchasing decisions, although at least 80 percent of responding importers indicated that differences other than price between the U.S. product and subject imports were at least “sometimes” a significant factor in their sales of HEDP.<sup>118</sup> In addition, the availability of HEDP, long-term relationships with HEDP suppliers, and technical support appear to be important factors to some purchasers.<sup>119</sup> Customers also appear to value having alternate supply sources in case supply is disrupted due to chemical spills or explosions, adverse weather conditions, or normal work stoppages.<sup>120</sup> We intend to explore the importance of non-price factors in purchasing decisions in any final phase investigations.

In these investigations, two U.S. producers (\*\*\*), nine importers of HEDP from China (including \*\*\*), and two importers of product from India provided quarterly pricing data for four HEDP products: (1) HEDP sold in truckload drums to distributors; (2) HEDP sold in bulk tank truck to compounders; (3) HEDP sold in truckload drums to compounders; and (4) HEDP sold in less than truckload (LTL) drums to

---

<sup>113</sup> CR/PR at Tables IV-6, C-1.

<sup>114</sup> CR/PR at Table IV-2.

<sup>115</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>116</sup> CR at V-4, PR at V-3. Compass reported that \*\*\* percent of its HEDP sales are on a short-term (\*\*\*) contract basis and the rest are on a spot sales basis. Half of the importers responding to the Commission’s questionnaires sell the vast majority of their HEDP on a spot sales basis, and the rest of the importers reported a mix of short-term (one-month to one-year) contracts and spot sales. CR at V-4, PR at V-3.

<sup>117</sup> Petitioner’s Postconference Brief at 12.

<sup>118</sup> CR/PR at Table II-2, CR at II-8, PR at II-5.

<sup>119</sup> Chinese Respondents’ Postconference Brief at 3-5; Conference Tr. at 129-130; Indian Respondents’ Postconference Brief at 2, 3-4.

<sup>120</sup> Chinese Respondents’ Postconference Brief at 3-5.

compounders.<sup>121</sup> By quantity, pricing data reported by the responding firms accounted for about \*\*\* percent of the domestic industry's U.S. commercial shipments of HEDP, about \*\*\* percent of U.S. commercial shipments of subject imports from China, and about \*\*\* percent of U.S. commercial shipments of subject imports from India.<sup>122</sup>

Weighted average quarterly sales prices for the U.S.-produced products fluctuated during the period examined, with prices lower in the final quarter of the period than at the beginning for three of the four products. The exception was product 2, which represented the \*\*\* of U.S. product and whose weighted average sales price generally fluctuated downward until late 2007, when prices increased to levels higher than during the first quarter of the period examined.<sup>123</sup> The prices of the subject imports fluctuated over the period, with the prices for product 1 from \*\*\* being higher at the end of period, the prices for products 2 and 3 from \*\*\* being lower at the end of the period, and the prices for product 4 from \*\*\* being \*\*\* higher.<sup>124</sup>

The pricing data collected in the preliminary phase of these investigations showed mostly underselling by the subject imports. Subject imports undersold the domestic like product in 35 of 52 comparisons, with margins of underselling ranging from 0.9 percent to 60.0 percent. Subject imports from China undersold the domestic product in 27 of 40 comparisons, with margins ranging from 0.9 percent to 60.0 percent, and subject imports from India undersold the domestic product in 8 of 12 comparisons, with margins ranging from 12.1 percent to 51.5 percent.<sup>125</sup> For product 1, subject imports undersold the domestic product in all comparisons; for product 2, in 4 of 12 comparisons; for product 3, in 8 of 11 comparisons; and for product 4, in 14 of 20 comparisons.<sup>126</sup>

Respondents maintain that Compass itself is responsible in large part for any underselling and adverse price effects by subject imports that occurred during the period.<sup>127</sup> In evaluating that assertion, we note that if Compass's importer prices are excluded from the data for the entire period, subject imports from China undersold the U.S. product in \*\*\* of \*\*\* comparisons. If Compass's importer prices are removed only for the period July 2006 through December 2007, when Compass was also a U.S. producer, imports from China undersold the U.S. product in \*\*\* of \*\*\* comparisons.<sup>128</sup> (The instances of underselling by the Indian product remain the same.) Thus, the record indicates underselling regardless of whether Compass's importer data are included in the price comparisons. Given Compass's participation in the market as an importer of subject merchandise, however, we intend in any final investigations to examine more fully the extent to which Compass's importer prices affected prices in the U.S. market.<sup>129</sup>

Although the U.S. producer's prices generally declined over the period, there were some price increases. According to Compass, it was able to announce three price increases in 2007, for a total of

---

<sup>121</sup> CR at V-4-5, PR at V-3-4.

<sup>122</sup> CR at V-5, PR at V-4.

<sup>123</sup> CR/PR at Tables V-1 through V-5.

<sup>124</sup> CR/PR at Tables V-1 through V-5.

<sup>125</sup> CR/PR at Table V-6.

<sup>126</sup> CR/PR at Tables V-1 through V-4.

<sup>127</sup> Chinese Respondents' Postconference Brief at 2-3; Indian Respondents' Postconference Brief at 11.

<sup>128</sup> Derived by staff from U.S. Producer and Importers' Questionnaire Responses.

<sup>129</sup> We will also consider how, if at all, any such effect should factor into our analysis.

\$0.15 per pound, although it received at most an increase of \*\*\* per pound.<sup>130</sup> In addition, Compass alleged several instances of sales and revenue lost to subject imports during the period, although purchasers contacted by staff confirmed only one lost sale allegation, for \*\*\* pounds of HEDP, valued at \$\*\*\*.<sup>131</sup>

Given the general decline in HEDP prices and the prevalence of underselling over the period, we find for purposes of this preliminary phase that subject imports have depressed prices for the domestic product to a significant degree.<sup>132</sup> We intend, as noted, to seek further information on the price effects of the cumulated subject imports in any final phase investigations.

#### **D. Impact of the Cumulated Subject Imports**<sup>133</sup>

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”<sup>134</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. 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.”<sup>135</sup>

The industry’s performance and financial data indicate some improvements in the industry’s overall condition after Compass acquired the HEDP plant, but also reveal an industry that continues to operate at a loss due in part to the presence of low-priced subject imports in the market.

The industry’s capacity has remained steady over the period, at \*\*\* pounds. From 2005 to 2006, however, its production dropped from \*\*\* pounds to \*\*\* pounds, and its capacity utilization fell from \*\*\* percent to \*\*\* percent. From 2005 to 2006, productivity declined by \*\*\* percent, net sales value dropped by \*\*\* percent, and the cost of goods sold rose by \*\*\* percent. The industry’s \*\*\* from \$\*\*\* in 2005 to \$\*\*\* in 2006. Its \*\*\* operating margin dropped even lower, from \*\*\* percent in 2005 to \*\*\* percent in 2006.<sup>136</sup>

The declines observed from 2005 to 2006 may be due in part, however, to the change in ownership of the HEDP plant in July 2006, as various indicators showed improvement from 2006 to 2007. Production increased from \*\*\* pounds in 2006 to \*\*\* pounds in 2007, and capacity utilization

---

<sup>130</sup> Petitioner’s Postconference Brief at 15-16.

<sup>131</sup> Petition at 32-33, CR at V-14-17, PR at V-5.

<sup>132</sup> Commissioner Lane notes that, although its \*\*\* before SG&A expenses declined from 2005 to 2007, the domestic industry was unable to charge prices that \*\*\* throughout the period examined. She finds this to be evidence of suppression of needed price increases.

<sup>133</sup> In its notice of initiation, Commerce estimated the dumping margin for subject imports from China to be 72.42 percent and the dumping margin for subject imports from India to be 42.74 percent. 73 Fed. Reg. 20023, 20026 (April 14, 2008).

<sup>134</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”)

<sup>135</sup> 19 U.S.C. § 1677(7)(C)(iii); see also 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).

<sup>136</sup> CR/PR at Table C-1.

improved to \*\*\*.<sup>137</sup> The trends in capacity utilization are consistent with Compass's somewhat lower average direct labor costs and other factory costs in full year 2007 compared to the second half of 2006.<sup>138</sup> Both the quantity and value of the domestic industry's shipments increased, and its productivity improved by \*\*\* percent from 2006 to 2007.<sup>139</sup>

Although the domestic industry's average unit values of U.S. shipments and net sales declined between 2005 and 2007, Compass reports it was able to increase the price of its U.S. product \*\*\* between the second half of 2006 and 2007.<sup>140</sup> Thus, while the industry's average HEDP sales value was lower at the end of the period compared to 2005 and declined in 2006 compared to 2005, it showed a \*\*\* increase in 2007 over 2006.<sup>141</sup> The industry also reduced its average fixed costs because of its higher production volumes, and its per unit cost of goods sold, which reflects raw material, direct labor, and other factory costs, less HEDP by-product revenue, decreased from 2005 to 2007 and was also lower in 2007 than in July-December 2006.<sup>142</sup>

The industry's selling, general and administrative (SG&A) expenses as a percent of sales and on an average per pound basis declined \*\*\* from 2005 through 2007.<sup>143</sup> The industry's research and development expenses declined \*\*\*, but its capital expenditures increased, from \$\*\*\* in 2005 to \$\*\*\* in 2006 and \$\*\*\* in 2007. These expenses reportedly represented equipment upgrades by Compass that had been postponed by Lynx.<sup>144</sup>

Along with improvements in certain performance and financial indicators, the industry's \*\*\* declined from 2006 to 2007. Its operating margin, although \*\*\*, improved to \*\*\* percent in 2007, as compared to \*\*\* percent in 2006 and \*\*\* percent in the second half of 2006.<sup>145</sup> The primary factors contributing to Compass's \*\*\* operating margin in 2007 as compared to the second half of 2006 were lower average raw material costs in conjunction with a \*\*\* higher average sales value, as well as declines in average direct labor and other factory costs, which were partially offset by higher average SG&A expenses.<sup>146</sup>

Despite these improvements, the domestic industry continues to operate \*\*\*, even as apparent U.S. consumption of HEDP increased by \*\*\* percent from 2005 to 2007.<sup>147</sup> Under the reasonable indication standard applied in preliminary phase investigations, we find the domestic industry's generally poor financial state attributable in significant part to subject imports, which were generally substitutable

---

<sup>137</sup> CR/PR at Table III-2.

<sup>138</sup> CR at VI-5, PR at VI-2.

<sup>139</sup> CR/PR at Table III-3.

<sup>140</sup> Petitioner's Postconference Brief at 18.

<sup>141</sup> CR at VI-2, PR at VI-1.

<sup>142</sup> CR at VI-2-5, PR at VI-1-2.

<sup>143</sup> CR at VI-6, PR at VI-3.

<sup>144</sup> CR at VI-8, PR at VI-4, CR/PR at Table VI-3.

<sup>145</sup> CR/PR at Table C-1.

<sup>146</sup> CR at VI-6, PR at VI-3.

<sup>147</sup> CR/PR at Table C-1.

with the domestic product and significant in volume and which undersold the domestic product in a clear majority of quarterly pricing comparisons.<sup>148</sup>

Based on the foregoing, we find for purposes of this preliminary determination that subject imports are having a significant adverse impact on the domestic HEDP industry.<sup>149 150</sup>

---

<sup>148</sup> In these preliminary phase investigations, our evaluation of industry trends was impeded by the fact that data on certain production costs incurred by Lynx were unavailable. See CR/PR at VI-1. Certain trends may also have been masked by operational inefficiencies attendant to the change in ownership of the Smyrna facility and as production adapted to the use of phosphorus acid as a key raw material input. We expect that additional data gathered in any final phase will permit a more complete analysis of industry trends.

<sup>149</sup> While non-subject imports of HEDP have been present in the U.S. market during the period examined, we note that there is limited information on the record regarding such imports. In any final phase investigations, we will seek information on the role of non-subject imports of HEDP in the U.S. market. We invite parties to comment in any final phase investigations on whether Bratsk Aluminium Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), is applicable to the facts of these investigations. We also invite parties to comment on what additional information the Commission should collect to address the issues raised by the Court, how that information should be collected, and which of the various non-subject sources should be the focus of additional information gathering by the Commission in any final phase investigations.

<sup>150</sup> Chairman Pearson and Commissioner Okun do not join the preceding footnote. They note that the record is unclear as to whether the predicates of the Bratsk test are satisfied. There were conflicting arguments by the parties as to whether HEDP is a commodity product. Compass considers it to be a commodity, whereas the Indian Respondents claim that NSF certification limits the interchangeability of subject imports from China with those from India. All HEDP regardless of its application has a unique chemical formulation and unique physical properties. Importers regard HEDP as generally interchangeable regardless of its source. On balance, the record supports a finding that HEDP is a commodity product for purposes of these preliminary investigations. We will examine this issue further in any final investigations.

With respect to whether non-subject imports are price competitive, in its importers' questionnaires the Commission requested product-specific price data from the United Kingdom, the only source of non-subject imports. The limited data show mixed underselling and overselling of the domestic like product by non-subject imports. The prices of non-subject imports compared to subject imports were also mixed. For \*\*\*, the non-subject imports were sometimes priced lower than the subject imports, and for the remaining products for which data were available the non-subject imports were primarily priced higher than the subject imports. CR/PR at Tables V-I-V-4, D-1. On balance, it appears that non-subject imports are price-competitive with the domestic like product, but we intend to investigate this factor further in any final investigations.

As to whether price-competitive non-subject imports are a significant factor in the U.S. market, the record in the preliminary phase of these investigations suggests that non-subject imports from the United Kingdom were a significant factor in the market. They accounted for about \*\*\* percent of imports in 2007 and about \*\*\* percent of the U.S. market. CR/PR at Tables IV-2, IV-6. For purposes of the preliminary phase of these investigations, and assuming the product is a commodity, we find the second Bratsk triggering factor is met. Assuming that the Bratsk test is triggered for purposes of the preliminary phase of these investigations, we now consider whether non-subject imports are likely to replace subject imports and continue to cause injury to the domestic industry. One of the relevant factors we must examine in assessing this issue is the size of the non-subject U.K. industry and the amount of excess capacity in that industry. There is no information on the record concerning the capacity of non-subject producers, or their capacity utilization rates. In any final phase of these investigations, in order to complete our analysis under Bratsk, we will seek information on production capacity of major non-subject producers of HEDP, and the extent to which non-subject imports by domestic producers would be impacted if orders are imposed. For purposes of these preliminary determinations, we determine that non-subject imports would not negate any benefit to the domestic industry from the imposition of the orders.

For a complete statement of Chairman Pearson and Commissioner Okun's interpretation of Bratsk in a preliminary investigation, see Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminium Smelter v. United States in Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Prelim.), USITC Pub. 3912 at 19-25 (Apr. 2007). In any final phase of these

(continued...)

## CONCLUSION

For the reasons stated above, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly unfairly traded subject imports of HEDP from China and India that are sold in the U.S. market.

---

<sup>150</sup> (...continued)

investigations, any party holding a contrary view should so indicate, and provide a basis for its view, at the time written comments on the draft questionnaires are submitted.





## PART I: INTRODUCTION

### BACKGROUND

These investigations result from a petition filed on March 19, 2008, by Compass Chemical International, LLC. (“Compass”), alleging that an industry in the United States is materially injured or is threatened with material injury by reason of imports from China and India of 1-hydroxyethylidene-1, 1-diphosphonic acid (“HEDP”)<sup>1</sup> that are allegedly sold in the United States at less-than-fair-value (“LTFV”). Information relating to the background of these investigations is provided below.<sup>2</sup>

Effective date	Action
March 19, 2008	Petition filed with Commerce and the Commission; Commission institutes investigation (73 FR 16058, March 26, 2008)
April 9, 2008	Commission’s conference <sup>1</sup>
April 14, 2008	Initiation of investigations by Commerce (73 FR 20023, April 14, 2008)
May 2, 2008	Commission’s vote
May 5, 2008	Commission’s determinations transmitted to Commerce
May 12, 2008	Commission’s views transmitted to Commerce

<sup>1</sup> A list of witnesses that appeared at the conference is presented in app. B.

### STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

#### Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--  
*shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

*In evaluating the volume of imports of merchandise, 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.*

...

---

<sup>1</sup> A complete description of the imported product subject to these investigations is presented in *The Subject Merchandise* section located in *Part I* of this report.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

*In evaluating the effect of imports of such merchandise on prices, 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.*

. . .

*In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*

. . .

*(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

### **Organization of Report**

Information on the subject merchandise, alleged margins of dumping, and domestic like product is presented in *Part I*. Information on conditions of competition and other relevant economic factors is presented in *Part II*. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise are presented in *Parts IV and V*, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury and the judicial requirements and information obtained for use in the Commission's consideration of *Bratsk* issues.

### **U.S. MARKET SUMMARY**

HEDP is generally added to water to increase solubility of certain ions and to inhibit the precipitation of certain mineral compounds. The U.S. market for HEDP totaled approximately \$\*\*\* and \*\*\* pounds in 2007. Currently, one firm, Compass, produces HEDP in the United States; Compass accounted for all U.S. production of HEDP in 2007. At least 15 firms have imported HEDP from China, India, or the United Kingdom since 2005. During 2005-07, Compass accounted for \*\*\* percent of the imports of HEDP from China. Aquapharm was the leading importer of Indian HEDP and accounted for \*\*\* of the imports of HEDP from India during 2005-07.

U.S. producers' U.S. shipments of HEDP totaled \*\*\* pounds valued at \$\*\*\* in 2007, and accounted for \*\*\* percent of apparent U.S. consumption by quantity (\*\*\* percent by value). U.S. shipments of imports from China totaled \*\*\* pounds in 2007, and accounted for \*\*\* percent of apparent U.S. consumption by quantity (\*\*\* percent by value), while U.S. shipments of imports from India totaled \*\*\* pounds, and accounted for \*\*\* percent of apparent U.S. consumption by quantity (\*\*\* percent by value). U.S. shipments of imports from all other sources totaled \*\*\* pounds, and accounted for \*\*\* percent of apparent U.S. consumption by quantity (\*\*\* percent by value).

## SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C. Except as noted, U.S. industry data are based on questionnaire responses of the two current or former U.S. producers that accounted for all of U.S. production of HEDP during 2005-07. U.S. import and foreign industry data are based on responses to the Commission's U.S. importers' and foreign producers' questionnaires, as official statistics are properly covered by a statistical reporting number that is broader than the subject product.

## PREVIOUS AND RELATED INVESTIGATIONS

HEDP has been the subject of one prior antidumping duty investigation in the United States. On December 31, 2007, Compass filed a petition alleging that an industry in the United States was materially injured or threatened with material injury, by reason of imports from China and India of HEDP and Aminotrimethylenephosphonic Acid ("ATMP"). The Commission subsequently instituted preliminary phase antidumping duty investigations Nos. 731-TA-1138 and 1139.<sup>3</sup> On January 17, 2008, before Commerce had initiated its investigations, Commerce and the Commission received a letter from Compass withdrawing its petition. Subsequently, the Commission discontinued its antidumping investigations concerning HEDP and ATMP from China and India.<sup>4</sup>

## NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On April 14, 2008, Commerce published a notice in the *Federal Register* of the initiation of its antidumping investigations on HEDP from China and India.<sup>5</sup> Commerce has initiated antidumping duty investigations based on estimated dumping margins of 42.74 percent for HEDP from India and 72.42 percent for HEDP from China.

## THE SUBJECT MERCHANDISE

### Commerce's Scope

Commerce has defined the scope of these investigations as follows:

*All grades of aqueous, acidic (non-neutralized) concentrations of 1-hydroxyethylidene-1, 1-diphosphonic acid,<sup>6</sup> also referred to as hydroxyethylidenediphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The CAS (Chemical Abstract Service) registry number for HEDP is 2809-21-4.<sup>7</sup>*

---

<sup>3</sup> Notice of institution of antidumping duty investigations and scheduling of preliminary phase investigations: Aminotrimethylenephosphonic Acid (ATMP) and 1-Hydroxyethylidene-1,1- Diphosphonic Acid (HEDP) From China and India, 73 FR 1366, January 8, 2008.

<sup>4</sup> Notice of withdrawal of petition in antidumping investigations: Aminotrimethylenephosphonic Acid (ATMP) and 1-Hydroxyethylidene-1,1- Diphosphonic Acid (HEDP) From China and India, 73 FR 5211, January 28, 2008.

<sup>5</sup> 1-Hydroxyethylidene-1, 1- Diphosphonic Acid from the Republic of India and the People's Republic of China: Initiation of Antidumping Duty Investigations; 73 FR 20023, April 14, 2008.

<sup>6</sup> C<sub>2</sub>H<sub>8</sub>O<sub>7</sub>P<sub>2</sub> or C(CH<sub>3</sub>)(OH)(PO<sub>3</sub>H<sub>2</sub>)<sub>2</sub>

<sup>7</sup> 1-Hydroxyethylidene-1, 1- Diphosphonic Acid from the Republic of India and the People's Republic of China: Initiation of Antidumping Duty Investigations; 73 FR 20023, April 14, 2008.

## Tariff Treatment

HEDP is classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheading 2931.00.90 and imports covered by statistical reporting number 2931.00.9043.<sup>8</sup> This subheading contains many other products besides HEDP. Table I-1 presents current tariff rates for HEDP.

**Table I-1  
HEDP: Tariff rates, 2008**

HTS provision	Article description	General <sup>1</sup>	Special <sup>2</sup>	Column 2 <sup>3</sup>
		Rates (percent ad valorem)		
2931.00	Other organo-inorganic compounds:			
2931.00.90	Other.....	3.7%	( <sup>4</sup> )	25%
2931.00.9043	Other.....			
<sup>1</sup> Normal trade relations, formerly known as the most-favored-nation duty rate. <sup>2</sup> Special rates not applicable when General rate is free. <sup>3</sup> Applies to imports from a small number of countries that do not enjoy normal trade relations duty status. <sup>4</sup> General note 3(c)(i) defines the special duty program symbols enumerated for this provision.				
Source: Harmonized Tariff Schedule of the United States (2008).				

## THE DOMESTIC LIKE PRODUCT

The Commission’s decision regarding the appropriate domestic products that are “like” the subject imported products 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 (6) price. Information regarding the physical characteristics and uses, the manufacturing process, and the channels of distribution of HEDP are discussed below.

The petitioner contends that the Commission should find one domestic like product that is coextensive with the scope of merchandise subject to the investigation.<sup>9</sup> Both respondents noted that they were not challenging the definition of the domestic like product.<sup>10</sup>

### Overview<sup>11</sup>

Organophosphonates (phosphonates) (of which HEDP is a prominent example) constitute a class of chelating agents used extensively in industrial water treatment (including swimming pools), in industrial and household cleaning products, and personal care products.<sup>12</sup> “Chelating agents (or

<sup>8</sup> \*\*\* reported importing into the United States subject and nonsubject products also classified under statistical reporting numbers 2931.00.9041 (covering a particular organo-phosphorus compound by structure) and 2931.00.9050 (the residual category for the subheading).

<sup>9</sup> Petitioner’s postconference brief, p. 4.

<sup>10</sup> Conference transcript, p. 111 (Levinson and Collias).

<sup>11</sup> Much of this background information comes from a “Technical Update on Chelation,” Monsanto Corp., August 1995, fax from \*\*\*, April 8, 2008.

<sup>12</sup> In aqueous solutions, positively charged metal ions (such as Ca+2, Fe+3, Cu+2) are surrounded by negatively charged ions and water molecules. Metals can form a complex with the negatively charged molecules. When the metal complexes with negatively charged molecules at two (or more) sites a ring structure is created. The reaction is  
(continued...)

chelants)” include a number of compounds, all having the ability to coordinate with metal ions at a minimum of two sites. Typically, this bidentate coordination solubilizes or otherwise inactivates these metals, reducing any adverse effects these metals might have on the system on which they are used.<sup>13</sup> Phosphonates are a relatively new class of chelating agent used for industrial water treatment. They may have certain properties in common with other classes of chelating agents (particularly the polyphosphates).<sup>14</sup> However, unlike other chelating agents, phosphonates are structurally stable at very high temperature and in strong acids. In 2006, U.S. phosphonate consumption accounted for approximately \*\*\* of the total U.S. consumption of the major industrial chelating agents related to industrial water treatment.<sup>15</sup>

Phosphonates, acting as chelating agents, perform a variety of functions to improve the quality of water supplies. The chemical characteristics of chelating agents allow for a number of applications in household cleaning supplies (soaps and detergents),<sup>16</sup> in municipal water supplies,<sup>17</sup> in industrial water systems (heat exchangers, boilers, and cooling towers),<sup>18</sup> and in stabilizing bleach.<sup>19</sup>

A number of chemical classes of chelating agents used in water treatment, cleaning products, and in a number of other diverse industrial uses have been developed over the years. The choice of chelating agent depends on a number of factors (including which metal ions are to be controlled, the pH of the system, the temperature range of the system, the economics of the system, and more recently, environmental issues). Table I-2 lists the five largest commercially available phosphonates, of which HEDP and ATMP are the two largest selling products.

---

<sup>12</sup> (...continued)

called chelation, the anionic ion is called a ligand or chelating agent, and resulting ring structure is called a complex or chelate.

<sup>13</sup> \*\*\*.

<sup>14</sup> Petition, p. 4. In fact, the petition refers to generations of chelating agents, with each newer generation having an improved degree of activity or efficiency. Polyphosphates (which are not phosphonates) were referred to as first generation antiscalants/sequestrants, aminomethylmethyl phosphonates were referred to as the second generation, HEDP was referred as the third generation, and PBTC was referred to as a newer, more specialized phosphonate.

<sup>15</sup> \*\*\*.

<sup>16</sup> Phosphonates can remove soap scum with bar soap and eliminate graying with laundry soap. Metal ions such as magnesium or calcium can react with soap to form insoluble salts. This can form “bath-tub rings” from bar soap, or lead to graying or yellowing of fabrics in laundry soap. The addition of a chelating agent (e.g. phosphonate), will solubilize the metal and prevent it from reacting with the soap or settling on the fabric.

<sup>17</sup> In water supplies, the presence of iron or manganese will color the water; and although not dangerous it is not aesthetically pleasing (and will generate customer complaints). Adding chelating agents can sequester the metal ions and prevent them from coloring the water.

<sup>18</sup> A problem in industrial water supplies is “scale” build-up. Scale consists mainly of calcium, magnesium, and iron salts. These products can build up on the walls of commercial water systems; but the condition can be alleviated by adding a “crystal growth modifier” to the system. These products, at very small concentrations, appear to distort and prevent crystal growth. The mechanism of prevention is different from sequestering, but phosphonates are very effective crystal growth modifiers in boilers and heat exchangers, particularly since they are stable at high temperatures over long periods of time.

<sup>19</sup> An important application for phosphonates is preventing bleaches from decomposing in the presence of trace amounts of metals such as iron, chromium, and nickel. Again, chelating agents can be introduced to sequester (tie up) the offending ions.

**Table I-2  
Phosphonates: Commercially available phosphonates**

Abbreviation	Chemical name	CAS No.
HEDP	(1-hydroxyethylidene) diphosphonic acid	2809-21-4
ATMP	Amino tris(methylene phosphonic acid)	6419-19-4
DTPMP	Diethylenetriamine penta(methylene phosphonic acid)	15827-60-8
PBTC	2-Phosphobutane-1,2,4-tricarboxylic acid	37971-36-1
BHMT	Aminotri(methylenephosphonic acid)	35657-77-3
Source: ***.		

### Description and Applications

HEDP is a well-defined,<sup>20</sup> odorless, colorless to yellowish liquid. It is very water soluble, as either the acid or the salt. The finished product is produced as a technical grade, and is not further modified or purified to become food grade or U.S. Pharmacopoeia (USP) Grade. Once manufactured and adjusted to the correct aqueous concentration, it needs no further modification before it can be used as a chelating agent. The product has a long shelf life, and is often added to multi-purpose formulations, which do not appear to affect the chelating properties. Compared to other chelating agents, the molecule has multiple phosphonate (acid) groups and is very stable at high temperatures (greater than 130<sup>0</sup> F) and acid levels; it resists oxidation by chlorine. The stability of the molecule is attributed to the C–P chemical bond in HEDP. Further, HEDP is considered safe. “The human health risk assessment has demonstrated that the use of ATMP, HEDP, and DTMP in household laundry and cleaning detergents is safe and does not cause concern with regard to consumer use.”<sup>21</sup>

HEDP is a chelating agent that can perform three functions as it treats commercial water. First, it can sequester heavy metal ions that color water supplies or sequester heavy metals that interfere with the cleaning function of laundry soap or body soap. Second, it can act as a scale inhibiting agent that prevents scale formation in commercial heating/cooling systems such as boilers, air conditioners, and cooling towers. Third, it can prevent the breakdown of oxidizing agents such as peroxide bleach.<sup>22</sup>

### Manufacturing Processes<sup>23</sup>

There are two commercial methods for producing HEDP.<sup>24</sup> The first, more common, method is to react phosphorus trichloride with acetic anhydride in water. The phosphorus trichloride is converted to phosphorus acid within the reaction vessel (in situ), and then reacts with the acetic anhydride. Two by-products, hydrochloric acid (HCL) and acetic acid are produced, and can be sold on the merchant market.

---

<sup>20</sup> Patented by Proctor & Gamble, January 30, 1968, Patent No. 3,366,675. The chemistry is described in the chemical literature, “Interaction of Acylating Agents and Phosphorus (III) Sources,” *Journal of the American Chemical Society*, August 23, 1972, pp. 6119-24.

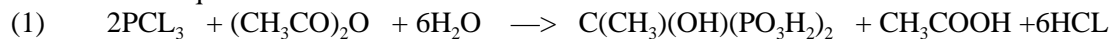
<sup>21</sup> HERA substance team, Human & Environmental Risk Assessment on Ingredients in European Household Cleaning Products, June 9, 2004, p. 5.

<sup>22</sup> \*\*\*.

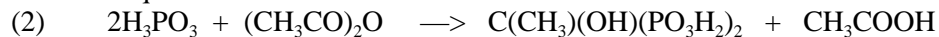
<sup>23</sup> Much of the technical background was presented by \*\*\*, in staff phone conversations, April 3, 2008 and April 14, 2008.

<sup>24</sup> Petition, p. 4.

The balanced equation is:



The second method is a one-step version of the first process. The phosphorus acid is purchased and then reacted directly with acetic anhydride. The phosphorus acid is anhydrous. As with the reaction starting with  $\text{PCL}_3$ , the reaction is performed at a high temperature and for at least 10 to 12 hours. The balanced equation is:



Compass reported that at its manufacturing facility, the starting materials are checked for purity and the finished product is subject to a quality control inspection, the results of which are kept on file. A concern is the possibility for chloride contamination from HCL. The finished product is "Technical Grade;" there is no Food Grade or U.S. Pharmacopeia (USP) grade. At the Compass manufacturing facilities, the reaction vessels and storage tanks are dedicated to HEDP production. \*\*\*.<sup>25</sup>

### Marketing

HEDP is marketed as a superior chelating agent based on its hydrolytic stability and its superior ability to act as an anti-scaling and sequestering agent. Both domestic manufacturers and importers sell product to distributors, formulators, and large end users. Table I-3 presents information on U.S. producers' and importers' channels of distribution.

**Table I-3**

**HEDP: U.S. producers' and importers' channels of distribution, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

At the conference, it was noted the HEDP is often added to a formulation by either a distributor or formulator, before it is sold to a customer. As formulations change, the demand for HEDP changes.<sup>26</sup> At the first point of sale, Compass stated that imported and domestic product are chemically identical, and once the products have the same level of purity, they can be commingled and sold as one product.<sup>27</sup> The importers argued that service and long-term, personal relationships were important marketing components.<sup>28</sup> However, the importers favored only one-year contracts with all accredited suppliers competing.<sup>29</sup> Further, the importers stated that the National Sanitary Foundation (NSF) accreditation was a marketing tool as accreditation implied a superior product.<sup>30</sup> Bundling was considered an important marketing tool; because most HEDP is used in a formulation, it can be sold in combination with another product.<sup>31</sup>

---

<sup>25</sup> Staff phone conversations with \*\*\*, April 3, 2008 and April 14, 2008.

<sup>26</sup> Conference transcript, p. 132-3 (Zibrida).

<sup>27</sup> Conference transcript, p. 26 (Failon).

<sup>28</sup> Conference transcript, p. 129 (Zibrida).

<sup>29</sup> Conference transcript, p. 111 (Mangwani).

<sup>30</sup> Conference transcript, p. 97 (Collias).

<sup>31</sup> Conference transcript, p. 128 (Collias).

## Price

Table I-4 presents average unit values for U.S. shipments of HEDP in the United States from various sources. Pricing practices and prices reported for HEDP in response to the Commission's questionnaires are presented in Part V of this report, *Pricing and Related Information*.

**Table I-4**  
**HEDP: Average unit values of U.S. shipments, by source, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*



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

### **U.S. MARKET CHARACTERISTICS**

Petitioner indicates that domestic and imported HEDP are sold into common channels of distribution: distributors (resellers), compounders (formulators), and occasionally, to end-users.<sup>1</sup> Petitioner indicates that distributors typically sell to accounts that purchase quantities that are less than truckload (of drums) quantities while large compounders often buy in bulk tanktruck quantities, but also in truckload drum quantities, and end-users generally buy from producers only when they have a bulk requirement for HEDP.<sup>2</sup>

Shipments of U.S. product to compounders increased from \*\*\* percent of U.S. shipments in 2005 to \*\*\* percent of such shipments in 2007. Shipments to distributors of U.S. product decreased from \*\*\* percent of U.S. shipments in 2005 to \*\*\* percent of such shipments in 2007.<sup>3</sup> Shipments to compounders of imports from China decreased from \*\*\* percent of U.S. shipments of those imports in 2005 to \*\*\* percent of such shipments in 2007. Shipments to distributors of imports from China increased from \*\*\* percent of U.S. shipments of those imports in 2005 to \*\*\* percent of such shipments in 2007. Shipments to compounders of imports from India fell from \*\*\* percent in 2005 to \*\*\* in 2007 and shipments to distributors of imports from India increased from \*\*\* percent in 2005 to \*\*\* percent in 2006 and then fell to \*\*\* percent in 2007. Shipments to end users of imports from India increased from \*\*\* percent in 2005 to \*\*\* percent in 2007.

Petitioner indicated that imported product competes with domestic like product in all geographic markets in the U.S. and that imported product is typically warehoused and shipped from those warehouse locations to all geographic areas.<sup>4</sup> Petitioner also indicated that a large portion of the HEDP market is supplied through national and regional distributors, who obtain their product through Chinese importers, Indian importers, and or domestic producers.<sup>5</sup>

Responding U.S. producers reported that in 2007 \*\*\* percent of their shipments of HEDP were to the Midwest region, \*\*\* percent of their shipments to the Northeast region, and \*\*\* percent of their shipments to the Southeast region. Responding importers reported that in 2007, \*\*\* percent of their shipments of imports from China were to the Midwest region, \*\*\* percent to the Northeast region, \*\*\* percent of their shipments of imports from China were to the Pacific Coast, and \*\*\* percent to the Southeast region. Responding importers also reported that \*\*\* percent of their shipments of imports from India were to the Southeast region and \*\*\* percent were to the Central Southwest region.

### **SUPPLY AND DEMAND CONSIDERATIONS**

#### **U.S. Supply**

##### **Domestic Production**

Based on available information, U.S. HEDP producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced HEDP to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the availability of

---

<sup>1</sup> Petition, p. 25.

<sup>2</sup> Petition, p. 25.

<sup>3</sup> \*\*\*.

<sup>4</sup> Petition, p. 29.

<sup>5</sup> Petition, p. 29.

unused capacity, constrained by an inability to produce alternate products, a limited ability to divert shipments from alternate markets, and a limited ability to use inventories to increase shipments to the U.S. market.

### ***Industry capacity***

U.S. producers' capacity utilization increased from \*\*\* percent in 2005 to \*\*\* percent in 2007. This level of capacity utilization indicates that U.S. producers have unused capacity with which they could increase production of HEDP in the event of a price change.

### ***Alternative markets***

Exports by U.S. producers, as a share of total shipments, decreased from \*\*\* percent in 2005 to \*\*\* percent in 2007. These data indicate that U.S. producers have a limited ability to divert shipments to or from alternative markets in response to changes in the price of HEDP.

### ***Inventory levels***

The ratio of end-of-period inventories to total shipments decreased from \*\*\* percent in 2005 to \*\*\* percent in 2007. These data indicate that U.S. producers have a limited ability to use inventories as a means of increasing shipments of HEDP to the U.S. market.

### ***Production alternatives***

According to petitioner, equipment is generally dedicated to the manufacture of HEDP, although HEDP and ATMP can be manufactured simultaneously in adjacent units.<sup>6</sup> Petitioner indicates that Compass relies on the same production employees to make both HEDP and ATMP, trained, for example, as "MayoquestB/phosphonate" operators.<sup>7</sup>

### **Subject Imports**

Based on available information, Chinese producers have the ability to respond to changes in demand with large changes in the quantity of shipments of HEDP to the U.S. market, while Indian producers have the ability to respond with moderate changes in the quantity of shipments of HEDP to the U.S. market. The main contributing factors to the high degree of responsiveness of supply for Chinese production is the availability of unused capacity and an ability to divert shipments from alternate markets, limited by an inability to produce alternate products and a limited availability of inventories. The main contributing factors to the moderate degree of responsiveness of supply for Indian production is an ability to divert shipments from alternate markets, limited by an inability to produce alternate products, a limited availability of inventories, and a limited amount of excess capacity.

### ***Industry capacity***

During the period for which data were collected, the capacity utilization rate for Chinese producers of HEDP decreased from 65.0 percent in 2005 to 64.3 percent in 2007. The capacity utilization rate for producers in India increased from \*\*\* percent in 2005 to \*\*\* percent in 2007. These levels of

---

<sup>6</sup> Petition, p. 26.

<sup>7</sup> Petition, p. 26.

capacity utilization indicate that Chinese producers have unused capacity with which they could increase production of HEDP in the event of a price change, and Indian producers have limited capacity with which they could increase production of HEDP in the event of a price change.

### *Alternative markets*

Shipments of HEDP from China to markets other than the United States increased from approximately \*\*\* percent of total shipments in 2005 to \*\*\* percent in 2007. Shipments of HEDP from India to markets other than the United States increased from approximately \*\*\* percent of total shipments in 2005 to \*\*\* percent in 2007. Available data indicate that subject producers in China and India have the ability to divert shipments to or from the home market and alternative markets in response to changes in the price of HEDP.

### *Inventory levels*

Chinese producers' inventories, as a share of their total shipments, remained stable between 2005 and 2007 at \*\*\* percent. Indian producers' inventories of subject product in India, as a share of total shipments, increased from \*\*\* percent in 2005 to \*\*\* percent in 2007. These data indicate that subject foreign producers have a limited ability to use inventories as a means of increasing shipments of HEDP to the U.S. market.

### *Production alternatives*

Petitioner indicates that domestic and imported HEDP are produced in similar manufacturing facilities, using similar production processes.<sup>8</sup> Accordingly, as with Compass's U.S. operations, subject producers are believed to have limited capability to engage in product shifting.

## **U.S. Demand**

Based on the available information it is likely that changes in the price level of HEDP will result in a small change in the quantity of HEDP demanded. The main contributing factors to the small degree of responsiveness of demand is the limited substitutability of other products for HEDP and the low cost share of HEDP in most of its end uses.

### **Demand Characteristics**

The petitioner indicates that HEDP is used in water treatment such as boiler water treatment, municipal water treatment, desalination, and swimming pool applications; industrial and institutional detergents and cleaners; peroxide bleach stabilization; personal care products such as a preservative in bar soaps and shampoos.<sup>9</sup> The petitioner also indicates that the largest application for HEDP is in industrial water treatment.<sup>10</sup>

Five of ten responding importers indicated that demand for HEDP has not changed in the U.S. since 2005. The only responding U.S. producer and two responding importers indicated that demand has increased, one responding importer indicated that demand has decreased, and the two remaining

---

<sup>8</sup> Petition, pp. 26-27.

<sup>9</sup> Petition, pp. 6-7, 24.

<sup>10</sup> Conference transcript, p. 53 (McCaul).

responding importers indicated that demand has fluctuated.<sup>11</sup> The only responding U.S. producer and four of six responding importers indicated that demand for HEDP outside the U.S. has increased since 2005.

### **Substitute Products**

The only responding producer and five of nine responding importers indicated that there were at least some substitutes for HEDP. Substitutes named included ATMP, PBTC, and EDTA. Two of nine responding importers indicated that there were no substitutes for HEDP and the two remaining responding importers indicated that they did not know of any substitutes for HEDP.

The only responding U.S. producer and one of six responding importers reported that the price of substitutes can affect prices of HEDP. \*\*\* indicated that the “plethora” of PBTC imports has depressed pricing on PBTC, making it more viable as an alternative to HEDP (and noted that this effect has no time lag).

Petitioner indicates that customer and producer perceptions are that HEDP has distinct, characteristic physical, chemical, and functional properties such that polyphosphates, EDTA, and ATMP and other AMPs are not viable substitutes and that customers select HEDP due to performance or cost-performance advantages over other phosphonates and polyphosphates.<sup>12</sup> According to petitioner, there are several applications in which there is no real substitute for HEDP, including municipal water treatment, swimming pool stain and scale control, and bar soap preservative.<sup>13</sup>

Respondents indicate that there are substitutes for HEDP such as other phosphonates, acrylic polymers, and glassy phosphates.<sup>14</sup> They indicate that although substitution would not occur simultaneously, it could occur within a few months.<sup>15</sup>

### **Cost Share**

The reported share of total cost of end uses accounted for by the cost of HEDP is generally low for most end uses. Compass indicated that the cost share was about 20 to 25 percent for typical applications, but could range from less than 1 percent to 100 percent for some applications.<sup>16</sup> However, Uniphos indicated that the cost share was less than 3 percent for water treatment chemicals that are used for cooling applications, process cooling, or comfort cooling.<sup>17</sup>

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported HEDP depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, leadtimes between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a high degree of substitutability between domestically produced HEDP and HEDP imported from subject countries.

---

<sup>11</sup> In this and subsequent sections, \*\*\*.

<sup>12</sup> Petition, p. 26.

<sup>13</sup> Petition, p. 24.

<sup>14</sup> Conference transcript, pp. 132-133 (Zibrida) and p. 133 (Collias).

<sup>15</sup> Ibid.

<sup>16</sup> Conference transcript, p. 53-54 (McCaul).

<sup>17</sup> Conference transcript, p. 115-116 (Collias).

## Factors Affecting Purchasing Decisions

One importer (\*\*\*) indicated that regardless of the countries compared, availability, customer service, transportation network, full product offering, technical service and brand recognition are always factors affecting purchasing decisions in the water treatment industry. Importer \*\*\* indicated that it believes that price is the main factor, although there may be a few customers who prefer to buy U.S. made material due to patriotic reasons or due to the style of drum openings. An importer of \*\*\* indicated that customers know and trust their sales and technical manager, trust that their product quality will be acceptable and consistent because they identify the source and provide certificates of analysis upon request, have an order-to-delivery response time of a few days, and have an economical freight cost from shipping the product from the warehouse. The importer also indicated that his customers typically order other chemicals along with HEDP and in some cases, customers have ordered from his company because other suppliers do not have inventory available or can't deliver the product on the date needed.

According to petitioner, imports of HEDP from China and imports of HEDP from India are completely interchangeable with each other as long as the product meets the specifications.<sup>18</sup> However, importer Aquapharm indicates that some product from China does not have NSF certification.<sup>19</sup> As of April 16, 2008, the only foreign firms that had products that qualified for the NSF/ANSI Standard 60 for drinking water chemicals were Indian producer Aquapharm (Aquacid 105 NS and HEDP), UK producer Rhodia (Briquest® ADPA-60A), and Chinese producer Wujin Fine Chemical (XF-334 (N) HEDP).<sup>20</sup>

## Comparisons of Domestic Products and Subject Imports

As indicated in table II-1, the only responding U.S. producer and one-half of responding importers indicated that HEDP produced in the United States and imported from subject sources is “always” used interchangeably. At least ninety percent of responding importers indicated that HEDP produced in the United States and imported from subject sources is at least “frequently” used interchangeably.

As indicated in table II-2, the only responding U.S. producer and one-half of responding importers indicated that differences other than price between HEDP produced in the United States and imported from subject sources were “sometimes” a significant factor in their firm's sales of the products. At least 80 percent of responding importers indicated that differences other than price between HEDP produced in the United States and imported from subject sources were at least “sometimes” a significant factor in their firm's sales of the products.

---

<sup>18</sup> Petition, p. 24.

<sup>19</sup> Conference transcript, p. 86 (Mangwani). However, Uniphos indicates that product from Wujin Fine Chemical Factory has three of its phosphonates that are NSF certified. Conference transcript, p. 97 (Collias).

<sup>20</sup> U.S. producer Compass was also qualified for the NSF/ANSI Standard 60. NSF Product and Service listings, “<http://www.nsf.org/Certified/PwsChemicals/Listings.asp?CompanyName=&TradeName=&ChemicalName=Hydroxyethylidene+Diphosphonic+Acid&ProductFunction=&PlantState=&PlantCountry=>,” retrieved April 16, 2008.

**Table II-1**

**HEDP: Perceived degree of interchangeability of product produced in the United States and in other countries<sup>1</sup>**

Country comparison	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. China	1	0	0	0	6	3	1	0
U.S. vs. India	1	0	0	0	4	2	0	0
U.S. vs. United Kingdom	1	0	0	0	5	2	0	0
U.S. vs. other countries	1	0	0	0	3	1	0	0
China vs. India	1	0	0	0	3	1	3	0
China vs. United Kingdom	1	0	0	0	3	4	0	0
China vs. other countries	1	0	0	0	3	1	0	0
India vs. United Kingdom	1	0	0	0	5	2	0	0
India vs. other countries	1	0	0	0	2	1	0	0

<sup>1</sup> Producers and importers were asked if HEDP produced in the United States and in other countries is used interchangeably.

Note.--“A” = Always, “F” = Frequently, “S” = Sometimes, “N” = Never.

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

**Table II-2****HEDP: Differences other than price between products from different sources<sup>1</sup>**

Country comparison	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. China	0	0	1	0	2	2	6	2
U.S. vs. India	0	0	1	0	2	2	4	0
U.S. vs. United Kingdom	0	0	0	1	2	2	0	3
U.S. vs. other countries	0	0	1	0	1	1	1	1
China vs. India	0	0	0	0	2	3	2	1
China vs. United Kingdom	0	0	0	0	2	2	2	1
China vs. other countries	0	0	0	0	1	1	1	1
India vs. United Kingdom	0	0	0	0	2	1	2	2
India vs. other countries	0	0	0	0	1	1	1	0

<sup>1</sup> Producers and importers were asked if differences other than price between HEDP produced in the United States and in other countries are a significant factor in their firms' sales of HEDP.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never.

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

Petitioner indicates that domestic and imported HEDP generally are perceived as identical products by customers and producers alike.<sup>21</sup> According to petitioner, customers routinely commingle imported and domestic material in their bulk storage tanks and assign the same raw material codes to both and that producers, both domestic and foreign, occasionally swap product amongst themselves when it is convenient to do so.<sup>22</sup>

Respondents indicate that the majority of the largest-volume users of HEDP do not store HEDP in bulk because they would not want to take the risk of commingling product from different sources so they can trace back to where the product was sourced.<sup>23</sup>

### **Comparisons of Domestic Products and Nonsubject Imports**

As indicated in table II-1, the only responding U.S. producer and at least 70 percent of responding importers indicated that HEDP produced in the United States and imported from nonsubject sources is "always" used interchangeably. As indicated in table II-2, the only responding U.S. producer indicated that differences other than price between HEDP produced in the United States and imported from the United Kingdom were "never" a significant factor in their firm's sales of the products, while

<sup>21</sup> Petition, p. 25.

<sup>22</sup> Petition, pp. 25-26.

<sup>23</sup> Conference transcript, p. 96 (Collias), p. 118 (Karve).

differences other than price between HEDP produced in the United States and imported from the other nonsubject countries were “sometimes” a significant factor. Responding importers provided a variety of responses.

### **Comparisons of Subject Imports and Nonsubject Imports**

As indicated in table II-1, the only responding U.S. producer and at least 40 percent of responding importers indicated that HEDP imported from subject sources and imported from nonsubject sources is “always” used interchangeably. The remaining responding importers indicated that HEDP imported from subject sources and imported from nonsubject sources were “frequently” used interchangeably.

As indicated in table II-2, at least 70 percent of responding importers indicated that differences other than price between HEDP imported from subject sources and imported from nonsubject sources were at least “sometimes” a significant factor in their firm’s sales of the products. No domestic producer responded to this question.

### **Comparisons of Subject Products from the Subject Countries**

As indicated in table II-1, the only responding U.S. producer and three of seven responding importers indicated that HEDP imported from China and imported from India are “always” used interchangeably. One of the responding importers indicated that HEDP imported from China and imported from India are “frequently” used interchangeably and the remaining three responding importers indicated that they are “sometimes” used interchangeably.

As indicated in table II-2, two of eight responding importers indicated that differences other than price between HEDP imported from China and imported from India were “sometimes” a significant factor in their firm’s sales of the products, three of eight responding importers indicated that these factors were “frequently” a significant factor, two responding importers indicated that they were “always” a significant factor, and the one remaining responding importer indicated that they were “never” a significant factor.



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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV* and *V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire responses of two firms that accounted for 100 percent of U.S. production of HEDP during 2005-07.

#### **U.S. PRODUCERS OF HEDP**

There are currently eight U.S. producers of phosphonates. The U.S. producers of phosphonates are either selling into the merchant market or are captive producers selling directly to formulators, most of whose products are destined for the oilfield market. The two leading U.S. manufacturers of phosphonates are Compass and Rhodia, which markets the Briquest line of phosphonates.<sup>1</sup> The smaller companies, selling to captive markets are \*\*\*. The combined annual organophosphonate production capacity of these five companies is estimated to be \*\*\*. In addition, \*\*\* has the ability to manufacture phosphonates \*\*\*.<sup>2</sup>

The Commission sent producers' questionnaires to firms believed to have been current or former producers, including specifically Compass and Rhodia (identified in the petition as U.S. producers of HEDP).<sup>3</sup> Both firms submitted responses. The Commission also attempted to contact former producer Lynx Chemical Group LLC ("Lynx"); however, the company no longer exists. Instead, partial data for the former Lynx operation were provided by Compass and Rhodia.<sup>4</sup>

Table III-1 presents the list of reporting U.S. producers with each company's U.S. production location, share of U.S. HEDP production in 2007, and position on the petition.

---

<sup>1</sup> [www.Rhodia-novacare.com](http://www.Rhodia-novacare.com) has a list of the company's phosphonate products. Retrieved April 11, 2008.

<sup>2</sup> Total U.S. production capacity for all forms of organophosphonates in 2006 was estimated to be \*\*\*. \*\*\*.

<sup>3</sup> The Commission also sent producers' questionnaires to the U.S. firms that produce or are capable of producing other phosphonates. Four firms responded that they did not produce HEDP during the period for which data were collected (2005-07).

<sup>4</sup> \*\*\*, Petition, pp. 2-3.

**Table III-1****HEDP: U.S. producers, positions on petition, plant locations, and shares of U.S. production in 2007**

Firm name	Position on petition	Plant location	Parent company	Share of reported 2007 U.S. production (percent)
Compass Chemical International LLC <sup>1</sup>	Support (petitioner)	Smyrna, GA	100% Cathay Industries (USA)	***
Rhodia, North America / Lynx <sup>2</sup>	***	Charleston, SC <sup>3</sup>	100% Rhodia Group (France)	( <sup>3</sup> )

<sup>1</sup> Compass reported a \*\*\*. Compass reported that \*\*\*, an affiliated company that \*\*\* during the period for which data were collected, was integrated into Cathay Pigments (China), Ltd. \*\*\* was the broker Compass used for its HEDP imports from China. Compass also reported that \*\*\*, which operated independently, purchased HEDP predominately from Chinese producer \*\*\*. Petition, supplemental information, March 26, 2008, pp. 1-2.

<sup>2</sup> Rhodia reported that \*\*\*.

<sup>3</sup> \*\*\*.

Source: Compiled from data submitted in response to Commission questionnaires, [www.na.rhodia.com](http://www.na.rhodia.com), and [www.compasschemical.com](http://www.compasschemical.com).

**U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION**

U.S. producers' capacity, production, and capacity utilization data for HEDP are presented in table III-2. These data show that production capacity remained stable during 2005 to 2007, with average capacity utilization fluctuating based on production levels over the same period. In 2005 capacity utilization was \*\*\* percent, then fell in 2006 to \*\*\* percent, before returning to \*\*\* percent in 2007. The decline in 2006 was due to substantially lower production level in the second half of 2006, as Compass acquired the Smyrna, GA, production facility in July and only gradually ramped up its production.<sup>5</sup>

**Table III-2****HEDP: U.S. producers' capacity, production, and capacity utilization, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

The Commission asked domestic producers to describe any plant openings, relocations, expansions, acquisitions, consolidations, closures, and prolonged shutdowns.<sup>6</sup> Compass reported that it acquired a phosphonate plant in Smyrna, GA, and blending facility in Huntsville, TX, from Lynx in July 2006.<sup>7 8</sup> Prior to this, Compass was, since its establishment in August 1999, an import-based, hybrid supplier of specialty chemicals, including HEDP.<sup>9</sup> It used third party blending and warehousing service

<sup>5</sup> Conference transcript, p. 22 (Failon). Compass also reported that it did not produce HEDP when Compass first acquired the U.S. facility, but continued to import HEDP from China in the second half of 2006, and only started producing HEDP after a period of evaluation. Conference transcript, p. 62 (McCaul).

<sup>6</sup> Producers' questionnaire, section II-2.

<sup>7</sup> Conference transcript, pp. 11-12 (Failon). Compass reported that it has invested "in excess of \$2 million of capital" at the Smyrna facility. Conference transcript, pp. 21-22 (Failon).

<sup>8</sup> Compass argues that it purchased the Smyrna facility as \*\*\*. Petitioner's postconference brief, Exh. 4.

<sup>9</sup> Conference transcript, p. 10 (Failon).

providers.<sup>10</sup> In January 2007, Compass merged with Cathay Pigments USA, Inc. to form Cathay Industries (USA). Cathay Industries (USA) is a wholly owned subsidiary of Cathay Industries International Ltd., which in turn is a wholly owned subsidiary of Cathay Pigments (Holdings) Ltd.<sup>11</sup>

Prior to its acquisition by Compass, the phosphonate plant in Smyrna, GA, was owned and operated by Lynx from 2004 through June 2006. During this period Lynx \*\*\*.<sup>12</sup> In turn, \*\*\*.<sup>13</sup>

The Commission asked domestic producers to describe the constraints that limit production capacity.<sup>14</sup> Compass responded that the \*\*\* limited its production capacity of HEDP.<sup>15</sup>

Compass, accounting for all the U.S. production of HEDP in 2007, reported that it \*\*\* produce other products on the same machinery and equipment, but \*\*\* produce other products, namely \*\*\*, with the workers used in the production of HEDP. \*\*\* reportedly accounted for \*\*\* of its total production in 2007.

## U.S. PRODUCERS' SHIPMENTS

Table III-3 presents information on U.S. producers' shipments of HEDP. U.S. producers' U.S. shipments, in terms of quantity, rose from 2005 to 2007 by \*\*\* percent, largely due to Compass ramping up its production.<sup>16</sup> On a value basis, U.S. producers' U.S. shipments increased by only \*\*\* percent from 2005 to 2007, which resulted in a decline in the average unit value of \*\*\* percent. The average unit value of U.S. shipments declined over the period, from \$\*\*\* in 2005 to \$\*\*\* in 2007. U.S. producers' total shipments increased by \*\*\* percent during 2005-07, largely due to an increase in U.S. shipments in 2007. As a share of total shipments, U.S. shipments increased between 2005 and 2007, while export shipments declined.

\*\*\* U.S. producers reported transfers to related firms, while \*\*\* had export shipments.<sup>17</sup> Rhodia/Lynx and Compass reported \*\*\* internal consumption, of which Compass reported that tetrasodium etidronate, a tetrasodium salt of HEDP, represented \*\*\* percent of its internal consumption.<sup>18</sup> \*\*\* percent of tetrasodium etidronate, in the form of \*\*\*, was processed into a downstream product, and was reported to account for \*\*\* percent of the downstream product's production cost. Tetrasodium etidronate is used almost exclusively in bar soap manufacture as a preservative, as well as functioning as a water softener in soaps to prevent soap scum and bathtub rings by again sequestering or locking up the calcium and magnesium in the water.<sup>19</sup>

---

<sup>10</sup> Conference transcript, p. 11 (Failon).

<sup>11</sup> Compass Chemical International LLC, "About us," found at <http://www.compasschemical.com/about/index.htm>, retrieved April 1, 2008.

<sup>12</sup> Under the agreement, \*\*\*. Email from \*\*\*, April 17, 2008.

<sup>13</sup> Rhodia's response to the producer's questionnaire, addendum.

<sup>14</sup> Producers' questionnaire responses, section II-4.

<sup>15</sup> Compass reported that in 2007 it changed its raw material input from phosphorus trichloride (PCL<sub>3</sub>) to phosphorus acid. Compass stated that it made this change in part due to the availability of PCL<sub>3</sub>, its higher cost, and its hazardous nature. Lynx had obtained the PCL<sub>3</sub> it used in the production of HEDP from Rhodia, and so Compass claimed that it had to obtain PCL<sub>3</sub> from another source. Conference transcript, pp. 64-66 (McCaul).

<sup>16</sup> Conference transcript, p. 22 (Failon).

<sup>17</sup> \*\*\*.

<sup>18</sup> Conference transcript, pp. 18-19 (Failon), and Producer's questionnaire response, section II. Internal consumption for Lynx ranged from \*\*\* percent to \*\*\* percent of its total shipments, and \*\*\* percent to \*\*\* percent of total shipments for Compass.

<sup>19</sup> Compass reported that this product can also be used in other applications where HEDP is used, particularly where the alkaline pH is preferred so as to avoid an exothermal or heat buildup during blending. Competing products include Thermphos' Dequest 2016 and Rhodia's Briquest ADPA 21SH. Conference transcript, p. 19 (Failon). Similarly, Indian producer Aquapharm reported that it produced and internally consumed tetrasodium salt, (continued...)

**Table III-3**  
**HEDP: U.S. producers' shipments, by type and by company, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

**U.S. PRODUCERS' INVENTORIES**

Data on U.S. producers' end-of-period inventories of HEDP for the period for which data were collected are presented in table III-4. Inventories declined between 2005 and 2006, as Compass acquired the U.S. production facility in July 2006, but rose again in 2007, though ending the period \*\*\* percent below 2005 levels. Likewise, inventories as a ratio to production, to U.S. shipments, and to total shipments also declined in 2006, the partially recovered in 2007.

**Table III-4**  
**HEDP: U.S. producers' end-of-period inventories, by company, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

**U.S. PRODUCERS' IMPORTS AND PURCHASES**

During the period 2005-07, both Compass and Rhodia reported imports of HEDP, and \*\*\* reported purchases from other sources of HEDP.<sup>20</sup> \*\*\* reported that the purchases of U.S. imports from other sources were \*\*\*. Table III-5 presents company-specific information on U.S. producers' imports and purchases of HEDP and ratios to U.S. production of HEDP.

**Table III-5**  
**HEDP: U.S. producers' U.S. production, imports, purchases, and ratio to production, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

**U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY**

Data provided by U.S. producers on the number of production and related workers ("PRWs") engaged in the production of HEDP, the total hours worked by such workers, and wages paid to such PRWs during the period for which data were collected are presented in table III-6. PRWs producing HEDP declined by \*\*\* percent from 2005 to 2006, and rose in 2007 by \*\*\* percent, as Compass acquired the production facility from Lynx and ramped up its production. Hours worked per PRW declined \*\*\* percent between 2005 and 2007, while productivity increased \*\*\* percent and hourly wages increased by \*\*\* percent.

**Table III-6**  
**HEDP: U.S. producers' employment-related indicators, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

---

<sup>19</sup> (...continued)  
but that it did not sell this salt in the United States. Conference transcript, pp. 138-139 (Mangwani).  
<sup>20</sup> \*\*\*.

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

### U.S. IMPORTERS

The Commission sent importer questionnaires to 60 firms believed to be U.S. importers of HEDP, as well as to all U.S. producers.<sup>1</sup> Questionnaire responses containing usable data were received from 18 firms, which represent almost three-quarters of total imports from China under HTS subheading 2931.00.9043, a multi-product statistical reporting number,<sup>2</sup> almost all imports from India, and the vast majority of imports from all other sources, essentially the United Kingdom, in the period for which data were collected. Compass accounted for \*\*\* percent of reported imports of HEDP from China in 2007, and Aquapharm accounted for \*\*\* percent of reported imports of HEDP from India in 2007. Solutia accounted for \*\*\* percent of imports in 2007 from the United Kingdom, the largest nonsubject source.<sup>3</sup> During the period for which data were collected, U.S. producers Compass and Rhodia imported HEDP from China and the United Kingdom, respectively. From 2005 to June 2006, Compass was solely an importer of HEDP from China. In July 2006, Compass acquired a HEDP plant in Smyrna, GA, and commenced U.S. shipments from this facility. From 2005 to 2007, Compass accounted for \*\*\* percent, \*\*\* percent, and \*\*\* percent of the quantity of reported HEDP imports from China, respectively. During the same period, Rhodia accounted for \*\*\* percent, \*\*\* percent, and \*\*\* percent of imports of HEDP from nonsubject sources. From 2005 to June 2006, Rhodia had an exclusive agreement with U.S. producer Lynx, which \*\*\*. This agreement is described in more detail in *Part III* of this report.

Table IV-1 lists all responding U.S. importers of HEDP, their U.S. locations, and their quantities of imports, by source, in 2007.

**Table IV-1**  
**HEDP: Reported U.S. imports, by importers and by sources of imports, 2007**

\* \* \* \* \*

### U.S. IMPORTS

Table IV-2 presents data for U.S. imports of HEDP from China, India, and nonsubject sources, essentially the United Kingdom.<sup>4</sup> Data on U.S. imports from China and nonsubject sources are based on responses to the Commission's U.S. importers' questionnaires, as official statistics are from a statistical reporting number that is broader than the subject product. Data for imports from India are based primarily on responses to the Commission's U.S. importers' and foreign producers' questionnaires from \*\*\*.<sup>5</sup>

The quantity of U.S. imports from China fluctuated over the period, increasing \*\*\* percent from 2005 to 2006, then declining \*\*\* percent in 2007. In terms of value, imports from China followed a

---

<sup>1</sup> The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by the U.S. Customs and Border Protection ("Customs"), may have imported HEDP since 2005.

<sup>2</sup> \*\*\*, \*\*\*, and \*\*\* provided responses to the importers' questionnaire, but reported that they were not the importers of record, and as such are not included in the import data contained in this report. \*\*\* also reported that it was not the importer of record, but is included in the import data as its reported importer of record, a related company, \*\*\*, did not provide a response to the importers' questionnaire.

<sup>3</sup> \*\*\* reported that \*\*\*.

<sup>4</sup> Both Petitioners and Respondents reported that the United Kingdom was the only other major source of imports of HEDP into the United States. Conference transcript, p. 31 (Failon) and pp. 98-99 (Mangwani).

<sup>5</sup> \*\*\*.

similar pattern, rising between 2005 and 2006 by \*\*\* percent, then falling in 2007 by \*\*\* percent. The fluctuation in imports of HEDP from China \*\*\*. Compass noted that in 2006 after it bought the U.S. HEDP production facility, it had an increase in business and temporarily increased its imports of HEDP from China while it ramped up its U.S. production.<sup>6</sup> Compass argues that the decline in HEDP imports from China between 2006 and 2007 was due in large measure to a decline in imports from China by Compass itself, in order to ramp up domestic production.<sup>7</sup>

**Table IV-2**  
**HEDP: U.S. imports, by sources, 2005-07, July-December 2006, and July-December 2007**

Source	Calendar year			July-December	
	2005	2006	2007	2006	2007
<b>Quantity (1,000 pounds)</b>					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal	5,407	8,770	8,528	5,583	5,056
All other sources <sup>1</sup>	***	***	***	***	***
Total	***	***	***	***	***
<b>Value (\$1,000)<sup>2</sup></b>					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal	2,915	4,559	4,599	2,877	2,768
All other sources <sup>1</sup>	***	***	***	***	***
Total	***	***	***	***	***
<b>Unit value (per pound)<sup>2</sup></b>					
China	\$***	\$***	\$***	\$***	\$***
India	***	***	***	***	***
Average	0.54	0.52	0.54	0.52	0.55
All other sources <sup>1</sup>	***	***	***	***	***
Average	***	***	***	***	***

Table continued on next page.

<sup>6</sup> Conference transcript, p. 22 (Failon).

<sup>7</sup> Petitioner's postconference brief, p. 14 fn. 39.

**Table IV-2--Continued**  
**HEDP: U.S. imports, by sources, 2005-07, July-December 2006, and July-December 2007**

Source	Calendar year			July-December	
	2005	2006	2007	2006	2007
<b>Share of quantity (percent)</b>					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal	***	***	***	***	***
All other sources <sup>1</sup>	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal	***	***	***	***	***
All other sources <sup>1</sup>	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> All such imports are from the United Kingdom. <sup>2</sup> Landed, duty-paid.  Note.--2005 and 2006 data for imports of HEDP from India were compiled from ***.  Note.-- ***.  Source: Compiled from data submitted in response to Commission questionnaires.					

Offsetting \*\*\* in imports from China in 2007, other U.S. importers, which collectively represented approximately \*\*\* of total imports from China in 2007, reported increases in imports of HEDP from China. \*\*\* started importing in 2007, and importers \*\*\* increased their imports from China by \*\*\*.

Over the period for which data were collected imports of HEDP from India, in terms of quantity and value, increased by \*\*\* percent and \*\*\* percent, respectively. The quantity of imports of HEDP from the United Kingdom, the only substantial nonsubject source, rose by \*\*\* percent between 2005 and 2006, then fell \*\*\* percent in 2007. The increase in imports from 2005 to 2006 can be largely attributed to \*\*\*. In 2007 \*\*\* imports from the United Kingdom declined \*\*\* percent from its 2006 levels.<sup>8</sup> The decline in UK imports can also be attributed to \*\*\*.<sup>9</sup> The share of quantity and value of imports from China and India increased from 2005 to 2007, while that of the United Kingdom declined.

The Commission asked importers if they imported HEDP under HTS statistical reporting numbers other than 2931.00.9043. Four importers, \*\*\* reported importing HEDP under HTS numbers 2931.00.9041 or 2931.00.9050. This represented \*\*\* percent of total imports of HEDP from China over the period for which data were collected, \*\*\* percent of total imports of HEDP from India, and \*\*\* percent of total imports of HEDP from the United Kingdom.

<sup>8</sup> \*\*\*.

<sup>9</sup> \*\*\*.

Table IV-3 presents data for U.S. imports of HEDP from China by source. Imports of HEDP from China by Compass increased by \*\*\* percent between 2005 and 2006, but declined by \*\*\* percent in 2007, while imports from China by all other importers increased by \*\*\* percent and \*\*\* percent over the same periods. Over the period for which data were collected, unit values of imports by all other importers of HEDP from China were lower than those of Compass in each period.

**Table IV-3**  
**HEDP: U.S. imports from China, by sources, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

### THE QUESTION OF NEGLIGIBLE IMPORTS

The statute (section 771(24)(A)(i) of the Act) provides that imports from a subject country corresponding to the domestic like product are negligible if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition - in this case January 2007 through December 2007. Based on questionnaire responses of importers of HEDP from China, India, and nonsubject sources for that 12-month period, imports of HEDP from China and India accounted for \*\*\* percent and \*\*\* percent of total U.S. imports, respectively, \*\*\*.

### CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility and channels of distribution are addressed in *Parts I and II* of this report. With regard to geographic markets and presence in the market, the petitioner argued that imported HEDP from all subject countries competes without regard to geographic location in the United States and that these imports have been simultaneously present in the U.S. market during the period for which data were collected.<sup>10</sup> Respondents did not address geographic markets and presence in the market.

Table IV-4 presents data for the geographic markets of U.S. imports of HEDP from China and India. Eleven importers, representing \*\*\* of imports from China and \*\*\* of imports from India, reported estimated shares of their U.S. shipments into each of seven U.S. geographic regions in 2007.

**Table IV-4**  
**HEDP: U.S. shipments of subject U.S. imports, by geographic area, by sources, 2007**

\* \* \* \* \*

HEDP produced in China and India was present in the United States in all period and subperiods for which data were collected.

### APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on apparent U.S. consumption of HEDP are presented in table IV-5. From 2005 to 2006, apparent U.S. consumption of HEDP increased by \*\*\* percent in terms of quantity, and by \*\*\* percent in

---

<sup>10</sup> Petition, p. 28, and petitioner’s postconference brief, pp. 8-9.



terms of value. From 2006 to 2007, the quantity of apparent U.S. consumption decreased by \*\*\* percent and the value decreased by \*\*\* percent.

Data on U.S. market shares for HEDP are presented in table IV-6. From 2005 to 2006, U.S. producers lost \*\*\* percentage points of market share based on quantity and \*\*\* percentage points based on value. Between 2006 and 2007, U.S. producers gained \*\*\* percentage points of U.S. market share based on volume and \*\*\* percentage points based on value. U.S. imports from China gained \*\*\* percentage points of U.S. market share during 2005-06 based on quantity and \*\*\* percentage points based on value. Between 2006 and 2007, U.S. imports from China gained \*\*\* percentage point and \*\*\* percentage points, based on quantity and value, respectively. U.S. imports from India declined by \*\*\* and \*\*\* percentage points between 2005 and 2006 based on quantity and value, respectively, but gained \*\*\* and \*\*\* percentage points of U.S. market share during 2006-07, respectively. The market share of U.S. imports from nonsubject countries declined \*\*\* percentage points based on quantity but gained \*\*\* percentage point based on value over the period for which data were collected.<sup>11</sup>

**Table IV-5**

**HEDP: U.S. shipments of domestic product, U.S. shipments of imports by sources, and apparent U.S. consumption, 2005-07, July-December 2006, and July-December 2007**

Item	Calendar year			July-December	
	2005	2006	2007	2006	2007
<b>Quantity (1,000 pounds)</b>					
U.S. producers' U.S. shipments:	***	***	***	***	***
U.S. shipments of imports from--					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal	5,881	8,351	8,089	4,762	4,267
All other countries <sup>1</sup>	***	***	***	***	***
Total imports	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
<b>Value (\$1,000)</b>					
U.S. producers' U.S. shipments:	***	***	***	***	***
U.S. shipments of imports from--					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal	3,709	5,047	4,978	2,828	2,716
All other countries <sup>1</sup>	***	***	***	***	***
Total imports	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
1 ***.					
Source: Compiled from data submitted in response to Commission questionnaires.					

<sup>11</sup> \*\*\* reported that \*\*\*.

**Table IV-6**  
**HEDP: Apparent U.S. consumption and market shares, 2005-07, July-December 2006, and July-December 2007**

\* \* \* \* \*

**RATIO OF IMPORTS TO U.S. PRODUCTION**

Data on the ratio of imports to U.S. production of HEDP are presented in table IV-7.

**Table IV-7**  
**HEDP: U.S. production, U.S. imports, and ratios of imports to production, 2005-07, July-December 2006, and July-December 2007**

Item	Calendar year			July-December	
	2005	2006	2007	2006	2007
<b>Quantity (1,000 pounds)</b>					
U.S. production	***	***	***	***	***
U.S. imports from--					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal, subject	5,407	8,770	8,528	5,583	5,056
All other sources <sup>1</sup>	***	***	***	***	***
Total imports	***	***	***	***	***
<b>Ratio of imports to U.S. production (percent)</b>					
U.S. imports from--					
China	***	***	***	***	***
India	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All other sources <sup>1</sup>	***	***	***	***	***
Total imports	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.					

## **PART V: PRICING AND RELATED INFORMATION**

### **FACTORS AFFECTING PRICES**

#### **Raw Material Costs**

The principal raw materials used for producing HEDP in the United States are acetic anhydride and phosphorus acid.<sup>1</sup> Raw materials as a share of cost of goods sold for the domestic producer of HEDP increased between the second half of 2006 and 2007, increasing from \*\*\* percent of the cost of goods sold in the second half of 2006 to \*\*\* percent in 2007. Petitioner indicates that annual average raw material costs for its Mayoquest 1500 product increased by \*\*\* percent from \*\*\* cents per pound in 2005 to \*\*\* cents per pound in 2006 to \*\*\* cents per pound in 2007.<sup>2</sup>

#### **Transportation Costs to the U.S. Market**

Transportation costs for HEDP from China and India to the United States (excluding U.S. inland costs) are estimated to be approximately 6.1 percent and 0.9 percent, respectively, of the total cost for HEDP. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

#### **U.S. Inland Transportation Costs**

Transportation costs on U.S. inland shipments of HEDP generally account for a small-to-moderate share of the delivered price of these products. The one U.S. producer, Compass, reported costs of \*\*\* percent of the delivered price for HEDP. For importers, the costs ranged from 1 to 25 percent of the delivered price for HEDP.<sup>3</sup>

#### **Exchange Rates**

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese currency appreciated 11.4 percent relative to the U.S. dollar from 2005 to 2007 and the real value appreciated 38.4 percent (figure V-1). The nominal value of the Indian currency appreciated 10.8 percent relative to the U.S. dollar from 2005 to 2007 and the real value appreciated 8.2 percent.

### **PRICING PRACTICES**

#### **Pricing Methods**

When the U.S. producer and importers were asked how they determined the prices that they charge for HEDP, responses were varied. Transaction-by-transaction negotiations, set price lists, and contracts were all cited by the U.S. producer and importers. U.S. producer Compass reported that it quotes prices of HEDP on \*\*\* basis, and importers reported quoting on an f.o.b. basis, a delivered basis, or both.

---

<sup>1</sup> Petition, p. 4.

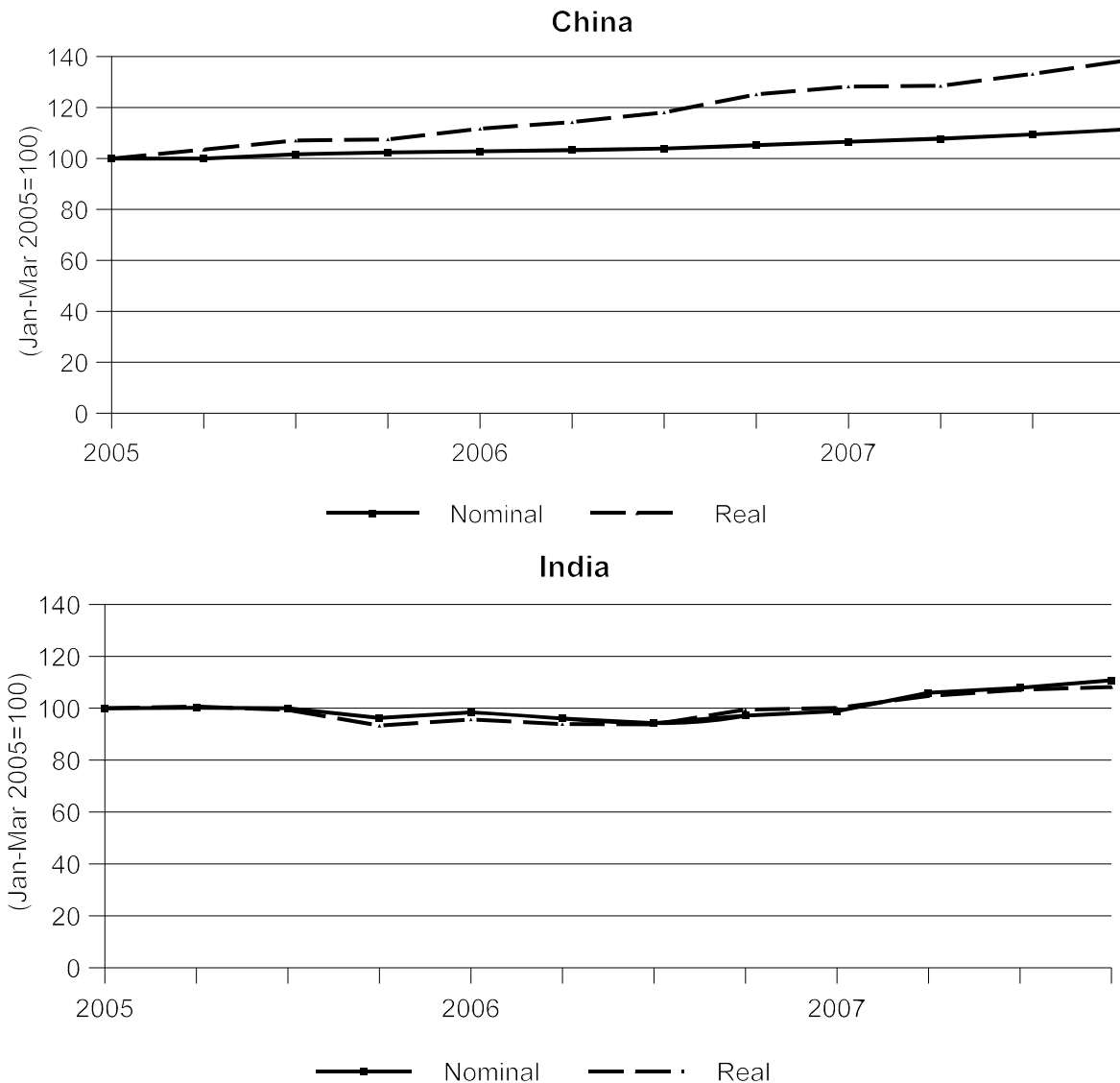
<sup>2</sup> Petition, pp. 29-39 and Exhibit AD-15.

<sup>3</sup> The importer that reported 25 percent was \*\*\*. The second-highest reported transportation cost by importers was 10 percent.

The U.S. producer Compass reported that \*\*\* percent of its sales of HEDP were from inventory. Seven of 12 responding importers reported that all of their sales are made from inventory and the three remaining importers (\*\*\*) reported making at least 75 percent of their sales from inventory. Two of the 12 responding importers (\*\*\*) reported making all of their sales to order.

The U.S. producer Compass reported lead times from inventory of \*\*\* days and lead times for sales to order of \*\*\* days. Lead times for delivery of HEDP for all but one responding U.S. importer ranged from one day to seven days on sales from inventory and ranged from 3 to 8 weeks on sales produced to order.

**Figure V-1**  
**Exchange rates: Indices of the nominal and real exchange rates between the currencies of China and India and the U.S. dollar, by quarters, 2005-2007**



Source: International Monetary Fund, *International Financial Statistics* online, [www.imfstatistics.org/imf/](http://www.imfstatistics.org/imf/) retrieved April 2, 2008.

## Sales Terms and Discounts

U.S. producer Compass reported that \*\*\* percent of its sales are on a short-term contract basis and \*\*\* percent were on a spot sales basis. Five of 12 responding importers reported that they sell exclusively on a spot sales basis and one importer reported making 90 percent of its sales on a spot basis. Five importers reported making at least 45 percent of their sales on a contract basis (\*\*\*) and one reported making half of their sales on short-term contract basis and other half on a spot basis (\*\*\*)<sup>4</sup>.

U.S. producer Compass indicated that its contracts are \*\*\* in duration, sometimes price \*\*\*, and that its contracts have \*\*\*, and sometimes \*\*\*. U.S. importers indicated that contracts are typically for periods of one month to up to one year. Four of eight responding importers reported that price can be renegotiated for their contracts during the contract period. Four of eight responding importers indicated that contracts contain meet-or-release provisions and four of six responding importers indicated that both price and quantity are fixed.<sup>5</sup>

The \*\*\* and five of eleven responding importers indicated that they do not have discount policies for their sales of HEDP. Two responding importers (\*\*\*) reported the use of volume discounts and one additional importer (\*\*\*) reported providing discounts for full container loads.

## PRICE DATA

The Commission requested U.S. producers and importers of HEDP to provide quarterly data for the total quantity and f.o.b. value of the following HEDP products shipped to unrelated customers in the U.S. market during 2005-07:

***Product 1.***-- 60 percent nominal aqueous solution HEDP, including, but not limited to, Dequest® 2010 (Thermphos/Solutia), Briquest® ADPA-60A (Rhodia), Mayoquest® 1500 (Compass), Aquacid 105 EX (Aquapharm), XF-334 (Wujin Fine Chemical Factory), KW-100 (Kewei), and ZF111SG (Wujin Water Stabilizer Factory), sold in truckload drums to distributors (resellers).

***Product 2.***-- 60 percent nominal aqueous solution HEDP, including, but not limited to, Dequest® 2010 (Thermphos/Solutia), Briquest® ADPA-60A (Rhodia), Mayoquest® 1500 (Compass), Aquacid 105 EX (Aquapharm), XF-334 (Wujin Fine Chemical Factory), KW-100 (Kewei), and ZF111SG (Wujin Water Stabilizer Factory), sold in bulk tanktruck to compounders (formulators).

***Product 3.***-- 60 percent nominal aqueous solution HEDP, including, but not limited to, Dequest® 2010 (Thermphos/Solutia), Briquest® ADPA-60A (Rhodia), Mayoquest® 1500 (Compass), Aquacid 105 EX (Aquapharm), XF-334 (Wujin Fine Chemical Factory), KW-100 (Kewei), and ZF111SG (Wujin Water Stabilizer Factory), sold in truckload drums to compounders (formulators).

***Product 4.***-- 60 percent nominal aqueous solution HEDP, including, but not limited to, Dequest® 2010 (Thermphos/Solutia), Briquest® ADPA-60A (Rhodia), Mayoquest® 1500 (Compass), Aquacid 105 EX (Aquapharm), XF-334 (Wujin Fine Chemical Factory), KW-100 (Kewei), and ZF111SG (Wujin Water Stabilizer Factory), sold in LTL drums to compounders (formulators).

---

<sup>4</sup> Although importer \*\*\* did not indicate what share of its sales were for contract or spot sales, it is assumed that all of its sales were on a contract basis since it reported that its short term contracts were one year in duration.

<sup>5</sup> Another two responding importers indicated that these contracts sometimes contain meet or release provisions. Another two responding importers indicated that sometimes price and quantity are fixed.

Two U.S. producers (\*\*\*)<sup>6</sup>, nine importers from China (\*\*\*)<sup>6</sup>, and two importers from India (\*\*\*) provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. Pricing data reported by these firms accounted for approximately \*\*\* percent of U.S. producers' commercial shipments of HEDP, about \*\*\* percent of U.S. commercial shipments of subject imports from China, about \*\*\* percent of U.S. commercial shipments of subject imports from India, and about \*\*\* percent of U.S. commercial shipments of subject imports from nonsubject sources in 2007.<sup>7</sup>

### Price Trends

Weighted-average prices of HEDP are presented in tables V-1 through V-4 and figure V-2. According to both petitioner and respondents, the HEDP market exhibits seasonality, increasing during the second and third quarters due to increased air conditioning use and somewhat due to increased demand for industrial cooling.<sup>8</sup> Compass indicated that it makes no distinction between pricing of imported material versus domestically produced material.<sup>9</sup> Weighted-average sales prices for most U.S.-produced products decreased between periods with available data by amounts up to \*\*\* percent (see table V-5). The weighted-average sales price for product 2 increased by \*\*\* between the first quarter of 2005 and the fourth quarter of 2007.

### Price Comparisons

Overall, there were 52 instances where prices for domestic HEDP and subject imports of HEDP could be compared. Of these 52 comparisons, there were 35 instances (67 percent) where the subject imported product was priced below the domestic product (table V-6). Margins of underselling averaged 21.5 percent, ranging from 0.9 percent to 60.0 percent. In 17 instances, the subject imported product was priced above the comparable domestic product. Margins of overselling averaged 18.2 percent, ranging from 0.3 percent to 84.2 percent.

**Table V-1**

**HEDP: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, and margins of (overselling)/underselling by quarters, 2005-07**

\* \* \* \* \*

**Table V-2**

**HEDP: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, and margins of (overselling)/underselling by quarters, 2005-07**

\* \* \* \* \*

**Table V-3**

**HEDP: Weighted-average f.o.b. prices and quantities of domestic and imported product 3, and margins of (overselling)/underselling by quarters, 2005-07**

\* \* \* \* \*

---

<sup>6</sup> Price data from the \*\*\*.

<sup>7</sup> Price data on U.S. imports from the United Kingdom are presented in Appendix D.

<sup>8</sup> Conference transcript p. 35 (Failon), pp. 102-103 (Collias).

<sup>9</sup> Conference transcript, p. 77 (Failon).

**Table V-4**

**HEDP: Weighted-average f.o.b. prices and quantities of domestic and imported product 4, and margins of (overselling)/underselling by quarters, 2005-07**

\* \* \* \* \*

**Figure V-2**

**HEDP: Weighted-average f.o.b. prices of products 1-4, 2005-07**

\* \* \* \* \*

**Table V-5**

**HEDP: Summary of weighted-average f.o.b. prices for products 1-4, by country, 2005-07**

\* \* \* \* \*

**Table V-6**

**HEDP: Instances of underselling/overselling and the range and average of margins for products 1-4, 2005-07**

Country	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
China	***	***	***	***	***	***
India	***	***	***	***	***	***
<b>Total<sup>1</sup></b>	<b>35</b>	<b>0.9 to 60.0</b>	<b>21.5</b>	<b>17</b>	<b>0.3 to 84.2</b>	<b>18.2</b>

<sup>1</sup> Total number of instances for all cited products, range of margins for all cited products, and average margin for all cited products.

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

**LOST SALES AND LOST REVENUES**

The Commission requested U.S. producers of HEDP to report any instances of lost sales or revenues they experienced due to competition from imports of HEDP from China and India since 2005. In their petition, Compass reported \*\*\* lost sales allegations totaling \$\*\*\* and involving \*\*\* pounds of HEDP and \*\*\* totaling \$\*\*\* and involving \*\*\* pounds of HEDP. Staff contacted the \*\*\* purchasers cited in the allegations; \*\*\* responded. The results are summarized in tables V-7 and V-8 and are discussed below.

\*\*\*.

**Table V-7**

**HEDP: U.S. producers' lost sales allegations**

\* \* \* \* \*

**Table V-8**

**HEDP: U.S. producers' lost revenue allegations**

\* \* \* \* \*

\*\*\*.





## PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCER

### BACKGROUND

During the period examined U.S. production of HEDP took place at a single facility in Smyrna, GA, which was operated by Lynx and subsequently by Compass. Financial results were reported on the basis of U.S. generally accepted accounting principles (“GAAP”).

As described in a previous section of this report, the character of U.S. HEDP operations changed during the period. \*\*\*.<sup>1</sup> Subsequent to the acquisition of the Smyrna, GA plant in mid 2006, Compass assumed responsibility for both manufacturing and marketing U.S.-produced HEDP.<sup>2</sup> With respect to the part of the period covered by the Lynx-Rhodia agreement (2005, first half 2006), the Commission ideally would present a consolidation of the HEDP financial results of both Lynx and Rhodia. For the reasons described in footnote 3, however, staff concluded that HEDP financial results for the first part of the period (2005, first half 2006) should be limited to the financial results reported by Rhodia.<sup>3</sup> In the second half of the period (second half 2006, 2007), U.S.-produced HEDP financial results reflect the operations of Compass.

As noted in a previous section of the report, in early 2007 Compass became a subsidiary of Cathay Industries USA with its ultimate parent company being Cathay Pigments (Holdings) Ltd. According to a Compass official, there was no substantive change in the company’s operations subsequent to becoming part of the Cathay group.<sup>4</sup>

### OPERATIONS ON HEDP

Income-and-loss data for operations on HEDP are presented in table VI-1 and on an average unit basis in table VI-2. A variance analysis is not presented due to the comparability issues described below.<sup>5</sup>

**Table VI-1**  
**HEDP: Results of operations, 2005-07**

\* \* \* \* \*

**Table VI-2**  
**HEDP: Results of operations (*per pound*), 2005-07**

\* \* \* \* \*

As shown in table VI-1, overall HEDP operations generated \*\*\* throughout the period with a \*\*\* in 2007. The trend in average sales value indicates that on an overall basis average HEDP sales value

---

<sup>1</sup> Addendum to Rhodia’s U.S. producer questionnaire.

<sup>2</sup> Conference transcript, pp. 60-61 (McCaul).

<sup>3</sup> \*\*\*.

<sup>4</sup> Conference transcript, p. 57 (McCaul).

<sup>5</sup> \*\*\*. Because the HEDP cost information reported by Rhodia and Compass are not directly comparable, table VI-1 and table VI-2 are modified from the traditional Commission format in order to separately present the January-July 2006 information for Rhodia and the July-December 2006 information for Compass. The full-year 2006 information reflects the HEDP financial results of Compass and Rhodia combined. As presented in appendix C, HEDP financial results reflect full-year 2006 (without separate first half and second half 2006 breakouts), as well as second half 2006 and second half 2007.

declined in 2006 compared to 2005 and then subsequently increased in 2007. Despite the increase in 2007, average HEDP sales value at the end of the period was still lower compared to 2005.

A direct period-to-period comparison of the average costs presented in table VI-2 is limited by the change in reporting entities and corresponding format of HEDP financial results. With respect to average raw material cost, comparability is further limited by changes in the form of phosphorus acid used. As described in a previous section of this report, HEDP can be produced using two processes both of which use acetic anhydride but which differ in terms of phosphorus acid source: phosphorus trichloride or phosphorus acid crystal.<sup>6</sup> During 2005 and 2006, phosphorus trichloride was the primary phosphorus acid source used in the production of HEDP. According to a company official, the subsequent switch to phosphorus acid crystal in 2007 by Compass was the only significant operational change after the company's acquisition of the Smyrna, GA plant.<sup>7</sup> With respect to the cost of raw materials after acquisition, it was also noted generally that "... Compass was, because of its situation, able to provide some raw materials at better costs than Lynx was able to, so there would have been some improvement in that regard."<sup>8</sup> According to Compass' U.S. producer questionnaire, \*\*\*.<sup>9</sup>

\*\*\*. \*\*\*.<sup>10</sup> \*\*\*.<sup>11</sup>

Since full-year 2006 data are a combination of reporting by Compass and Rhodia, period-to-period changes in direct labor and other factory costs are comparable, as presented in table VI-1 and table VI-2, only with respect to the second half of 2006 and 2007. As shown in table VI-2, average direct labor cost and other factory cost were somewhat lower in full-year 2007 compared to second half 2006. This pattern, at least in part, is related to the substantial decline in capacity utilization in the second half of 2006 and the subsequent increase in full-year 2007. According to Compass, while the Smyrna, GA facility continued to operate throughout the transition in ownership between Lynx and Compass, there was a slowdown in second half 2006 production in part to work off some of Compass' imported inventory. The decline in second half 2006 HEDP volume also reflected the previous termination of the Lynx-Rhodia contract manufacturing agreement.<sup>12</sup>

While the company reported that there were no significant non-recurring expenses due to the transition in ownership, there was a general corporate restructuring of Compass to reflect its expansion into manufacturing operations, as well as capital expenditures at the Smyrna, GA plant to get it "... into an acceptable condition over the first twelve months of ownership."<sup>13</sup> As described by a Compass company official, "{t}here was equipment that had to be replaced; there were upgrades that had to be made. That was done by Compass, and that was a significant difference in the operation. The plant, currently, is in much better shape than it's ever been and it's running very smoothly now." According to

---

<sup>6</sup> Petition, pp. 4-5.

<sup>7</sup> Conference transcript, pp. 62-64 (McCaul).

<sup>8</sup> Conference transcript, p. 62 (McCaul). With regard to the switch from phosphorus trichloride to phosphorus acid crystal in 2007, it was also noted at the staff conference that Compass could no longer rely on Rhodia as a source of phosphorus trichloride because Rhodia in effect became a competitor after the termination of the Lynx-Rhodia contract manufacturing agreement. Conference transcript, p. 64 (McCaul). Additionally, the switch to phosphorus acid crystal from phosphorus trichloride, formerly the single most hazardous material at the Smyrna, GA plant, also reduced the overall hazardous material responsibilities of Compass. Conference transcript, p. 66 (Failon).

<sup>9</sup> \*\*\*. E-mail with attachments from \*\*\*, April 8, 2008. Conference transcript, pp. 64 (McCaul). \*\*\*. Auditor preliminary phase notes.

<sup>10</sup> E-mail from \*\*\*, April 22, 2008.

<sup>11</sup> Compass petition, pp. 4-5.

<sup>12</sup> Conference transcript, pp. 59-60 (McCaul).

<sup>13</sup> E-mail with attachments from \*\*\*, April 8, 2008. Conference transcript, pp. 59-60 (McCaul).

this company official, these investments were not made previously due to financial difficulties experienced by Lynx.<sup>14</sup>

As shown in table VI-1 and table VI-2 and when considering the entire period, SG&A expenses as a percent of sales and on an average per pound basis were somewhat lower at the end of the period. When considering Compass' second-half 2006 HEDP financial results and the \*\*\* in 2007, the primary factors were lower average raw material cost in conjunction with a modestly higher average sales value. Additional factors were the declines in average direct labor and other factory costs which were partially offset by higher average SG&A expenses. The lower average direct labor and other factory costs in 2007 are generally consistent with higher capacity utilization and the plant improvements noted previously.

In 2007, U.S.-produced HEDP represented \*\*\* percent of the Smyrna, GA plant's total revenue and \*\*\* percent of Compass' overall establishment revenue.<sup>15</sup> The corresponding 2007 \*\*\* for the Smyrna, GA plant and Compass' overall establishment operations were \*\*\*, respectively. For second half 2006 the Smyrna, GA plant reported a \*\*\*, while for full-year 2006 Compass' overall establishment operations generated a \*\*\*.<sup>16</sup>

While HEDP is the largest volume phosphonate produced at the Smyrna, GA plant, tetrasodium etidronate is the only downstream product which is directly dependent on HEDP production.<sup>17</sup> According to a company official, with the minor exception of tetrasodium etidronate, the Smyrna, GA plant could operate without HEDP production. However and from the company's perspective, the inability to produce and sell the largest volume product, HEDP, profitably calls into question the plant's overall viability.<sup>18</sup> The Compass company official also noted that large volume HEDP production enhances the company's supply relationships and infrastructure and that in this regard the elimination of HEDP production would likely affect the plant's other products.<sup>19</sup>

Notwithstanding the importance of HEDP production to the overall efficiency of the Smyrna, GA plant operations, a company official indicated that it was not clear whether HEDP production would be continued after Compass' acquisition: ". . . our first decision was that we weren't going to make any HEDP. We continued importing product in the second half of 2006; and then we kept looking at it, though, and thinking we ought to be able to try to compete here on making HEDP in the U.S. So we changed our position on that and we started focusing on manufacturing HEDP."<sup>20</sup>

---

<sup>14</sup> Conference transcript, p. 61 (McCaul). For the eighteen months subsequent to the Compass acquisition the overall investment at the Smyrna, GA plant was estimated to be around \$2.5 million. Ibid.

<sup>15</sup> In response to staff requests, Compass provided financial results for Compass' overall establishment operations (2005, 2006, 2007), as well as plant-specific (Smyrna, GA) financial results (2006, 2007). Compass also provided Lynx's financial results broken out by plant (including Smyrna, GA) (2005, 2006).

<sup>16</sup> \*\*\*.

<sup>17</sup> The internal consumption reported in table VI-1 and table VI-2 represents HEDP used to produce tetrasodium etidronate.

<sup>18</sup> Conference transcript, pp. 62, 67 (McCaul).

<sup>19</sup> Conference transcript, p. 68 (McCaul).

<sup>20</sup> \*\*\*. Petitioner's postconference brief, exhibit 4.

**CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES,  
ASSETS, AND RETURN ON INVESTMENT**

Data on capital expenditures, research and development (“R&D”) expenses, assets, and return on investment are presented in table VI-3.

The capital expenditures for the period, including 2005, were reported by Compass.<sup>21</sup> As noted previously, the increases in capital expenditures during the period represented equipment upgrades that had been delayed/postponed by the predecessor company, Lynx. R&D expenses, which were also reported for the entire period by Compass, declined steadily. As described by Compass, \*\*\*.<sup>22</sup>

**Table VI-3**  
**HEDP: Capital expenditures, R&D expenses, assets, and return on investment related to HEDP operations, 2005-07**

\*       \*       \*       \*       \*       \*       \*

**CAPITAL AND INVESTMENT**

The Commission requested the U.S. producer to describe any actual or anticipated negative effects of imports of HEDP from China and/or India on its 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.

**Actual Negative Effects**

Compass:       \*\*\*.

Rhodia:       \*\*\*.

**Anticipated Negative Effects**

Compass:       \*\*\*.

Rhodia:       \*\*\*.

---

<sup>21</sup> As a purchaser of Lynx’s manufacturing output, Rhodia did not report assets, capital expenditures, or R&D expenses associated with U.S.-produced HEDP.

<sup>22</sup> E-mail with attachments from \*\*\*, April 8, 2008.

## **PART VII: THREAT CONSIDERATIONS AND *BRATSK* INFORMATION**

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors<sup>1</sup>--

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

---

<sup>1</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider \*\*\* . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).<sup>2</sup>

Information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV* and *V* of this report; 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. Also presented in this section of the report is information obtained for consideration by the Commission in relation to *Bratsk* rulings.

### **THE INDUSTRY IN CHINA**

The Commission requested data from 27 firms which were listed in the petition and believed to produce HEDP in China during the period for which data were collected.<sup>3</sup> The Commission received responses from four firms, which claimed to account for approximately \*\*\* percent of Chinese production of HEDP and \*\*\* percent of exports to the United States. The names of the foreign firms along with shares of production and exports to the United States (by quantity) are presented in table VII-1.

---

<sup>2</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

<sup>3</sup> Petition, exh. AD-3.

**Table VII-1**

**HEDP: Manufacturers/exporters in China, and quantities and shares of reported production and exports to the United States, 2007**

Foreign producer/exporter	Reported production (2007)		Reported exports to the United States (2007)	
	Quantity (1,000 lbs.)	Share (Percent)	Quantity (1,000 lbs.)	Share (Percent)
Changzhou Kewei Fine Chemical Co., Ltd.	***	***	***	***
Jiangsu Jianghai Chemical Group Co., Ltd.	***	***	***	***
Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory	***	***	***	***
Wujin Fine Chemical Factory <sup>1</sup>	***	***	***	***
Total	43,355	100.0	***	100.0
<sup>1</sup> Wujin Fine Chemical Factory reported that ***. Source: Compiled from data submitted in response to Commission questionnaires.				

The Commission asked responding foreign producers to estimate the shares of their firm’s total sales that were represented by sales of HEDP in 2007; firms reported a simple average of \*\*\* percent, with sales of HEDP ranging from \*\*\* percent to \*\*\* percent of total sales. \*\*\* Chinese producers reported plans to change production capacity or production of HEDP in China. Chinese producers of HEDP reported that none of the HEDP exported by them was subject to antidumping findings or remedies in any WTO-member countries.

Respondent, Ad Hoc Water Treatment Chemical Producers Committee (“AWTCP”), which consists of the four responding Chinese producers, contends that the demand for HEDP in China is at least 20,000 metric tons or 44.1 million pounds. AWTCP also contends that “\*\*\*.”<sup>4</sup>

Table VII-2 presents data for reported production and shipments of HEDP for China. Chinese capacity increased by 37.6 percent over the period 2005-07, with a commensurate increase in production of 36.0 percent. From 2005 to 2007, capacity utilization for producers in China remained relatively steady, declining by 0.7 percentage point from 65.0 percent to 64.3 percent. Individual Chinese producers’ average capacity utilization over the period 2005-07 ranged from \*\*\* percent to \*\*\* percent, with all but one producer above \*\*\* percent. Exports to the United States rose by \*\*\* percent from 2005 to 2007, compared with an increase of \*\*\* percent to all other markets. As a ratio of total shipments, exports to the United States rose from \*\*\* percent to \*\*\* percent between 2005 and 2006, then fell to \*\*\* percent in 2007. Exports to all other markets as a ratio of total shipments declined from \*\*\* percent in 2005 to \*\*\* percent in 2006, then increased to \*\*\* percent in 2007. Ratios of inventories to production and to total shipments remained relatively steady, but both were projected to increase in 2008 and 2009.

Chinese producer, \*\*\* listed \*\*\*, as one of its five largest U.S. importers.

<sup>4</sup> AWTCP postconference brief, p. Q-2.

**Table VII-2**  
**HEDP: China's reported production capacity, production, shipments, and inventories, 2005-07,**  
**July-December 2006, July-December 2007, and projections for 2008 and 2009**

Item	Actual experience					Projections	
	2005	2006	2007	July-December		2008	2009
				2006	2007		
<b>Quantity (1,000 pounds)</b>							
Capacity	49,018	60,055	67,455	32,328	33,828	68,455	68,955
Production	31,885	36,582	43,355	18,198	20,979	42,344	44,467
End-of-period inventories	***	***	***	***	***	***	***
Shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***
<b>Ratios and shares (percent)</b>							
Capacity utilization	65.0	60.9	64.3	56.3	62.0	61.9	64.5
Inventories to production	***	***	***	***	***	***	***
Inventories to total shipments	***	***	***	***	***	***	***
Shares of total quantity of shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.							



## THE INDUSTRY IN INDIA

The Commission requested data from six firms which were listed in the petition and believed to have produced HEDP in India during the period for which data were collected.<sup>5</sup> The Commission received responses from two firms, although only one firm, Aquapharm Chemicals Pvt. Ltd. (“Aquapharm”), provided useable data.<sup>6</sup> The \*\*\* producer of HEDP in India, Aquapharm, claimed to account for approximately \*\*\* percent of Indian production of HEDP and together with Indian producer, Excel Industries, accounted for the vast majority of exports to the United States during the period 2005-07.<sup>7 8</sup>

Aquapharm reported that \*\*\* percent of its total sales in the most recent fiscal year were sales of HEDP. As shown in table VII-3, in 2007, \*\*\* percent of Aquapharm’s total shipments of HEDP were exported to the United States, \*\*\* percent of its shipments were to its home market, \*\*\* percent were internal shipments, and \*\*\* percent were to export other markets such as \*\*\*.

**Table VII-3**

**HEDP: India’s reported production capacity, production, shipments, and inventories, 2005-07, July-December 2006, July-December 2007, and projections for 2008 and 2009**

\* \* \* \* \*

Aquapharm reported that it only sells to two customers in the United States, 80 percent to formulator/compounder/distributor Buckman and 20 percent to distributor Zibex. Aquapharm reported that it has a warehouse in Alabama, as well as an independent agent, to provide service to Buckman.<sup>9</sup> Aquapharm stated that it had increased its HEDP production capacity in order to meet demand from the European Union.<sup>10</sup> It also reported that it \*\*\*. Aquapharm reported that it anticipated growth in its sales in \*\*\*.

Table VII-3 presents data for reported production and shipments of HEDP for India. Production increased over the period 2005-07 and was projected to continue to increase in 2008 and 2009. Capacity utilization fluctuated from \*\*\*. Home market sales remained relatively stable over the period, declining by \*\*\* percent between 2005 and 2007. In contrast, exports rose by \*\*\* percent over the same period, with a \*\*\* percent increase in exports to the United States and a \*\*\* percent increase in exports to all other markets. As a share of total shipments, exports increased from \*\*\* percent in 2005 to \*\*\* percent in 2006 and \*\*\* percent in 2007. This increase was largely attributable to exports to non-U.S. markets, which increased from \*\*\* percent of total shipments in 2005 to \*\*\* percent in 2006 and \*\*\* percent in 2008. Exports to the United States as a share of total shipments remained relatively flat, fluctuating from \*\*\* percent in 2005 to \*\*\* percent in 2006 and \*\*\* percent in 2007.

Aquapharm reported that \*\*\* as shown in table VII-4, \*\*\*.

---

<sup>5</sup> Petition, exh. AD-3.

<sup>6</sup> Excel Industries provided a response to the foreign producers’ questionnaire, but did not provide usable trade data. Excel Industries reported that \*\*\*.

<sup>7</sup> E-mail from \*\*\*, April 5, 2008, and conference transcript, p. 100 (Mangwani). The petitioners also report that these two producers are the largest producers and exporters to the United States of HEDP from India. Petition, p. 9 and Exh. AD-3.

<sup>8</sup> There are two other producers of HEDP in India, Rencal Chemicals (India) Ltd. and United Phosphorus, Ltd., but they are reported to be relatively small. Conference transcript, p. 100 (Mangwani).

<sup>9</sup> Conference transcript, pp. 85-87 (Mangwani), and email from \*\*\*, April 14, 2008.

<sup>10</sup> Conference transcript, p. 110 (Mangwani).

Aquapharm estimated that the demand for HEDP in India was approximately 7,000 to 8,000 metric tons (15.4 million to 17.6 million pounds), and was growing at a rate of about 14 to 15 percent per year due to growth in infrastructure and increased use in water treatment.<sup>11</sup>

Both Indian producers of HEDP reported that none of the HEDP that they exported was subject to antidumping findings or remedies in any WTO-member countries.

### U.S. IMPORTS SUBSEQUENT TO DECEMBER 31, 2007

The Commission requested U.S. importers to indicate whether they imported or arranged for the importation of HEDP after December 31, 2007. Nine of the 15 reporting U.S. importers stated that they had imported or arranged for importation since December 31, 2007, seven from China and two from India. Table VII-4 presents U.S. imports from China and India subsequent to December 31, 2007.

**Table VII-4**  
**HEDP: U.S. importers' orders of subject imports from China and India subsequent to December 31, 2007, by period**

Period	Quantity (pounds)	
	China	India
January-March 2008	932,414	***
April-June 2008	572,134	***
July-September 2008	70,000	***
October-December 2008	80,000	***
Source: Compiled from data submitted in response to Commission questionnaires.		

### U.S. IMPORTERS' INVENTORIES

Data collected in these investigations on U.S. importers' end-of-period inventories of HEDP are presented in table VII-5. U.S. importers' reported inventories of HEDP from China increased by \*\*\* percent from 2005 to 2006, and by \*\*\* percent from 2006 to 2007. These inventories from China, as a share of imports from China, also increased from \*\*\* percent in 2005, to \*\*\* percent in 2006, rising again in 2007 to \*\*\* percent. In 2006, Compass reported that it had an increase in business, and temporarily increased its imports of HEDP from China after it bought the U.S. HEDP production facility.<sup>12</sup>

Inventories from India increased by \*\*\* percent, an increase of \*\*\* percentage points as a ratio to imports, between 2006 and 2007.<sup>13</sup> Inventories from all other sources fell by \*\*\* percent from 2006 to 2007. The decline was largely due to a \*\*\* percent decline in inventories of imports from the United Kingdom reported by \*\*\*, which reported that \*\*\*.<sup>14</sup>

<sup>11</sup> Conference transcript, pp. 100-101 (Mangwani).

<sup>12</sup> Conference transcript, p. 22 (Failon). In addition, \*\*\* reported that they did not import HEDP from China in 2005, and therefore had no inventories prior to 2006.

<sup>13</sup> \*\*\* did not report inventories of HEDP from India for 2005.

<sup>14</sup> Email from \*\*\*, April 17, 2008.

**Table VII-5**  
**HEDP: U.S. importers' end-of-period inventories of imports, by source, 2005-07, July-December 2006, and July-December 2007**

Source	Calendar year			July-December	
	2005	2006	2007	2006	2007
<b>Imports from China:</b>					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio of inventories to imports (percent)	***	***	***	***	***
Ratio of U.S. shipments of imports (percent)	***	***	***	***	***
<b>Imports from India:</b>					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio of inventories to imports (percent)	***	***	***	***	***
Ratio of U.S. shipments of imports (percent)	***	***	***	***	***
<b>Imports from all subject sources:</b>					
Inventories (1,000 pounds)	548	1,790	2,007	1,689	1,897
Ratio of inventories to imports (percent)	10.1	20.4	23.5	15.1	18.8
Ratio of U.S. shipments of imports (percent)	9.3	21.4	24.8	17.7	22.2
<b>Imports from all other sources:</b>					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio of inventories to imports (percent)	***	***	***	***	***
Ratio of U.S. shipments of imports (percent)	***	***	***	***	***
<b>Imports from all sources:</b>					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio of inventories to imports (percent)	***	***	***	***	***
Ratio of U.S. shipments of imports (percent)	***	***	***	***	***
Note.—Ratios are based on annualized import and shipments data.					
Source: Compiled from data submitted in response to Commission questionnaires.					

### ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known antidumping duty orders in effect covering HEDP from China or India in any other countries.

## INFORMATION ON NONSUBJECT SOURCES

### “Bratsk” Considerations

As a result of the Court of Appeals for the Federal Circuit (“CAFC”) decision in *Bratsk Aluminum Smelter v. United States* (“Bratsk”), the Commission is directed to:<sup>15 16</sup>

*undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement / benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”*

The petitioner argued that *Bratsk* is inapplicable to these investigations because the only non-subject imports of HEDP, which are from the United Kingdom, are not price competitive with subject imports.<sup>17</sup>

The Chinese respondents argued that it would be appropriate to consider whether *Bratsk* is applicable in these investigations.<sup>18</sup> They contend that a “substantial” volume of HEDP is imported from the United Kingdom, and that if, as a result of an antidumping order on HEDP, imports of HEDP from India and China declined, “it would likely only be to the benefit of the U.K. production of HEDP.”<sup>19</sup>

### Nonsubject Source Information

In terms of percentage of world consumption of HEDP, the three largest regions are Western Europe (with somewhat greater than 50 percent), the United States (with somewhat less than 50 percent), and Japan (less than 5 percent).<sup>20</sup> Within the class of phosphonates, there is product substitution over time as end-use formulations change, environmental regulations change, consumers change their preferences, and price. Estimated total capacity in 2006 for Western Europe was about 35 thousand metric tons (77.1 million pounds). The two largest producers are Solutia and Rhodia. Each has an estimated 30 percent market share. The two commodity phosphonates are HEDP and ATMP; however,

---

<sup>15</sup> *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

<sup>16</sup> In the silicon metal remand, Chairman Pearson noted “consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (Sept. 2006) at 51, that while he agrees with the Commission that the Federal Circuit’s opinion suggests a replacement/benefit test, he also finds that the Federal Circuit’s opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.” *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

<sup>17</sup> Petitioner’s postconference brief, pp. 24-25, fn. 67. The petitioner also contends that the relationship between Rhodia in the United Kingdom and its importing company in the United States substantially mitigates the significance of nonsubject imports in the U.S. market. *Ibid.*

<sup>18</sup> The Indian respondent, Aquapharm did not address the applicability of *Bratsk*.

<sup>19</sup> Respondent, AWTCP’s post conference brief, pp. 10-11.

<sup>20</sup> \*\*\*.

most other phosphonates are manufactured in Western Europe. Production data for individual phosphonates are difficult to obtain, but the following table lists the major Western European producers of phosphonates:<sup>21</sup>

\* \* \* \* \*

Information on prices of imports of HEDP from the United Kingdom are presented in *Appendix D*.

---

<sup>21</sup> \*\*\*. HEDP production was estimated to be between 10,000 and 50,000 metric tons per year during 1990-93. HERA substance team, Human & Environmental Risk Assessment on Ingredients in European Household Cleaning Products, June 9, 2004, p. 13.



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**





and commencement of preliminary phase antidumping investigation Nos. 731-TA-1146-1147 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and India of 1-Hydroxyethylidene-1,1-diphosphonic acid (HEDP),<sup>1</sup> provided for in subheading 2931.00.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by May 5, 2008. The Commission's views are due at Commerce within five business days thereafter, or by May 12, 2008.

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

**DATES:** *Effective Date:* March 19, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Nathanael Comly (202-205-3174), 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.* These investigations are being instituted in response to a petition filed on March 19, 2008, by Compass Chemical International LLC, Huntsville, TX.

*Participation in the investigations and public service list.* Persons (other than

<sup>1</sup> HEDP is identified by CAS registry number 2809-21-4.

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

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.* The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on April 9, 2008, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Nathanael Comly (202-205-3174) not later than April 7, 2008, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.* As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 14, 2008, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written

---

**INTERNATIONAL TRADE COMMISSION**

[Investigation Nos. 731-TA-1146-1147 (Preliminary)]

**1-Hydroxyethylidene-1,1-Diphosphonic Acid (Hedp) From China and India**

**AGENCY:** United States International Trade Commission.

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

**SUMMARY:** The Commission hereby gives notice of the institution of investigations

testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR. 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the 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 207.12 of the Commission's rules.

Issued: March 20, 2008.

By order of the Commission.

**William R. Bishop,**

*Acting Secretary to the Commission.*

[FR Doc. E8-6091 Filed 3-25-08; 8:45 am]

**BILLING CODE 7020-02-P**

---

filed in proper form by Compass Chemical International LLC (petitioner). See the Petitions on HEDP from India and the PRC submitted on March 19, 2008. On March 24 and 25, and April 1, 2008, the Department issued requests for additional information and clarification of certain areas of the petitions. Based on the Department's requests, the petitioner filed additional information on March 27, April 1 and 3, 2008 (two distinct submissions on general material and one distinct submission on PRC-only material). On March 28, 2008, Rhodia Inc., a producer of non-HEDP phosphonates and an importer of HEDP, submitted information indicating that the petitioner is the only U.S. producer of HEDP.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of HEDP from India and the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the antidumping duty investigations that the petitioner is requesting that the Department initiate (see "Determination of Industry Support for the Petitions" section below).

#### Period of Investigations

The period of investigation (POI) for India is January 1, 2007, through December 31, 2007. The POI for the PRC is July 1, 2007, through December 31, 2007. See 19 CFR 351.204(b)(1).

#### Scope of Investigations

The merchandise covered by each of these investigations includes all grades of aqueous, acidic (non-neutralized) concentrations of 1-hydroxyethylidene-1, 1-diphosphonic acid<sup>1</sup>, also referred to as hydroxyethylidenediphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The CAS (Chemical Abstract Service) registry number for HEDP is 2809-21-4. The merchandise subject to these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2931.00.9043. It may also

enter under HTSUS subheading 2811.19.6090. While HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of these investigations is dispositive.

#### Comments on Scope of Investigations

During our review of the petitions, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by April 28, 2008, which is 20 calendar days from the date of signature of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

#### Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of HEDP to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as 1) general product characteristics and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by

## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-533-847, A-570-934)

#### 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the Republic of India and the People's Republic of China: Initiation of Antidumping Duty Investigations

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

**EFFECTIVE DATE:** April 14, 2008.

**FOR FURTHER INFORMATION CONTACT:** Brian Smith (India) or Maisha Cryor (People's Republic of China), AD/CVD Operations, Offices 2 and 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-5831, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Petitions

On March 19, 2008, the Department of Commerce (the Department) received petitions concerning imports of 1-hydroxyethylidene-1, 1-diphosphonic acid (HEDP) from the Republic of India (India) (India petition) and the People's Republic of China (PRC) (PRC petition)

<sup>1</sup> C<sub>2</sub>H<sub>8</sub>O<sub>7</sub>P<sub>2</sub> or C(CH<sub>3</sub>)(OH)(PO<sub>3</sub>H<sub>2</sub>)<sub>2</sub>

manufacturers to describe HEDP, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by April 28, 2008. Additionally, rebuttal comments must be received by May 5, 2008.

#### **Determination of Industry Support for the Petitions**

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

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In

addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that HEDP constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see Antidumping Duty Investigation Initiation Checklist: HEDP from India*, Industry Support at Attachment II (*India Initiation Checklist*), and *Antidumping Duty Investigation Initiation Checklist: HEDP from the People's Republic of China (PRC)*, Industry Support at Attachment II (*PRC Initiation Checklist*) on file in the Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

Our review of the data provided in the petitions, supplemental submissions, and other information readily available to the Department indicates that the petitioner has established industry support. To establish industry support, the petitioner demonstrated that it was the sole producer of the domestic like product in 2007. Therefore, the petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action to evaluate industry support (e.g., polling). *See* Section 732(c)(4)(D) of the Act. In addition, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(i) because the domestic producers (or workers)

who support the petition account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(ii) because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See India Initiation Checklist* and *PRC Initiation Checklist* at Attachment II (Industry Support).

The Department finds that the petitioner filed the petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigations that it is requesting the Department initiate. *See India Initiation Checklist* and *PRC Initiation Checklist* at Attachment II (Industry Support).

#### **Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). The petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced production and capacity utilization, reduced shipments, underselling and price depressing and suppressing effects, lost sales, a decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See India Initiation Checklist* and *PRC Initiation Checklist* at Attachment III.

#### **Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of HEDP from India and the PRC. The sources of data for the deductions and adjustments relating to the U.S. price, constructed value (CV) (for India), and the factors of production

(for the PRC) are also discussed in the country-specific initiation checklists. See *India Initiation Checklist* and *PRC Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

## India

### Export Price (EP)

The petitioner calculated one EP based on a price quote for Indian-produced HEDP during the POI obtained from one of its U.S. customers. The petitioner made adjustments to the starting price for U.S. inland freight, ocean freight, and marine insurance charges. The petitioner calculated U.S. inland freight, ocean freight, and marine insurance charges based on price quotes obtained from a freight service provider. See *India Initiation Checklist* for further discussion.

### NV Based on CV

With respect to NV, the petitioner states that neither home-market prices nor third-country prices of Indian-produced HEDP were reasonably available. According to the petitioner, it was unsuccessful in obtaining such pricing information, despite its best efforts. See *India* petition at pages 17–18. Therefore, the petitioner based NV on CV.

Pursuant to section 773(e) of the Act, CV consists of the cost of manufacture (COM); selling, general and administrative (SG&A) expenses; packing expenses; and profit. In calculating COM (exclusive of factory overhead) and packing, the petitioner based the quantity of each of the inputs used to manufacture and pack HEDP in India on its own production experience during the POI. The petitioner then multiplied the usage quantities by the value of the inputs used to manufacture and pack HEDP in India based on publicly available data. In calculating factory overhead expenses, SG&A expenses and profit, the petitioner used the financial statements of Excel Industries Limited (Excel), an Indian manufacturer of HEDP. The petitioner used a calculation methodology for purposes of deriving CV in the India petition that is consistent with the calculation methodology used in the PRC petition. We made minor modifications to the petitioner's CV calculation to adjust the values of certain inputs included in COM (*i.e.*, water, hydrochloric acid and phosphorus trichloride), consistent with

Department practice. See the *India* petition at pages 12–18, *India Initiation Checklist*, and “NV” section below for further discussion.

## PRC

### EP

The petitioner calculated one EP based on a sale for PRC-produced HEDP during the POI. The petitioner made adjustments to the starting price for ocean freight and marine insurance charges. The petitioner calculated ocean freight and marine insurance charges based on an actual price paid for these expenses. The petitioner also made a deduction to the starting price for commission expenses. The petitioner calculated commission expenses based on its own industry knowledge and experience. See *PRC Initiation Checklist* and “Fair Value Comparisons” section below for further discussion.

### NV

The petitioner notes that the PRC is a non-market economy country (NME) and that no determination to the contrary has yet been made by the Department. See *PRC* petition, at page 12. The Department has previously examined the PRC's market status and determined that NME status should continue for the PRC. See Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, regarding The People's Republic of China Status as a Non-Market Economy, dated May 15, 2006 (available online at <http://ia.ita.doc.gov/download/prc-nme-status/prc-nme-status-memo.pdf>). In addition, in recent investigations, the Department has continued to determine that the PRC is an NME country. See *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007); *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007).

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country, in accordance with section 773(c) of the

Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The petitioner argues that India is the appropriate surrogate country for the PRC because it is at a comparable level of economic development and it is a significant producer of HEDP. See *PRC* Petition at page 12. The petitioner asserts that other potential surrogate countries are not known manufacturers of HEDP. See petition at page 12; *PRC Initiation Checklist*. Based on the information provided by the petitioner, the Department believes that the use of India as a surrogate country is appropriate for purposes of initiation. However, after initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

The petitioner calculated NV and a dumping margin for the U.S. price, discussed above, using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The petitioner calculated NV based on its own consumption rates for producing HEDP in 2007. See *PRC Initiation Checklist* and *India Initiation Checklist*. The petitioner states that its production experience is representative of the production process used in the PRC and India because all of the material inputs and processing are unlikely to be materially different for a Chinese or Indian producer of HEDP. See petitions at Exhibit AD–1, Affidavit 3.

The petitioner valued the factors of production based on reasonably available, public surrogate country data, including India statistics from the Export Import Data Bank, Key World Energy Statistics 2003, published by the International Energy Agency, the Gas Authority of India, and the Maharashtra Industrial Development Corporation. See *PRC Initiation Checklist* and *India Initiation Checklist*. Where the petitioner was unable to find input prices contemporaneous with the POI, the petitioner adjusted for inflation using the wholesale price index for India, as published by the Office of the Economic Advisor to India. See petitions at page 16 and Exhibit AD–11. In addition, the petitioner made currency conversions, where necessary,

based on the POI-average rupee/U.S. dollar exchange rate, as reported on the Department's website. See petitions at page 12. The petitioner did not calculate a labor cost for the PRC because it states that the cost is "negligible." *Id.* at page 13.<sup>2</sup> For purposes of initiation, the Department determines that the surrogate values used by the petitioner are reasonably available and, thus, acceptable for purposes of initiation. However, the Department has made minor modifications, as appropriate, to the surrogate values as calculated by the petitioner (*i.e.*, water, hydrochloric acid and phosphorus trichloride). See *PRC Initiation Checklist*.

The petitioner based factory overhead expenses, SG&A expenses, and profit, on data from Excel for the fiscal year ending March 31, 2007. See petitions at pages 15–16 and Exhibit AD–10. For purposes of initiation, the Department finds the petitioner's use of Excel's financial ratios appropriate.

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of HEDP from India and the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EP and CV, calculated in accordance with section 773(a)(4) of the Act, the revised estimated dumping margin for HEDP from India is 42.74 percent. See *India Initiation Checklist* at Attachment VIII. Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the revised estimated dumping margin for HEDP from the PRC is 72.42 percent. See *PRC Initiation Checklist* at Attachment V.

#### Initiation of Antidumping Investigations

Based upon the examination of the petitions on HEDP from India and the PRC, the Department finds that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of HEDP from India and the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

<sup>2</sup> The petitioner did calculate a labor cost for India based on rates obtained from the Department's website.

#### Respondent Selection for India

For the India investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of this **Federal Register** notice, and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's website at <http://ia.ita.doc.gov/apo>.

#### Respondent Selection for the PRC

In the PRC investigation, the Department will request quantity and value information from all known exporters and producers identified in the petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents. The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. See *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); and *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005). Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters/producers no later than April 29, 2008. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration website, at <http://ia.ita.doc.gov/ia-highlights-and-news.html>. The Department will send the quantity and value questionnaire to those PRC companies identified in the PRC petition at page 9 and Exhibit AD–3.

#### Separate Rates

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate

status application. See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) (Separate Rates/Combination Rates Bulletin), available on the Department's website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, available on the Department's website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due by June 9, 2008.

#### Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates/Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates/Combination Rates Bulletin, at 6.

#### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the petitions have been provided to the representatives of the Governments of India and the PRC. We will attempt

to provide a copy of the public version of the petitions to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

**International Trade Commission Notification**

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

**Preliminary Determinations by the International Trade Commission**

The ITC will preliminarily determine, no later than May 5, 2008, whether there is a reasonable indication that imports of HEDP from India and the PRC are materially injuring, or threatening

material injury to, a U.S. industry. A negative ITC determination with respect to either of the investigations will result in that investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

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

Dated: April 8, 2008.

**David M. Spooner,**  
*Assistant Secretary for Import Administration.*

**Appendix I**

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2)

of the Tariff Act of 1930 (as amended) permits us to investigate (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period July 1, 2007, through December 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States			
1. Export Price Sales			
2.			
a. Exporter name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured Sales			
<b>Total Sales</b>			

Please provide the following information for your company. If you believe that you should be treated as a single entity along with other named

exporters, please provide the information requested below both in the aggregate for all named entities in your group and separately for each named

entity. Please label each chart accordingly.

**(1) Production**

Market:	Total Quantity: ( In MT)
Your total production of all merchandise meeting the description of HEDP identified in the "Scope of Investigations" section of this notice, produced during the period of investigation ("POI") (regardless of the ultimate market destination).	

**(2)U.S. Sales**

Merchandise	Total Quantity: (In MT)	Total Value (\$U.S. <sup>1</sup> )
Merchandise under investigation your company produced and shipped/exported to the United States during the POI.		
Merchandise under investigation exported/shipped to the United States by your company during the POI which was sourced from an unaffiliated supplier or suppliers (i.e., not produced by your company).		
Merchandise under investigation produced by your company but exported/shipped through another PRC company to the United States during the POI.		

<sup>1</sup> Values should be expressed in U.S. dollars. Indicate any exchange rates used and their respective dates and sources.

**Total Quantity:**

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

**Terms of Sales:**

- Please report all sales on the same terms, such as "free on board" at port of export.

**Total Value:**

- All sales values should be reported in U.S. dollars. Please provide any exchange rates used and their respective dates and sources.

**Export Price Sales:**

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated customer

occurs before importation into the United States.

- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be

resold to the United States.

- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please **do not** include any sales of merchandise manufactured in Hong Kong in your figures.

**Constructed Export Price Sales:**

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated customer occurs after importation. However, if the first sale to the unaffiliated customer is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third-country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please **do not** include any sales of merchandise manufactured in Hong Kong in your figures.

**Further Manufactured Sales:**

- Further manufacture or assembly (including re-packing) sales (“further manufactured sales”) refers to merchandise that undergoes further manufacture or assembly in the United States before being sold to the first unaffiliated customer.
- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E8-7894 Filed 4-11-08; 8:45 am]

BILLING CODE 3510-DS-S



**APPENDIX B**  
**LIST OF CONFERENCE WITNESSES**



## CALENDAR OF PUBLIC CONFERENCE

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

**Subject:** HEDP from China and India  
**Inv. No.:** 731-TA-1146-1147 (Preliminary)  
**Date and Time:** April 9, 2008 - 9:30 a.m.

The conference in connection with these investigations was held in the Court Room B, 500 E Street, SW, Washington, D.C.

### **OPENING REMARKS:**

Petitioners (Jeffrey S. Levin, Saul Ewing LLP)  
Respondents (Lizbeth Levinson, Garvey Schubert Barer)

### **In Support of the Imposition of Antidumping Duties:**

Saul Ewing LLP  
Washington, D.C.  
on behalf of

Compass Chemical International LLC

**Daniel McCaul**, President,  
Compass Chemical International LLC

**Brian K. Failon**, Vice President, Business Development & Technology,  
Compass Chemical International LLC

**Jeffrey S. Levin**, Esq. ) – OF COUNSEL

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

Garvey Schubert Barer  
Washington, DC  
on behalf of

Aquapharm Chemicals Pvt. Ltd.

**Vimal Mangwani**, Director,  
Aquapharm Ltd.

**Mohan Karve**, President,  
Karve and Associates

**John Zibrada**, President,  
Zibex Inc.

**Lizbeth Levinson, Esq.** ) – OF COUNSEL

Riggle and Craven LLP  
Chicago, IL  
on behalf of

Jiangsu Jianghai Chemical Group Co., Ltd.  
Changzhou Kewei Fine Chemical Co., Ltd.  
Wujin Fine Chemical Factory Co., Ltd.  
Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer  
Factory

**George Collias**, Sales Manager,  
Uniphos, Inc.

**David Craven, Esq.** ) – OF COUNSEL

**REBUTTAL/CLOSING REMARKS:**

Petitioners (Jeffrey S. Levin, Saul Ewing LLP)  
Respondents (Lizbeth Levinson, Garvey Schubert Barer)

**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**

**HEDP: Summary data concerning the U.S. market, 2005-07, July-December 2006, and July-December 2007**

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

Item	Reported data					Period changes			
	2005	2006	2007	July-December		2005-07	2005-06	2006-07	July-Dec. 2006-07
				2006	2007				
<b>U.S. consumption quantity:</b>									
Amount . . . . .	***	***	***	***	***	***	***	***	***
Producers' share (1) . . . . .	***	***	***	***	***	***	***	***	***
<b>Importers' share (1):</b>									
China . . . . .	***	***	***	***	***	***	***	***	***
India . . . . .	***	***	***	***	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***	***	***	***	***
Total imports . . . . .	***	***	***	***	***	***	***	***	***
<b>U.S. consumption value:</b>									
Amount . . . . .	***	***	***	***	***	***	***	***	***
Producers' share (1) . . . . .	***	***	***	***	***	***	***	***	***
<b>Importers' share (1):</b>									
China . . . . .	***	***	***	***	***	***	***	***	***
India . . . . .	***	***	***	***	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***	***	***	***	***
Total imports . . . . .	***	***	***	***	***	***	***	***	***
<b>U.S. shipments of imports from:</b>									
<b>China:</b>									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***
<b>India:</b>									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***
<b>Subtotal:</b>									
Quantity . . . . .	5,881	8,351	8,089	4,762	4,267	37.5	42.0	-3.1	-10.4
Value . . . . .	3,709	5,047	4,978	2,828	2,716	34.2	36.1	-1.4	-4.0
Unit value . . . . .	\$0.63	\$0.60	\$0.62	\$0.59	\$0.64	-2.4	-4.2	1.8	7.2
Ending inventory quantity . . . . .	548	1,790	2,007	1,689	1,897	266.3	226.6	12.1	12.3
<b>All other sources:</b>									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***
<b>All sources:</b>									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***

Table continued on next page.

**Table C-1--Continued**

**HEDP: Summary data concerning the U.S. market, 2005-07, July-December 2006, and July-December 2007**

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

Item	Reported data					Period changes			
	2005	2006	2007	July-December		2005-07	2005-06	2006-07	July-Dec. 2006-07
				2006	2007				
U.S. producers:									
Average capacity quantity . . . . .	***	***	***	***	***	***	***	***	***
Production quantity . . . . .	***	***	***	***	***	***	***	***	***
Capacity utilization (1) . . . . .	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***
Ending inventory quantity . . . . .	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1) . . . . .	***	***	***	***	***	***	***	***	***
Production workers . . . . .	***	***	***	***	***	***	***	***	***
Hours worked (1,000s) . . . . .	***	***	***	***	***	***	***	***	***
Wages paid (\$1,000s) . . . . .	***	***	***	***	***	***	***	***	***
Hourly wages . . . . .	***	***	***	***	***	***	***	***	***
Productivity (pounds per hour) . . . . .	***	***	***	***	***	***	***	***	***
Unit labor costs . . . . .	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity . . . . .	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS) . . . . .	***	***	***	***	***	***	***	***	***
Gross profit or (loss) . . . . .	***	***	***	***	***	***	***	***	***
SG&A expenses . . . . .	***	***	***	***	***	***	***	***	***
Operating income or (loss) . . . . .	***	***	***	***	***	***	***	***	***
Capital expenditures . . . . .	***	***	***	***	***	***	***	***	***
Unit COGS . . . . .	***	***	***	***	***	***	***	***	***
Unit SG&A expenses . . . . .	***	***	***	***	***	***	***	***	***
Unit operating income or (loss) . . . . .	***	***	***	***	***	***	***	***	***
COGS/sales (1) . . . . .	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1) . . . . .	***	***	***	***	***	***	***	***	***

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

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

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



**APPENDIX D**  
**PRICE DATA FOR NONSUBJECT COUNTRIES**



**Table D-1**  
**HEDP: Weighted-average f.o.b. prices and quantities of products 1-4 imported from the UK, by**  
**quarters, 2005-07**

\* \* \* \* \*



