Tetrahydrofurfuryl Alcohol From China

Investigation No. 731-TA-1046 (Preliminary)

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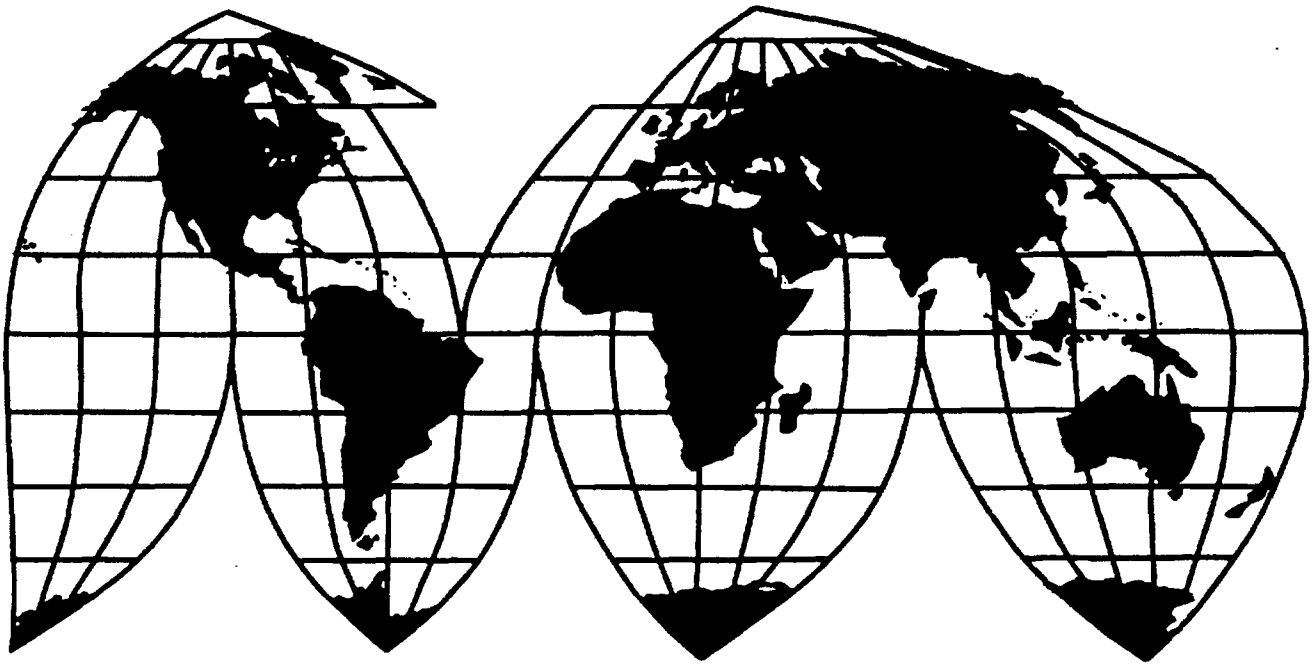

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1046 (Preliminary)

TETRAHYDROFURFURYL ALCOHOL FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, 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 of tetrahydrofurfuryl alcohol, provided for in subheading 2932.13.00 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 investigation. 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 investigation need not enter a separate appearance for the final phase of the investigation. 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 and countervailing 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 investigation.

BACKGROUND

On June 23, 2003, a petition was filed with the Commission and Commerce by Penn Specialty Chemicals, Inc., Plymouth Meeting, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of tetrahydrofurfuryl alcohol from China. Accordingly, effective June 23, 2003, the Commission instituted antidumping duty investigation No. 731-TA-1046 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 30, 2003 (69 FR 38721). The conference was held in Washington, DC, on July 14, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of tetrahydrofurfuryl alcohol (THFA) from China that is alleged to be sold in the United States at less than fair value ("LTFV").[1]

I. THE LEGAL STANDARD FOR PRELIMINARY INVESTIGATIONS

The legal standard for preliminary antidumping 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.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[4] Section 771(4)(A) of 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."[5] 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 . . . ."[6]

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.[7] No single factor is dispositive, and the Commission

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

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

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

[4] 19 U.S.C. §1677(4)(A).

[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10).

[7] See, e.g., NEC Corp. v. Dep't 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.

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[9] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[10]

B. Product Description

Commerce's notice of initiation defines the imported merchandise within the scope of this investigation as:

> tetrahydrofurfuryl alcohol ($C_5H_{10}O_2$). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classified in the Harmonized Tariff Schedules of the United States ("HTSUS") under subheading 2932.13.00.00. Although the HTS subheadings are provided for convenience and for the purposes of the U.S. Bureau of Customs and Border Protection ("Customs"), the Department's written description of the merchandise under review is dispositive.[11]

The major uses for THFA are as a cleaning solvent in the electronics industry; in wood refinishing and household cleaners; in lacquers, shellac, and enamel; as a solvent for resins; as a solvent adjuvant in agricultural formulations; as antifreeze; and as a chemical reactant.[12] THFA is environmentally acceptable and biodegradable.[13] It has a high flash point, high boiling point, low freezing point, chemical and thermal stability, and a high solvency for organic and inorganic materials.[14] Its low volatility makes it especially suitable for electronics cleaning applications.[15]

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[7] (...continued)
Supp. 580, 584 (Ct. Int'l Trade 1996).

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

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

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

[11] 68 Fed. Reg. 42,686 (July 18, 2003).

[12] Confidential Staff Report (CR) at I-3 (July 31, 2003).

[13] CR at I-3, PR at I-2.

[14] Conference Transcript (Tr.) at 14 (Mr. Neff).

[15] Tr. at 14 (Mr. Neff).

C. Domestic Like Product

Both petitioner and respondents agree that there is one domestic like product, THFA, coextensive with the scope.[16] The record in this preliminary investigation contains no information suggesting that the domestic like product should be expanded beyond THFA, or that it should be divided into two or more like products. Therefore, we find one domestic like product consisting of all THFA, coextensive with the scope.[17]

D. Domestic Industry and Related Parties

The domestic industry is defined as "the producers as a [w]hole of a domestic like product. . . ."[18] In defining the domestic industry, the Commission generally includes in the industry all domestic production of the like product, whether toll produced, captively consumed, or sold in the domestic merchant market.[19] Based on our definition of the domestic like product, we define the domestic industry to include all producers of THFA. There is only one domestic producer, Penn Specialty Chemicals, Inc. (Penn).[20]

III. NEGLIGIBLE IMPORTS

The provision defining "negligibility," 19 U.S.C. § 1677(24), provides that imports from a subject country that are less than three 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 shall be deemed negligible. Negligibility is not an issue in this determination, as subject imports from China accounted for 100 percent of imports during the period of investigation (POI).[21]

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[16] Petition of Penn Specialty Chemicals, Inc. (Petition) at 8 and Amendment to Petition at 2-3; Postconference Brief of Kyzen Corporation and Zhucheng Huaxiang Chemical Co., Ltd. (Respondents' Postconference Brief) at 3.

[17] The Commission has conducted investigations of imports of furfuryl alcohol, the primary raw material input used in the production of THFA, and in each investigation determined FA on its own to be a domestic like product. However, in none of the prior FA investigations did the Commission consider whether the domestic like product ought to have been expanded to include THFA, a downstream product. Furfuryl Alcohol from China, South Africa, and Thailand, Invs. No. 731-TA-703-705 (Preliminary), USITC Pub. 2797 at I-6 (July 1994); Furfuryl Alcohol from China and South Africa, Invs. No. 731-TA-703 and 704 (Final), USITC Pub. 2897 at I-7 (June 1995); Furfuryl Alcohol from Thailand, Inv. No. 731-TA-705 (Final),USITC Pub. 2909 at I-8 (July 1995); Furfuryl Alcohol from China and Thailand, Invs. No. 731-TA-703 and 705 (Review), USITC Pub. 3412 at 5 (April 2001).

[18] 19 U.S.C. § 1677 (4)(A).

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

[20] The statute 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. 19 U.S.C. §1677(4)(B). Penn *** pounds of the subject merchandise in 2000. CR at III-3, PR at III-2. As it has been the sole domestic producer throughout the POI, however, appropriate circumstances do not exist to exclude it from the domestic industry.

[21] CR/PR at Table C-1, revised Aug. 4, 2003.

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LESS THAN FAIR VALUE IMPORTS

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.[22] 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.[23] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[24] 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.[25] 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."[26]

Based on an evaluation of the relevant statutory factors, we find that there is a reasonable indication that the domestic industry producing THFA is materially injured by reason of subject imports from China.

A. Conditions of Competition

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

1. Demand

THFA is used in the manufacture of solvents. Final products using THFA include pharmaceutical solvents, agricultural chemicals solvents, and electronic cleaning solvents.[27] Demand for THFA, as measured by apparent domestic consumption, was relatively stable through most of the POI. Apparent domestic consumption in 2001 was *** pounds, unchanged from 2000.[28] In 2002, apparent domestic consumption decreased by *** percent to *** pounds.[29] Apparent domestic consumption in January-March 2003 (interim 2003) was *** pounds, up by *** percent from the interim 2002 level of *** pounds.[30]

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[22] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[23] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[24] 19 U.S.C. § 1677(7)(A).

[25] 19 U.S.C. § 1677(7)(C)(iii).

[26] 19 U.S.C. § 1677(7)(C)(iii).

[27] CR at II-1, PR at II-1.

[28] CR/PR at Table C-1, revised Aug. 4, 2003.

[29] CR/PR at Table C-1, revised Aug. 4, 2003.

[30] CR/PR at Table C-1, revised Aug. 4, 2003. Although respondents claim that purchasers of THFA are reformulating their products to reduce THFA requirements, Respondents' Postconference Brief at 4, the most recent apparent domestic consumption figures do not suggest any significant reduction in THFA demand. CR/PR at Table

(continued...)

2. Supply

Penn and subject imports from China are the only identified sources of THFA in the U.S. market.[31] The domestic industry accounted for between *** percent of apparent domestic consumption over the POI.[32] Subject imports from China accounted for the remainder of apparent domestic consumption.[33] Penn's production of THFA peaked in 2000 at *** pounds, and production decreased by *** percent the following year, to *** pounds.[34] Penn's production of THFA recovered somewhat in 2002, to *** pounds, but 2002 production was still *** percent below 2000.[35] Production of THFA in interim 2003, at *** pounds, was unchanged from interim 2002.[36]

THFA is made from furfuryl alcohol (FA).[37] There are relatively few producers of THFA worldwide.[38] Respondents claim that relatively few FA producers also produce THFA because THFA supplies a relatively small market.[39] Furthermore, THFA production requires expertise as well as additional equipment beyond that required to produce FA.[40]

Since 1992, there has been only one plant continuously producing THFA in the United States.[41] Penn Specialty Chemicals was formed especially for the purpose of acquiring the furfural-based production assets, including THFA production, of Great Lakes Chemicals.[42] THFA accounted for *** percent of Penn's total annual sales volume in 2002.[43] Other products, such as tetrahydrofuran (THF) and polytetramethylene ether glycol (PTMEG), account for most of Penn's production.[44]

Penn entered bankruptcy in July 2001, and emerged from bankruptcy in July 2002. Penn's bankruptcy was not prompted by financial difficulties related to subject imports of THFA, but by

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[30] (...continued)
C-1, revised Aug. 4, 2003.

[31] CR/PR at Table C-1, revised Aug. 4, 2003.

[32] CR/PR at Table C-1, revised Aug. 4, 2003. In 2000, when the market share of subject imports was at its highest, the domestic industry's *** percent of all subject imports. CR at III-3, PR at III-2.

[33] CR/PR at Table C-1, revised Aug. 4, 2003.

[34] CR/PR at Table C-1, revised Aug. 4, 2003.

[35] CR/PR at Table C-1, revised Aug. 4, 2003.

[36] CR/PR at Table C-1, revised Aug. 4, 2003.

[37] CR at I-1, PR at I-1.

[38] It is unclear whether there are any sources of supply for THFA outside of the United States and China. CR at IV-2 n.6, PR at IV-1 n.6.

[39] Respondents' Postconference Brief at 23.

[40] Tr. at 47 (Mr. Neff). See also CR at II-1-II-2, PR at II-1.

[41] CR at III-1, PR at III-1.

[42] CR at III-2, PR at III-1.

[43] CR at III-2, PR at III-1.

[44] THF is a component of PTMEG but is also used as a reaction solvent in pharmaceutical and other applications, as well as in PVC pipe cements. Respondents' Postconference Brief at Exh. 1, p. 15. PTMEG is used in the manufacture of spandex, in the manufacture of polyurethane elastomers, and in the manufacture of co-polyester ether. Id.

developments in its other product markets.[45] Penn reportedly has been urged by its Senior Secured Lenders to sell off its fine chemicals business, including THFA, or to enter into a tolling agreement.[46]

Only one foreign producer, Zhucheng Huaxiang Chemical Co., Ltd. (Zhucheng), responded to the Commission's questionnaire and reported that it both produced THFA and exported it to the United States over the POI.[47] Zhucheng estimates that it accounted for *** percent of total production of THFA in China and *** percent of total exports of THFA from China to the United States in 2002.[48] Zhucheng began producing THFA in 1996, reportedly at the urging of a U.S. consumer of THFA, and began exporting to the U.S. market in 1997.[49]

Kyzen Corporation (Kyzen) accounted for most of Zhucheng's subject imports during the POI.[50] Kyzen captively consumed most of its subject imports.[51] As a result, there were relatively few sales of subject imports on the merchant market. In 2002, however, two additional firms, AllChem Industries (AllChem) and Advanced Resin Systems (ARS), also began importing subject THFA directly from China.[52] AllChem and ARS are distributors rather than end users of THFA.[53] More merchant market sales of subject imports were in 2002 than in 2000.[54] In 2000, *** pounds of subject imports were sold by importers *** to merchant market purchasers other than Penn; in 2002, *** pounds of subject imports were sold *** to merchant market purchasers.[55]

3. Distribution and markets

The market for THFA is relatively concentrated, with the seven largest buyers accounting for *** percent of THFA purchases.[56] Both petitioners and respondents agree that the domestic like product and subject imports are interchangeable, although produced by different methods.[57] The only significant identified difference between subject imports and the domestic like product is the long lead time for delivery of subject imports. While orders for the domestic like product may be filled within ***, between *** weeks may elapse between order and delivery of subject imports.[58]

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[45] Petitioner's Postconference Brief at 14-15.

[46] CR at III-2-III-3, PR at III-2.

[47] CR at VII-1-VII-2, PR at VII-1. Two additional Chinese producers certified that they produced no THFA during the POI. A third Chinese producer certified that it had not exported THFA to the U.S. market during the POI, but did not address whether it produced THFA. CR at VII-2, PR at VII-1.

[48] CR at VII-2, PR at VII-1.

[49] CR at VII-2, PR at VII-.1

[50] CR at I-6, PR at I-4.

[51] CR at I-6, PR at I-4. Kyzen captively consumed *** percent of its THFA imports during the POI. Id.

[52] CR at IV-1, PR at IV-1.

[53] CR at I-6, PR at I-4.

[54] Importer Questionnaires of Kyzen, AllChem, and ARS.

[55] Importer Questionnaires of Kyzen, AllChem, and ARS.

[56] CR at II-1, PR at II-1.

[57] CR at II-1, PR at II-1; Petition at 6; Respondents' Postconference Brief at 3.

[58] CR at II-1, PR at II-1.

THFA typically is sold in 55 gallon drums or bulk containers.[59] Between *** percent of the domestic like product was sold to distributors during the POI, and the rest was sold to end users.[60] Penn sold *** of its product on the merchant market, but, as noted above, Kyzen, the largest importer, captively consumed most of its subject imports. Sales of subject imports to distributors varied from a high of *** percent of subject import merchant market sales in 2000 to *** in 2001.[61] Approximately *** percent of the domestic producer's sales are purchased pursuant to contracts, while the remainder are made in the spot market.[62] It is not unusual for sales contracts for the domestic like product to contain meet or release clauses.[63] *** import sales on the merchant market are spot market sales.[64]

Exports have been a significant source of sales for the domestic industry, but export sales contracted sharply during the POI. Exports accounted for *** percent of the domestic industry's shipments in 2000; by 2002, exports accounted for only *** percent.[65] By volume, export shipments decreased by *** percent between 2000 and 2002, sliding from *** pounds in 2000 to *** in 2002.[66] Although export shipments in interim 2003 were higher than in interim 2002, exports shipments accounted for only *** percent of total shipments in interim 2003.[67]

B. Volume of Subject Imports

Section 771(7)(C)(I) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[68]

In 2000, U.S. shipments of subject imports totaled *** pounds and accounted for *** percent of apparent domestic consumption.[69] In 2001, U.S. shipments of subject imports dropped sharply, decreasing by *** percent to *** pounds and accounted for *** percent of apparent domestic consumption.[70] In 2002, however, the volume of subject import shipments rose by *** percent, to *** pounds.[71] In that year, as overall apparent domestic consumption declined by *** percent, the share of apparent domestic consumption accounted for by subject imports increased to *** percent.[72] Between interim 2002 and interim 2003, U.S. shipments of subject imports increased at a faster rate than did overall consumption, increasing by *** percent while overall consumption increased by *** percent.[73]

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[59] CR at II-2, PR at II-1.

[60] CR/PR at Table I-1.

[61] CR/PR at Table I-1.

[62] CR at V-1, PR at V-1.

[63] CR at V-2, PR at V-2.

[64] CR at II-2, PR at II-1.

[65] Calculated from CR/PR at Table C-1, revised Aug. 4, 2003.

[66] Calculated from CR/PR at Table C-1, revised Aug. 4, 2003.

[67] Calculated from CR/PR at Table C-1, revised Aug. 4, 2003.

[68] 19 U.S.C. § 1677(7)(C)(i).

[69] CR/PR at Table C-1, revised Aug. 4, 2003.

[70] CR/PR at Table C-1, revised Aug. 4, 2003.

[71] CR/PR at Table C-1, revised Aug. 4, 2003.

[72] CR/PR at Table C-1, revised Aug. 4, 2003.

[73] CR/PR at Table C-1, revised Aug. 4, 2003.

Subject imports accounted for *** percent of apparent domestic consumption in interim 2003, up from *** percent in interim 2002.[74]

Subject imports were at their highest level in 2000, the beginning of the period. However, we find 2000 to be an aberrational year. Subject import volume was unusually high that year because the domestic producer, Penn, ***.[75] Penn's ***.[76] When Penn *** the following year, U.S. shipments of subject imports fell to *** pounds.[77]

After 2001, the volume of subject imports rose significantly. In 2002, a year when apparent domestic consumption fell by *** percent, or by *** pounds, the volume of subject imports rose by *** percent, or *** pounds.[78] U.S. shipments of the domestic like product fell by *** pounds between 2001 and 2002.[79] The increase in subject import volume outstripped growth in apparent domestic consumption and in shipments of the domestic like product between interim 2002 and interim 2003.[80] Subject imports were equivalent to *** percent of domestic production in 2002, up from *** percent in 2001, and subject imports were equivalent to *** percent of domestic production in interim 2003, up from *** percent in interim 2002.[81]

As we have already noted, subject imports and the domestic like product are interchangeable, and subject imports and the domestic like product are the only identified sources of THFA in the U.S. market. Between 2001 and 2002, and between the interim periods, subject imports gained market share at the expense of the domestic industry. That gain was particularly significant in 2002, when it occurred during a year of declining apparent domestic consumption.

The change in subject import volume after 2001 occurred at a time when patterns of distribution in the THFA market were changing. Prior to 2002, a single importer, Kyzen, had accounted for most subject imports, and that importer internally consumed most of its imports.[82] Aside from sales to Penn through a distributor in 2000, Kyzen, the primary importer and consumer of subject imports, made few merchant market sales.[83] Kyzen historically purchased 30-50 percent of its requirements from the domestic producer, Penn, but reduced its purchases of the domestic like product sharply in interim 2003.[84] Furthermore, in 2002, two distributors, AllChem and ARS, also became importers of record, opening the door for more merchant market sales of subject imports and increased competition between subject imports and the domestic like product.

Respondents argue that petitioner's own actions have been the driving force behind shifts in import volume. Respondents claim that petitioner signaled a lack of interest in THFA production after purchasing the THFA business in 1999 by closing an FA plant, prompting purchasers to stockpile THFA and to look for other sources of THFA; respondents further note that petitioner itself was responsible for

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[74] CR/PR at Table C-1, revised Aug. 4, 2003.

[75] CR at III-3, PR at III-2.

[76] CR at III-3, PR at III-2.

[77] CR/PR at Table C-1, revised Aug. 4, 2003.

[78] CR/PR at Table C-1, revised Aug. 4, 2003.

[79] CR/PR at Table C-1, revised Aug. 4, 2003.

[80] CR/PR at Table C-1, revised Aug. 4, 2003.

[81] CR/PR at Table C-1, revised Aug. 4, 2003.

[82] CR at I-6, PR at I-4.

[83] Importer Questionnaire Response of Kyzen, Part III; Tr. at 64-65, 66 (Mr. Forsythe); Respondents' Posthearing Brief at 4, 5.

[84] Respondents' Posthearing Brief at 11.

most of the increase in subject imports in 2000.[85] According to respondents, petitioner's bankruptcy filing in mid-2001 prompted another round of purchases to stockpile THFA, a search for alternate sources of supply, and subsequent attempts to reformulate products away from THFA, dampening demand.[86] Lastly, respondents claim that the apparent increase in subject imports in interim 2003 was actually a result of fourth-quarter 2002 deliveries delayed by the West Coast dock strike.[87] Petitioner denies that it ever intended to move away from the THFA business, or that its bankruptcy affected its ability to deliver THFA.[88]

We are mindful of these arguments. The record available in the preliminary phase of this investigation suggests that important changes in the fundamentals of this market were underway during the POI. We will seek greater information on the development and dynamics of this market in the final phase of our investigation, including the presence of new importers, the impact, if any, of petitioner's bankruptcy, and of purchasers' desire for multiple supply sources. For purposes of this preliminary determination, we find that subject import volume was significant during the period examined both in absolute terms and relative to apparent U.S. production and consumption

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act[89] 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.

Prices for the domestic like product typically were at their lowest levels late in the POI, having fallen significantly from their peak. For example, THFA sold in 55 gallon drums to distributors sold for $*** per pound in the first quarter of 2003, down from $*** a year earlier.[90] THFA sold in 55 gallon drums to end users sold for $*** per pound in the fourth quarter of 2002 and for $*** in the first quarter of 2003, compared to $*** in the fourth quarter of 2001.[91] THFA sold to end users in bulk containers sold for $*** per pound in the first quarter of 2003, after selling for $*** in the first quarter of 2002.[92] The average unit value (AUV) of U.S. shipments of the domestic like product decreased by *** percent between 2001 and 2002 and decreased by *** percent between interim 2002 and interim 2003.[93]

Prices for subject imports followed a somewhat different pattern. Prices for subject imports of THFA sold to distributors in 55-gallon drums peaked in the third quarter of 2002 at $*** per pound and

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[85] Tr. at 55 (Mr. Doyel); Respondents' Postconference Brief at 5.

[86] Respondents' Postconference Brief at 3, 9.

[87] Respondents' Postconference Brief at 5.

[88] Petitioner's Postconference Brief at 15.

[89] 19 U.S.C. § 1677(7)(C)(ii).

[90] CR/PR at Table V-1.

[91] CR/PR at Table V-2.

[92] CR/PR at Table V-4. Sales of domestically-produced THFA in bulk to distributors were the exception, with prices relatively high in 2002, though prices fell in the first quarter of 2003. CR/PR at Table V-3.

[93] CR/PR at Table C-1, revised Aug. 4, 2003. We are mindful of the limitations of AUV data. Allegheny Ludlum Corp. v. United States, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002); United States Steel Group v. United States, 96 F.3d 1352, 1363-64 (Fed. Cir. 1996). However, THFA is distinguished by whether it is sold by 55-gallon drum or by bulk container, rather than by grade or quality.

fell to $*** in the final two quarters of the POI.[94] Prices for subject imports of THFA sold in 55-gallon drums to end users peaked in the first quarter of 2002 at $*** per pound, fell in the second quarter, and rose in the third and fourth quarters of 2002.[95] Some *** by subject imports occurred, but subject imports *** the domestic like product *** of the POI.[96] The AUVs of subject imports increased by *** percent between 2001 and 2002, but AUVs for subject imports decreased by *** percent between interim 2002 and interim 2003.[97]

Despite some overselling, the evidence indicates that the presence of subject imports in the U.S. market suppressed and depressed prices for the domestic like product, especially in the later part of the POI. The domestic industry faced rising costs in 2001 and 2002, but was unable to pass on those costs through higher prices.[98] In 2000, the cost of goods sold was equivalent to *** percent of sales; by 2002, that ratio was *** percent.[99] Although apparent domestic consumption was higher in interim 2003 than in interim 2002, prices and AUVs fell, as the market share of subject imports increased.[100] In 2002 and 2003 petitioner lost revenues on sales in attempts to meet low prices on subject imports.[101] By the end of the POI, subject imports were affecting the prices received by petitioner ***, even when petitioner did not lose sales.[102] Kyzen, who accounted for the bulk of subject imports, ***, but Kyzen purchased from Penn at a price ***, again indicating the influence of subject imports on the price for the domestic like product.[103] Reported *** by subject imports late in the POI may have occurred as a result of petitioner lowering prices in an attempt to remain competitive, a matter we will explore further in any final phase of this investigation.

As we noted above, the market for THFA appeared to be experiencing significant changes during the POI, and we intend to seek additional information in the final phase of this investigation on the various factors influencing pricing in this market. In particular, we wish to explore what influence, if any, subject imports purchased for internal consumption may have on merchant market prices, the role played by petitioner's bankruptcy on prices, the reasons for the decision by some distributors to become importers, and the influence of high-volume purchasers on prices. In light of significant volumes of subject imports, the substantial interchangeability between subject imports and the domestic like product, the declining prices of the domestic like product over the POI, and confirmed instances of lost revenues, for purposes of this preliminary determination, we find that subject imports suppressed and depressed domestic prices to a significant degree.

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[94] CR/PR at Table V-1.

[95] CR/PR at Table V-2.

[96] CR/PR at Tables V-1-V-4.

[97] CR/PR at Table C-1, revised Aug. 4, 2003.

[98] CR/PR at Table VI-2.

[99] CR/PR at Table C-1, revised Aug. 4, 2003.

[100] CR/PR at Tables V-1-V-2 and C-1, revised Aug. 4, 2003.

[101] CR/PR at Table V-6.

[102] CR at V-10-V-11 and Table V-6, PR at V-5 and Table V-6.

[103] Petitioner's Postconference Brief at 12.

D. Impact of the Subject Imports[104]

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."[105] 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."

By most measures, the domestic industry was in worse condition in 2002 than in 2000. Although the quantity, total value, and AUVs of domestic shipments were higher in 2002 than in 2000, most of the other performance indicators traditionally examined by the Commission were negative.[106] The domestic industry's share of apparent domestic consumption declined in 2002 and was lower in interim 2003 than in interim 2002.[107] Domestic production capacity was unchanged, but capacity utilization declined from *** percent in 2000 to *** percent in 2002.[108] The number of production and related workers also decreased by *** percent between 2000 and 2002.[109] Although the number of workers and wages paid declined, unit labor costs in 2002 were *** percent higher than in 2000.[110] The unit cost of goods sold in 2002 was *** percent higher than in 2000.[111] Operating income was *** in 2000, at *** percent of sales in 2000, but the domestic industry *** in 2001 and 2002.[112] The domestic industry's capital expenditures and research and development expenses were significantly lower in 2002 than in 2000, although expenditures throughout the POI were ***.[113] In general, most of these trends remained negative when comparing interim 2003 to interim 2002, despite an increase in U.S. shipments. In interim 2003, the AUV of U.S. shipments of the domestic like product was *** percent lower than in interim 2002; hours worked were *** percent lower, wages paid were *** percent lower, gross profit was *** percent lower, and *** were larger.[114]

As noted above, 2000 was somewhat anomalous given petitioner's own *** purchases of subject imports. Petitioner's ***. As petitioner *** costs that helped reduce its profitability.[115] Nevertheless, the industry's financial condition worsened substantially from 2001 to 2002, and between interim

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[104] In its notice of initiation, Commerce estimated dumping margins for imports of subject merchandise between 159.26 percent and 200.00 percent. 68 Fed. Reg. at 42,688 (July 18, 2003).

[105] 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").

[106] CR/PR at Table C-1, revised Aug. 4, 2003.

[107] CR/PR at Table C-1, revised Aug. 4, 2003.

[108] CR/PR at Table C-1, revised Aug. 4, 2003.

[109] CR/PR at Table C-1, revised Aug. 4, 2003.

[110] CR/PR at Table C-1, revised Aug. 4, 2003.

[111] CR/PR at Table C-1, revised Aug. 4, 2003.

[112] CR/PR at Table C-1, revised Aug. 4, 2003.

[113] CR/PR at Table VI-4.

[114] CR/PR at Table C-1, revised Aug. 4, 2003.

[115] CR at Table C-1, revised Aug. 4, 2003 and VI-3 n.3, PR at Table C-1, revised Aug. 4, 2003 and VI-1 n.3.

periods, due in part to lower unit values for its sales of THFA.[116] We have found above that subject imports significantly depressed and suppressed domestic prices.

As we noted above, petitioner's bankruptcy occurred during the POI. Nonetheless, petitioner's financial position continued to worsen after emerging from bankruptcy, as prices declined in 2002 and in interim 2003 compared to interim 2002. We are also aware that the domestic industry was affected by rising production costs, particularly increases in natural gas prices. We will seek additional information on these costs in the final phase of this investigation, as well as on any additional factors that had a negative impact on petitioner's financial results. In this preliminary determination, we find that, in light of the negative volume and price effects of subject imports and the worsening financial position of the domestic industry, subject imports adversely affected the performance of the domestic industry during the period examined.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of THFA from China allegedly sold in the United States at less than fair value.

[116] CR/PR at Tables VI-1 and VI-3.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Penn Specialty Chemicals, Inc. (Penn), Plymouth Meeting, PA, on June 23, 2003, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of tetrahydrofurfuryl alcohol (THFA)[1] from China. Information relating to the background of the investigation is provided below.[2]

Date	*Action*
June 23, 2003	Petition filed with Commerce and the Commission; institution of Commission investigation (68 FR 38721, June 30, 2003)
July 14, 2003	Commission's conference[3]
July 18, 2002	Commerce's notice of initiation (68 FR 42686)
August 5, 2003	Commission's vote
August 7, 2003	Commission determination to Commerce
August 14, 2003	Commission views to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on the questionnaire response of Penn, the sole U.S. producer. U.S. imports are based on questionnaire responses submitted by U.S. importers.

RELATED INVESTIGATIONS

Furfuryl alcohol (FA) is the main ingredient used in the production of THFA. FA is produced by Penn in the United States, and also by firms in China. In 1994 and 1995, Commerce and the Commission conducted antidumping duty investigations on furfuryl alcohol from China, South Africa, and Thailand. Antidumping duty orders were issued for all three countries in 1995. However, the order on South Africa was revoked in 1999 after Commerce found no dumping in three successive annual administrative reviews. In 2001, sunset review investigations were completed on the FA antidumping duty orders with respect to China and Thailand, and the orders were continued.[4] The current deposit rates for FA imports from China range from 43.54 to 50.43 percent.[5]

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[1] For purposes of this investigation, THFA is a primary alcohol, principally used as a solvent. A complete description of the imported product subject to the investigation is presented in the *Subject Product* section of this part of the report.

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

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

[4] *Furfuryl Alcohol from China and Thailand*, Invs. Nos. 731-TA-703 and 705 (Review), April 2001, USITC Pub. 3412, p. 1.

[5] Petitioner's postconference brief, exhibit 22.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

The petition alleged LTFV margins of 55.06 to 97.14 percent. Commerce's adjusted LTFV margins were 159.26 to 200.00 percent.

THE SUBJECT PRODUCT

Commerce has defined the scope of this investigation as follows:

> For the purpose of this investigation, the product covered is THFA ($C_5H_{10}O_2$), a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents.[6]

THE DOMESTIC LIKE PRODUCT

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. Petitioner has argued that there is one domestic like product, THFA, coexistent with the scope of the investigation.[7] Counsel for respondents accepts the petitioner's argument that THFA is the domestic like product in this investigation.[8]

Physical Characteristics and Uses

THFA ($C_5H_{10}O_2$), a primary alcohol, is an environmentally acceptable, biodegradable, and water miscible specialty solvent. It is a clear, pale white to pale yellow liquid and has a high flash point, high boiling point, low freezing point, chemical and thermal stability, and a high solvency for organic and inorganic solvents. THFA is a member of the heterocyclic compounds known as furans, which are characterized by a nucleus consisting of an unsaturated ring of four carbon atoms and one oxygen atom, and is produced from furfural. There are no ASTM standards set for THFA.

The major uses for THFA are as cleaning solvents used in the electronics industry; in wood refinishing and household cleaners; in the paint industry in lacquers, shellac, and enamel; as a solvent for resins such as nitrocellulose, rosin, soya, vinyls, and nylon; as solvent adjuvent used in agricultural formulations; and extractive solvents in refining lubrications oils and fatty acids. THFA's other uses include antifreeze for extremely frigid temperatures, the methacrylate ester in Ultra Violet curable coatings, and as a chemical reactant in lysine, pharmaceuticals, and plasticizers.[9]

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[6] Notice of Initiation of Antidumping Duty Investigation: Tetrahydrofurfuryl Alcohol from the People's Republic of China, 68 FR 42686, July 18, 2003. THFA is classifiable in the Harmonized Tariff Schedule of the United States (HTS) under subheading 2932.13.00, with a normal trade relations tariff rate of 3.7 percent *ad valorem*, applicable to imports from China.

[7] Petition, p. 9, and amendment to the petition, July 14, 2003, pp. 1-3.

[8] Respondent's postconference brief, p. 3.

[9] Petition, pp. 4-5.

Manufacturing Facilities and Production Employees

THFA is produced by the catalytic hydrogenation of FA. The major technologies used to produce THFA are: vapor phase technology and liquid phase technology. Although Penn and the Chinese producers of THFA use different technologies, the products are substantially the same.[10] Penn uses the vapor phase to produce THFA (figure 1 in appendix D).[11] In vapor phase technology, FA is preheated to convert it to a vapor, which is mixed with a stream of hydrogen gas and passed through a tubular reactor containing some form of nickel catalyst. As the heated stream contacts the catalyst, FA is chemically converted to THFA.

The liquid phase, which the petitioner believes is the technology used by the foreign producer, is a process whereby hydrogen bubbles in a highly agitated reactor that keeps the solid catalyst dispersed in the liquid (figure 2 in appendix D).[12] According to the petitioner, the process is believed to involve the following steps:

(a) The bubbling reactor is initially charged with catalyst.
(b) Steam is used to heat the reactor and the hydrogen.
(c) Hydrogen is compressed and bubbled through the reactor to agitate the contents and bring the unit to operating temperature and pressure.
(d) Fresh feed is continuously heated and mixed with hydrogen and pumped into the liquid in the reactor.
(e) Vapor is continuously removed and condensed.
(f) Hydrogen is separated and recycled from the crude, which goes to intermediate storage.
(g) The crude is batch-distilled to final product specifications.
(h) If catalyst productivity drops to unacceptable levels, the feed is stopped, the reactor emptied, and the cycle begins again.
(i) Nitrogen is used for inerting and water is used for cooling the boiler feed.

Although Penn produces both FA and THFA, THFA is not produced on the same production lines as FA.[13]

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[10] Conference transcript (transcript), pp. 101-102.

[11] Amendment to the petition, exhibit 29.

[12] Ibid.

[13] Ibid, pp. 1-3.

Interchangeability

Domestically produced THFA and the imported product are considered interchangeable, with both products being able to meet customer specifications.[14] There are substitute cleaning products for THFA, such as polytetramethylene ether glycol (PTMEG) and other alcohols, which can be used in some limited applications. However, there is a hassle factor involved for customers to reformulate in favor of a substitute, and an expense involved in requalifying materials.[15] Moreover, certain applications, such as electronics in defense hardware and in aerospace uses, are specifically formulated for THFA.[16]

Customer and Producer Perceptions

Kyzen Corp. (Kyzen), a significant end user that purchases THFA from both Penn and the Chinese supplier, accounts for approximately 20 to 30 percent of the world market for THFA.[17] Kyzen stated that it purchased THFA from two sources during the period examined and continues that practice today, in order to maintain a secure source of supply.[18] Kyzen also stated that because THFA is critical to its success, it does not want a monopoly by either the Chinese producer or Penn, and that a second supplier is necessary.[19] Both Penn and Kyzen acknowledge that the imported and domestically produced products are interchangeable.[20]

Channels of Distribution

Channels of distribution for the imported and U.S.-produced THFA are shown in table I-1. Kyzen was the largest importer of the subject product, accounting for *** percent of the shipments of subject imports in 2000, *** percent in 2001, and *** percent in 2002. Kyzen internally consumed most of its imports during the period examined: *** percent in 2000, *** percent in 2001, and *** percent in 2002. These internal shipments are reflected as shipments to end users in table I-1.

Table I-1
THFA: Channels of distribution, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

[14] Petitioner's postconference brief, p. 1. Respondents agreed that THFA produced in the United States is interchangeable with THFA produced in China. However, respondents stated that other solvents can and do act as substitutes for THFA and that some companies, faced with the possibility of Penn's bankruptcy, began switching to other products such as glycol ethers and pyrollindones because of the uncertainty of supply of THFA. Respondents' postconference brief, p. 3. Penn argued that such major reformulation away from THFA did not take place, and that any minor switching did not have any material impact on Penn's products because its customer base before and after bankruptcy was very similar. Petitioner's postconference brief, p. 3 and exhibit 2.

[15] Transcript, pp. 76-77 and 81-82.

[16] Ibid, pp. 76-77 and 82.

[17] Ibid, pp. 59-61.

[18] Ibid, pp. 61-62 and 70.

[19] Ibid, p. 61-62.

[20] Ibid, pp. 15 and 100.

Advanced Resin Systems (ARS) imported only in ***. Allchem Industries (Allchem) also imported in ***.

The ***. Penn *** accounted for *** of Kyzen's shipments to distributors in 2000, when it purchased the subject product from Kyzen (through an intermediary broker) to meet an unexpected surge in demand.

The trend in U.S. producer's shipments to end users is the reciprocal of the trend in shipments of subject imports during the period examined. Penn was able to sell more THFA to end users when imports declined in 2001, and less when they increased in 2002. That trend is also evident in the partial periods.

Price

THFA is sold in 55 gallon drums and bulk containers.[21] The average unit value of domestic U.S. shipments fluctuated between $*** and $*** per pound during the period examined, while the average unit value of shipments of imports from China fluctuated between $*** and $*** per pound. Pricing practices and prices reported for THFA in response to Commission questionnaires are presented in Part V of this report.

[21] Petition, p. 11.

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

MARKET CONSIDERATIONS

THFA, a primary alcohol, is a clear, white or pale yellow liquid used in the manufacture of solvents and cleaners. Final products using THFA as an input include pharmaceutical solvents, agricultural chemicals solvents, and electronic cleaning solvents as well as epoxy resin reactive diluents and paint stripper. U.S.-produced THFA and imports of THFA produced in China are considered to be similar, fungible products. As a result, no differentiation on the basis of product characteristics and quality was reported. However, long delivery lead times on THFA imported from China, combined with associated issues of reliability/availability of supply, were cited as important differentiating characteristics between U.S.-produced THFA and Chinese THFA. According to ***, the primary non-price factor between U.S. produced THFA and imports from China is lead time. Up to *** weeks between order placement and delivery was required for Chinese product, whereas orders placed with Penn are available within ***.[1]

The THFA industry in the United States is concentrated in terms of both suppliers and purchasers. In 2002, there were fewer than 30 purchasers of THFA, with seven firms alone accounting for more than *** percent of the THFA purchases. Rivalry and competition among existing U.S. producers is not a factor in industry pricing as Penn is the sole producer of THFA in the U.S. market. Substitute products, discussed in greater detail below, are likely to have a relatively minimal impact on industry pricing and demand as there are few direct substitutes.

The threat of entry from other U.S. producers is minimal due to significant capital requirements as well as learning curve and economies-of-scale efficiencies established by Penn's incumbent position and high-volume production. The small size of the domestic THFA market may also be likely to deter U.S. producers from entering the industry. Entry from non-U.S. sources has provided purchasers with options other than Penn. According to Kyzen, it worked with Chinese THFA producers in an attempt to secure a second source of supply.[2] In general, information obtained from two purchasers of THFA indicate that THFA purchasers may be gaining clout in price negotiations due to the growing number of choices provided by THFA imports. For example, ***. Similarly, ***.[3]

CHANNELS OF DISTRIBUTION AND MARKET SEGMENTS

THFA is sold in both 55-gallon drums and bulk containers. In the U.S. market, domestic and imported THFA are sold to both distributors and end users. During the period examined, data reported by Penn indicate that approximately *** percent of its THFA was sold to distributors, with the remaining *** percent sold to end users. Penn sells THFA nationwide.

Importers reported that *** percent of their Chinese-produced THFA was sold to distributors and *** percent was sold to end users. The three responding importers, *** all reported selling *** of their THFA in the spot market. *** sold its imported THFA in ***, while *** sold its imported THFA in the ***. *** did not report any information on its U.S. markets for imported THFA.

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[1] *** questionnaire response.

[2] Transcript (Mr. Doyel), pp. 83-84.

[3] Telephone interviews with *** on July 16 and July 28, 2003; and telephone interviews with *** on July 17 and July 28, 2003.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on data available in this preliminary investigation, Penn is likely to respond to changes in price with moderate to large amounts of THFA shipped to the U.S. market. The main factors contributing to this supply responsiveness are excess capacity and exports to markets abroad. Adequate inventories also enable Penn to respond quickly to changes in price.

Industry Capacity

Data provided by Penn indicate that excess capacity exists with which to expand production of THFA. Capacity utilization declined from *** percent in 2000 to *** percent in 2001, before rebounding to *** percent in 2002. Industry capacity utilization remained level at *** percent during January-March 2002 and January-March 2003.

Export Markets

Exports represented a substantial but decreasing share of total shipments during 2000-02, ranging from *** percent in 2000 to *** percent in 2001 and *** percent in 2002. Interim data for the January-March periods of 2002 and 2003 show that exports as a percentage of total shipments remained steady in the *** percent range. These numbers indicate an ability to divert shipments to or from foreign markets in response to changes in domestic prices.

Inventory Levels

While Penn's inventory levels as a percentage of total shipments varied during the period examined, the data indicate an ability to respond to price changes and meet demand with inventory on hand. Penn's ratio of inventories to total shipments of THFA was *** percent in 2000, *** percent in 2001, and *** percent in 2002. Data for January-March 2003 indicate that inventories as a percentage of total shipments decreased to *** percent of total shipments from *** percent during January-March 2002.

U.S. Demand

Demand Characteristics

The demand for THFA is determined by the demand for final products in which THFA is used. In this respect, the economic downturn in 2001, and subsequent slow growth, led to a weakening of demand for final products and, as a result, THFA. *** reported that demand for THFA decreased due to the availability of less expensive substitutes. Similarly, *** stated that Penn's bankruptcy in 2001 led customers to diversify away from THFA in favor of other solvents, due to Penn's status as sole domestic supplier. Factors mitigating the substitution of THFA-based solvents for other solvents include the significant switching costs associated with patented products and established manufacturing processes.[4]

[4] Transcript (Mr. Doyel), pp. 82.

Cost Share

Three of the four responding importers indicated that they did not have information regarding THFA's percentage of the total cost of manufacturing final goods. *** stated that THFA accounted for *** percent of its company-wide purchases of raw materials during January-March 2003.

Substitute Products

There are few direct substitutes for THFA due to its performance characteristics and high quality. However, several importers mentioned that, if necessary, several less-expensive, lower-quality solvents can be substituted for THFA. Specifically, *** stated that likely substitutes for THFA include glycol ethers, pyrollidones, various alcohols, and oxygenated solvents.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported THFA depends on several factors. For example, relative price levels, lead times, delivery reliability, and the quality of THFA all play a role in determining the ability of THFA purchasers to substitute one source for another. Moreover, available information indicated that THFA purchasers have been moving toward the maintenance of multiple suppliers on the basis of corporate risk management policy. Given this corporate strategy, and Penn's status as the sole manufacturer of THFA in the United States, the existence of foreign THFA, which is similar to domestic THFA, may increase the degree of substitution.

Penn and the three responding importers agreed that, with the exception of a few applications for certain customers, THFA from all sources, both domestic and imported, can be used interchangeably. Similarly, all four firms reported that non-price differences in product characteristics and sales conditions between U.S.-produced THFA and THFA imported from China are not significant factors in the sales of THFA. In addition, with the exception of a few applications for certain customers, U.S.-produced THFA and THFA imported from China are considered by market participants to be of equal quality. Lastly, information on lead times for delivery indicated differences between domestic and imported products.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the 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 response of Penn, the sole U.S. producer of THFA.

U.S. PRODUCER

Since 1992, there has been only one plant continuously producing THFA in the United States (in Memphis, TN).[1] The U.S. government initially commissioned the facility in 1942 to produce furfural for the synthetic rubber industry. In 1946, Quaker Oats Chemical purchased the site. Quaker Oats expanded the facility and by 1964 it had developed furan, tetrahydrofuran (THF), and hydrogen capacity. When Great Lake Chemicals purchased the site in 1987, furfural production had been discontinued, leaving the furan and THF production facilities.

Shortly after the acquisition, Great Lake Chemicals embarked on an expansion project to build a specialty chemicals plant, a new furan plant, an expanded THF production facility, and additional furan/PTMEG capacity. Great Lakes Chemicals completed its capital expansion project just prior to Penn's acquisition of the Memphis plant in 1999.[2]

Penn Specialty Chemicals was formed in 1999 for the purpose of acquiring (in July 1999) the furfural-based business assets of Great Lake Chemicals.[3] Penn has three main business segments that include fine chemicals and solvents, THF, and PTMEG. THFA falls under the umbrella of the fine chemicals and solvents business segment. Penn asserts that THFA is an extremely important product, contributing disproportionately to the company's overall financial performance. However, in 2002, THFA accounted for only *** percent of Penn's total annual sales value.[4]

Penn went into bankruptcy in July 2001, and emerged in July 2002. As a result of the court-approved plan for emerging from bankruptcy, Penn signed a toll agreement with a major raw material supplier to toll produce THF and PTMEG, products that previously accounted for more than half of

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[1] *Furfuryl Alcohol from China and Thailand*, Inv. Nos. 703-TA-703 and 705 (Review), op. cit., p. 6. According to the petitioner, the reason that there is only one producer of THFA in the United States is twofold: (1) a firm needs to have FA, the precursor product to THFA, readily available in order to enter the THFA business; and (2) the potential producer needs to master the technical art of manufacturing THFA to the high quality standards of the purchasers in the market. Some firms have tried to produce THFA but lacked the technical expertise and therefore went out of business. Transcript, p. 47.

[2] Email from ***, July 11, 2003, and transcript, pp. 13-15.

[3] Another furfural plant in Omaha, NE was already idle in 1999, when Penn acquired both plants. Penn closed the Omaha plant in December 1999. The Omaha plant was used to manufacture all of the raw-material feedstock that went into making THFA, and Kyzen, as the largest purchaser of THFA, interpreted the closure as a signal by Penn that its plan was to move away from THFA and the derivatives of the furfural business. Transcript, p. 54. Penn argued that Kyzen's interpretation was incorrect, and that it was not economically feasible to produce furfural at the Omaha plant, but that its commitment to the furfural derivatives market remained steady. Petitioner's postconference brief, pp. 15-16.

[4] Email from ***, July 11, 2003, and transcript, pp. 13-15.

Penn's sales revenue. The toll agreement provided fixed-cost coverage for Penn. As a result, Penn maintains that its THFA business became even more important.[5]

Penn has argued that LTFV imports, especially in 2002 and 2003, have ***.[6] Kyzen stated that it approached Penn in July and October of 2002 about entering into a toll agreement for Penn to produce THFA for Kyzen and Brenchem, a U.S. firm selling products for Zhucheng Chemical Co. in China.[7] Penn's bankruptcy reorganization plan states that the Senior Secured Lenders are pushing Penn to sell off the Fine Chemicals business or to enter into a tolling arrangement.[8] The plan also provides for cash bonus awards of up to $500,000 to management upon the sale of the Fine Chemicals business.[9]

Penn ***.

In addition, Penn ***.[10] ***. Kyzen maintains that the remainder of the material was Penn's own production sold back to them at a profit to Kyzen.[11] The firm reported no other purchases of imports for the remainder of the period examined.

Nonetheless, by the most conservative estimates, Penn ***.

The only other firm producing THFA during the period was Synetex, a startup firm that produced small quantities in 2000 and then went out of business. ***.[12]

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Penn's production, capacity, and capacity utilization are presented in table III-1. Penn's capacity was sufficient to supply U.S. consumption needs plus exports during the period examined. The only limit on production capacity is equipment sizing. Penn increased its production in 2000 because it viewed demand as increasing for THFA, and it was attempting to expand its customer base and business line by building inventory.[13] It had some new and growing accounts, like ***. The economic downturn and other factors caused these projects to be delayed, and *** pounds of Penn's 2000 production went into inventory.[14] Although Penn was able to increase its production once again in 2002, it also *** its inventories in that year.

Table III-1
THFA: U.S. production capacity, production, and capacity utilization, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

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[5] Transcript, p. 17.

[6] Petition, p. 20.

[7] Transcript, p. 59.

[8] Respondents' postconference brief, exhibit A, p. 28.

[9] Ibid, p. 47.

[10] Ibid, p. 7.

[11] Transcript, p. 55.

[12] Email from ***; Petition, exhibit 17; and amendment to the petition, p. 4.

[13] Amendment to the petition, p. 15, and transcript, p. 15.

[14] Petitioner's postconference brief, responses to questions by staff, pp. 1-2.

U.S. PRODUCER'S U.S. SHIPMENTS AND EXPORTS

Table III-2 presents data on Penn's shipments during the period examined. Export shipments accounted for *** percent of total shipments in 2000, declining to *** percent in 2001, and *** percent in 2002. Exports to *** accounted for the majority of total exports. Penn's explanation for the decline in exports during the period was that ***. The average unit values for exports were *** than those for U.S. shipments and increased over the period, due to ***.[15]

Table III-2
THFA: U.S. producer's shipments, by types, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

All of Penn's U.S. shipments were sold to unrelated customers during the period examined. U.S. shipments peaked in 2001, corresponding to a low point in shipments of imports of THFA. However, from the first quarter of 2002 to the first quarter of 2003, Penn increased its U.S. shipments at the same time as shipments of imports increased. Penn attributed the decline in its U.S. shipments in 2002, and the slowdown in its shipments in late 2000 and early 2001 (which resulted in inventory buildup) to a decline in its sales to a major customer that purchased Chinese THFA.[16] It also acknowledged that the general economic recession played a role in declining shipments, but that the impact of unfair import competition was greater.[17] Penn attributed the general decrease in its average unit values of U.S. shipments to Chinese competition.[18]

U.S. PRODUCER'S INVENTORIES

Table III-3 presents data on Penn's inventories during the period. As mentioned earlier, the large buildup in 2000 occurred as Penn's belief that demand would increase gave way to the reality of a recession and possibly the effects of import competition, rendering Penn unable to sell its robust production of that year. Inventories as a ratio to U.S. shipments again increased in 2002, as Chinese imports increased.

Table III-3
THFA: U.S. producer's end-of-period inventories, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

[15] Staff telephone conversation with ***, July 17, 2003.

[16] Transcript, p. 17. Although not named, it is obvious this customer is ***.

[17] Petitioner's postconference brief, p. 17.

[18] Ibid, pp. 5-7.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-4 shows Penn's employment-related data during the period examined. Penn used the same production workers for both THFA and FA, and allocated the number of workers producing the subject product by production volume. Penn attributed the declining employment from 2000 to 2002 to the impact of LTFV imports of THFA from China.[19] In addition, it attributed the decline in productivity and increase in unit labor costs experienced in 2001 to lower volumes of production, which were caused in part by unfair import competition.[20]

Table III-4
THFA: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

[19] Transcript, pp. 7 and 117.

[20] Email from ***, July 17, 2003; transcript, p. 17; and Petitioner's postconference brief, p. 17.

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

U.S. IMPORTERS

There were four known importers of THFA during the period examined. As mentioned earlier, Kyzen accounted for the majority of subject imports during the period.[1] Kyzen was founded in 1990 by the former marketing manager for QO Chemicals, a division of Great Lakes Chemical Co., and is located in Nashville, TN. It is the largest user of THFA in the world, accounting for 10-30 percent of the world market. Kyzen internally consumes THFA to make cleaners used in the electronic and semiconductor industries, but also in the optical and metal finishing industries.[2] THFA is the largest raw material cost for Kyzen's products and is central to its business survival.[3] In fact, THFA accounted for *** percent of Kyzen's total material costs during the first quarter of 2003.[4] Also, Kyzen has not reformulated away from using THFA because it holds a number of patents around the world that contain THFA as a specified product. There would be enormous costs to requalify a reformulated product.[5]

***. ARS, Des Plaines, IL, accounted for *** percent of imports in 2002, and Allchem, Gainesville, FL, accounted for another *** percent. ARS also ***.

U.S. IMPORTS

U.S. subject imports are based on importers' questionnaire responses and are presented in table IV-1. These data account for all known subject imports during the period. The HTS statistical reporting number (2932.13.0000) covering THFA also includes imports of FA, which renders the official statistics of the Department of Commerce inaccurate for purposes of determining the volume of subject imports. China is the overwhelmingly predominant world source of supply for THFA besides the United States.[6]

Table IV-1
THFA: U.S. imports from China, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

The peak of imports in 2000 corresponds with Penn's *** purchases of imported product from Kyzen which Penn reportedly bought to serve a market increase when Penn was caught short.[7] Although

---

[1] Kyzen's imports accounted for ***.

[2] Transcript, p. 52.

[3] Ibid, p. 68.

[4] Kyzen's importers' questionnaire response, question III-B-9.

[5] Transcript, pp. 82-83.

[6] Petition, p. 9, and transcript, pp. 40 and 76. According to Kyzen, the reason why there are not more world suppliers is that THFA is a niche market and much smaller than the FA market. FA world suppliers are too large to find the THFA business attractive. Transcript, pp. 75-76. However, there is some evidence that there may be other sources of supply in addition to China. ***.

[7] Transcript, pp. 54-55. According to Kyzen, the increase in demand was due to a large demand in Europe and (continued...)

Penn made allegations that low-priced imports have caused it to lower prices to a number of its customers, average unit values for imports actually increased during the period examined. However, the unit value of shipments of imports fluctuated downward in 2001 and upward in 2002, and decreased from January-March 2002 to January-March 2003.[8]

Kyzen argued that a west coast dock strike in late 2002 caused imports to increase in the first quarter of 2003.[9] Accordingly, if the strike had not occurred, the increase in imports from 2001 to 2002 would have been even greater than the increase shown in table IV-1.

APPARENT U.S. CONSUMPTION

Table IV-2 presents apparent U.S. consumption during the period, based on shipments of imports and Penn's U.S. shipments. The quantity was steady with only a small decrease from 2001 to 2002, and a somewhat larger increase between the first quarters of 2002 and 2003. Kyzen described the demand for THFA as sleepy, following the GNP annual increases.[10] Penn argued that Kyzen's idea of sleepy demand is governed by its market niche in electronics, and that there are other growth sectors for THFA.[11]

Table IV-2
THFA: U.S. shipments of domestic product, U.S. shipments of imports from China, and apparent U.S. consumption, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

U.S. MARKET SHARES

From 2000 to 2002, Penn's market share fluctuated upward, with a peak in 2001, corresponding to the lowest volume of Chinese imports, as shown in table IV-3. Penn's market share slipped between the first quarters of 2002 and 2003. Penn argued that price suppression by LTFV imports has hurt its profitability as it struggled to maintain volume and market share.[12]

Table IV-3
THFA: U.S. consumption and market shares, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

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[7] (...continued)
campaign buyers in the United States. A campaign buyer is a purchaser who typically buys large volumes of THFA during a short period of time when making a run of a certain product. These firms typically include pharmaceutical companies or agri-chemical companies.

[8] Data submitted in response to importers' questionnaires.

[9] Respondents' postconference brief, p. 5.

[10] Transcript, pp. 106-107.

[11] Petitioner's postconference brief, p. 14 and answers to staff questions, pp. 1-2.

[12] Petitioner's postconference brief, p. 6.

RATIOS OF IMPORTS FROM CHINA TO U.S. PRODUCTION

The ratios of subject imports to U.S. production during the period examined are presented in table IV-4. The trend is similar to the trend in Chinese market share shown in table IV-3, but more pronounced between the first quarters of 2002 and 2003.

Table IV-4
THFA: U.S. production, U.S. imports from China, and ratios of imports to production, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The main material input in the production of THFA is furfuryl alcohol. In 2002, Penn's raw material costs accounted for approximately *** percent of the costs of goods sold (COGS).

Transportation Costs

U.S. inland transportation costs constitute a relatively small share of the total cost of producing THFA. For importers, transportation costs of THFA for delivery within the United States range from *** percent to *** percent, with an average of approximately *** percent. Transportation costs for Penn range between *** percent.

Tariff Rates

THFA enters the United States under the HTS subheading 2932.13.00. In 2003, the normal trade relations tariff rate for THFA was 3.7 percent.

Exchange Rate

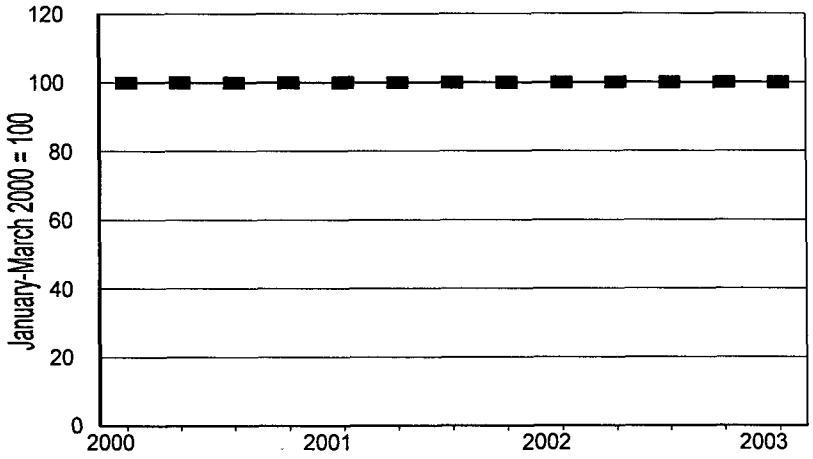
Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan remained stable relative to the U.S. dollar from January 2000 to March 2003 (figure V-1). It is the policy of the government of China to peg the yuan to the U.S. dollar.

PRICING PRACTICES

Pricing Methods

Allchem, ARS, and Kyzen reported that sales of THFA are made on a transaction-by-transaction basis, with *** of their sales taking place in the spot market. Penn, on the other hand, reported that it uses a price list, negotiates contract prices for large volume orders, and meets all competitive prices. Approximately *** percent of Penn's sales take place via contract, while the remaining *** percent take place in the spot market. Penn *** over the Internet.

Figure V-1
Exchange rates: Index of the nominal exchange rate of the Chinese yuan relative to the U.S. dollar, by quarters, January 2000-March 2003



Source: International Monetary Fund, International Financial Statistics, April 2003.

The average duration of Penn's contracts was ***, during which both the quantity and price were fixed. While contracts are negotiated at expiration, Penn typically offered meet-or-release terms. According to Penn, it changed *** percent of its contract prices during the period examined as a result of its meet-or-release obligations.

Sales Terms and Discounts

The three responding importers and Penn all reported using net 30 pricing terms. Importers typically do not offer price discounts on THFA. Penn, however, offered bulk discounts for larger orders. Shipping practices varied between importers and Penn. Importers typically quoted on an f.o.b. basis, while Penn quoted *** percent of its prices on an f.o.b. basis and *** percent on a delivered basis.

PRICE DATA

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

Product 1: Tetrahydrofurfuryl alcohol in 55-gallon drums
Product 2: Tetrahydrofurfuryl alcohol in bulk containers

One U.S. producer and three importers provided usable pricing data for sales of THFA in the U.S. market, although not all firms reported pricing data for all products for all quarters. Pricing data reported by the Penn and three importers accounted for *** percent of the quantity of U.S. commercial shipments of domestic THFA in 2002, as well as *** percent of the U.S. importers' commercial U.S. shipments of THFA from China in that year.

Price Trends and Comparisons

Data on f.o.b. selling prices and quantities of products 1 and 2 sold by Penn and U.S. importers of Chinese THFA are shown in tables V-1 through V-4 and figures V-2 and V-3, respectively.

Table V-1
THFA : Weighted-average f.o.b. selling prices and quantities for product 1 sold to distributors, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Table V-2
THFA: Weighted-average f.o.b. selling prices and quantities for product 1 sold to end users, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Table V-3
THFA: Weighted-average f.o.b. selling prices and quantities for product 2 to distributors, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Table V-4
THFA: Weighted-average f.o.b. selling prices and quantities for product 2 sold to end users, and margins of underselling/(overselling), by quarters, January 2000-March 2003

* * * * * * *

Figure V-2
Weighted-average f.o.b. prices for sales of product 1 to both distributors and end users, as reported by U.S. producers and importers, by quarters, January 2000-March 2003
Source: Tables V-1 and V-2.

* * * * * * *

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

* * * * * * *

Product 1

Weighted-average prices for domestic and Chinese product 1 sold to both distributors and end users fluctuated during the period for which data were collected. Prices for U.S.-produced product 1 sold to distributors increased irregularly from January-March 2000 to the same quarter of 2002, rising *** percent in that time. These prices then declined *** percent by January-March 2003; overall prices for domestic product 1 sold to distributors were *** lower at the end of the period than at the beginning.

Prices for Chinese product 1 sold to distributors increased irregularly by *** percent from January-March 2000 to their highest level of the period in July-September 2002. These prices then fell

*** percent in the last quarter of 2002 and remained at the level in the first quarter of 2003. Overall, these prices were *** percent higher at the end of the period than at the beginning.

As shown in table V-1 and figure V-2, price comparisons for product 1 (sold to distributors) between the United States and China were possible for a total of nine quarters during the period examined. During these quarters, the price of Chinese imports was *** the price of U.S. goods in 3 quarters. Margins of *** range from *** to *** percent, with an average of *** percent. In 4 quarters, the Chinese product was priced *** the domestic; margins of *** range from *** to *** percent, with an average of *** percent.[1] In the remaining quarters, the price of Chinese imports was ***.

Prices for domestic product 1 sold to end users increased irregularly during from January-March 2000 through the end of 2001, increasing *** percent during that period. Prices then declined *** percent from January-March 2002 through January-March 2003. Overall, domestic prices where *** percent lower at the end of the period than they were at the beginning of the period.

Prices for Chinese product sold to end users increased irregularly from January-March 2000 through January-March 2002, rising *** percent during that period. These prices then declined *** percent by the first quarter of 2003; overall, however, prices were *** percent higher at the end of the period than at the beginning.

As shown in table V-2 and figure V-2, price comparisons for product 1 (sold to end users) between the United States and China were possible for a total of nine quarters during the period examined. During these quarters, the price of Chinese imports was *** the price for U.S. product in 1 quarter. During that quarter, the margin of *** was *** percent. In four of the quarters, the Chinese product was priced *** the domestic product; margins of *** ranged from *** to *** percent, with an average of *** percent. In the remaining quarters, the price of the Chinese product was ***.

Product 2

Weighted-average prices for domestic and Chinese product 2 sold to distributors and end users fluctuated during the period examined. Prices for U.S.-produced product 2 sold to distributors increased irregularly from January-March 2000 through January-March 2002, increasing *** percent during this period. These prices then declined *** percent by January-March 2003. Overall, prices were *** percent higher at the end of the period than at the beginning.

Prices for Chinese product 2 sold to distributors are only available for 2000. During this period, prices rose irregularly from ***, an increase of *** percent.

As shown in table V-3 and figure V-3, price comparisons for product 2 (sold to distributors) between the United States and China were possible in only 4 of the 13 quarters. During 2000, the only year in which a comparison can be made, the price of Chinese imports was *** the U.S. product during one quarter. During April-June, the margin of *** was *** percent. In the remaining 3 quarters, the Chinese product was ***.

Prices for U.S.-produced product 2 sold to end users rose irregularly from January-March 2000 through October-December 2001, increasing by *** percent during that period. However, these prices then declined *** percent by the first quarter of 2003. Overall, prices were *** percent lower at the end of the period than at the beginning.

Prices for Chinese-produced product 2 sold to end users are only available for 2000. During this period, these prices rose from ***, an increase of *** percent.

As shown in table V-4 and figure V-3, price comparisons for product 2 (sold to end users) between the United States and China were possible in only 4 of the 13 quarters. During 2000, the only year in which a comparison can be made, the price of Chinese imports was *** the U.S. product in two

[1] In the two other quarters, the weighed-average prices of the domestic and Chinese products were ***.

quarters. Margins of *** were *** and *** percent, with an average of *** percent. During the remaining quarters, Chinese THFA was ***.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of THFA to report instances of lost sales or revenues they experienced due to competition from imports of THFA from China since January 2000. The *** reported that it had either lost sales or reduced prices to prevent losing sales. The reported allegations of lost sales and lost revenues total $*** and $*** respectively, and are presented in tables V-5 and V-6. ***, which comprises *** percent of the lost sales allegations and *** percent of the lost revenue allegations, responded to verification requests. *** and *** also responded to verification requests.

*** disagreed with all claims, stating that *** did not offer it a price of $*** per pound. *** also noted that, during the period examined, it consistently purchased THFA from *** at a price of $*** per pound.

*** agreed with *** accusation, but amended the initial foreign price quote. *** also agreed with the allegation, but amended the initial foreign price quote. *** disagreed with the allegation, stating that the foreign price quote did not come from China. *** agreed with the allegation. *** disagreed, stating that it was not aware that *** quoted THFA imported from China.[2]

Table V-5
THFA: Lost sales allegations

* * * * * * *

Table V-6
THFA: Lost revenues allegations

* * * * * * *

[2] *** provided qualification in its allegation response: "***."

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

BACKGROUND

As previously reported, Penn is the sole U.S. producer of THFA. Penn reported its financial results on U.S.-produced THFA on a calendar-year basis using U.S. GAAP. All sales of THFA were classified as commercial sales. Penn was reorganized under Chapter 11 and exited bankruptcy at the end of July 2002.[1]

OPERATIONS ON THFA

Income-and-loss data are presented in table VI-1 and on a unit basis in table VI-2. A variance analysis is presented in table VI-3.

THFA volume and revenue were highest in 2001. Average unit THFA revenue trended downward after 2001 and reached its lowest point in interim 2003.[2] Average unit COGS was lowest in 2000 and subsequently increased, remaining above the 2000 average for the rest of the period. The combination of these factors resulted in ***. After 2000, *** were reported.

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

* * * * * * *

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

* * * * * * *

As shown in table VI-3, *** were caused by changes in average unit revenue and average unit COGS.[3] [4]

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[1] ***. July 18, 2003 telephone interview with ***, Penn.

[2] ***. As noted in footnote 3, Penn raised 2001 prices, at least in part, in an attempt to cover increases in natural gas costs which occurred in 2001. The 2001 volume increase was due in part to "pre-buy" sales in the fourth quarter by customers who were concerned about Penn's viability as a supplier (pp. 32 and 27 of Penn's reorganization plan, attached as exhibit 1 of respondents' July 17, 2003 postconference brief).

[3] ***. July 18, 2003 telephone interview with ***, Penn. (Note: variances (positive or negative) are applied to standard costs in order to arrive at the actual cost of production.) Penn's bankruptcy reorganization plan states "{t}he Debtor is uniquely positioned as a manufacturer of furfural- and furan-based fine chemicals due to its high degree of integration . . . this unique integration creates a situation in which multiple elements of the Plant need to be producing in order to cover fixed costs of the Plant's operations" (p. 18 of Penn's reorganization plan). ***. Penn's bankruptcy reorganization plan states that ". . . due to the Pre-Petition {i.e., prior to mid-year 2001} energy crisis and increase in corresponding gas prices, the Debtor saw the gas bill at the Plant almost triple. The debtor has been unable to fully offset these increased production costs with revenues despite implementing several price increases both domestically and abroad" (p. 32 of Penn's reorganization plan).
***.

[4] In addition to changes in variable manufacturing costs, the "cost variance" presented in table VI-3 reflects differences in fixed manufacturing cost absorption resulting from changes in production volume. The "cost
(continued...)

Table VI-3
THFA: Variance analysis of financial results for calendar years 2000-02, and January-March 2002-03

* * * * * * *

CAPITAL EXPENDITURES AND INVESTMENT IN PRODUCTIVE FACILITIES

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

In 2000 and 2001, THFA-related capital expenditures were somewhat larger than reported depreciation. R&D expenses were also relatively ***.[5] Capital expenditures were largest in 2001 and subsequently declined.[6]

Table VI-4
THFA: Capital expenditures, R&D expenses, and value of property, plant, and equipment, calendar years 2000-02, January-March 2002, and January-March 2003

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of THFA from China on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product).

Actual Negative Effects

***.

Anticipated Negative Effects

***.

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[4] (...continued)
variance" reflected in the variance analysis in effect incorporates a production volume variance. This is different from the item labeled "volume variance" which refers to changes in total cost due to changes in sales volume. ***, changes in production volume do not necessarily correspond to changes in sales volume. ***.

[5] According to the company, ***.

[6] The company stated that ***. July 16, 2003 fax from ***, Penn. With respect to the capital intensiveness of THFA the following was noted at the staff conference: "FA is the precursor to make THFA, so having FA is the best way to be able to get the THFA. There is capital that's required to make that leap from FA to THFA, but I would not characterize it as an extremely large capital number. If you're able to make FA, with a modest capital investment, you can make THFA. Probably the larger barrier, to my understanding, is more the technical and the art of producing THFA." Michael Neff, Penn, conference transcript, p. 47.
***.

PART VII: THREAT CONSIDERATIONS

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

THE INDUSTRY IN CHINA

The petitioner alleged that there are five producers of THFA in China: Hunan Sun-Yuan Chemical Co., Ltd. (Hunan Sun-Yuan); Shandong Baofeng Chemicals Group Corp. (Shandong Baofeng); Shandong Zhucheng Zhongtai Chemical Co. Ltd. (Shandong Zhucheng); Taizhou Qianquan Medical and Chemicals Co. Ltd. (Taizhou Qingquan); and Zhucheng Huaxiang Chemical Co. (Zhucheng), which is related to Shandong Zhucheng and considered one entity. Considering the relationship between Zhucheng and Shandong Zhucheng, the number of potential Chinese producers is four. The petition acknowledged that Zhucheng is the primary manufacturer and exporter of THFA to the United States.[1]

Zhucheng provided data in response to the Commission's foreign producers' questionnaire. Its exports to the United States accounted for the following shares of U.S. imports of the subject product: ***. Considering the lag between exports and imports, it appears that Zhucheng accounts for the vast majority of exports of THFA, but that there were other exports entering the United States from a different source at least in the first two years of the period. Zhucheng's questionnaire response estimated that it accounted for *** percent of total production of THFA in China, and *** percent of total Chinese exports to the United States in 2002.

Kyzen ***.[2] It also claims to have encouraged the Chinese to create a THFA industry in 1996, although there is no formal relationship between the firms.[3] Kyzen began importing in 1997, and the quantity of its imports from China peaked in 1998 at 1.3 million pounds.[4] ARS identified *** as the foreign producer of its imports. No other information is available about that firm, and it may be a trading company and exporter rather than a producer of THFA. *** were unable to identify the foreign producers of their imported product.

Questionnaire responses certifying no production of THFA during the period examined were received from ***. *** submitted a response certifying no exports to the United States without addressing the issue of production. Counsel for Penn challenged these negative questionnaire responses by pointing out that web sites for the three firms indicate that they are involved with THFA. Hunan Sun-Yuan's web site asserts that it can produce 1,000 metric tons of THFA (2.2 million pounds). Taizhou Qingquan's site indicates that it sells THFA. Likewise, Shandong Baofeng's site also indicates that its products include THFA.[5] In addition, the petition included a price quote from Shandong Baofeng that

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[1] Petition, p. 10.

[2] Respondents' postconference brief, p. 5.

[3] Transcript, pp. 68 and 84-85.

[4] Ibid, p. 85.

[5] Penn's submission of July 17, 2003.

stated that it was the "largest producer for furfural, furfuryl alcohol, and THFA in China."[6] A telegram to the American embassy in Beijing requesting official Chinese export statistics for THFA during the period examined has not yielded a reply.[7]

Data for Zhucheng are presented in table VII-1. Total capacity is *** than the quantity of U.S. apparent consumption, and about *** of the capacity of Penn. During the period, production fluctuated downward, leaving excess capacity utilization of *** percent by 2002. Projections for 2003 and 2004 also show lower capacity utilization in the *** range. Zhucheng reported *** capacity utilization.

The home market was a significant portion of total shipments, varying from more than *** in 2000 and 2001 to *** percent in 2002. Projections call for total exports to account for just over *** of total shipments in 2003 and 2004. Exports to the United States are *** exports to third countries (Japan and the EU), and are projected to remain so in 2003 and 2004. According to Kyzen, the world market for THFA in Asia is approximately *** pounds per year, and about *** pounds per year in the EU. The rest of the world would account for small quantities of THFA.[8] Unlike the trend in U.S. imports, Zhucheng's exports to the United States declined between the first quarters of 2002 and 2003.

Inventories increased from 2000 to 2002, unlike Penn's inventory holdings, ending at about *** range. Inventories were drawn down between the first quarters of 2002 and 2003, as shipments in the home market and other export markets increased.

Table VII-1
THFA: Zucheng's production capacity, production, shipments, and inventories, 2000-02, January-March 2002, January-March 2003, and projected 2003-04

* * * * * * *

U.S. INVENTORIES OF PRODUCT FROM CHINA

U.S. importers' inventory holdings are shown in table VII-2.

Table VII-2
THFA: U.S. importers' end-of-period inventories, 2000-02, January-March 2002, and January-March 2003

* * * * * * *

DUMPING IN THIRD-COUNTRY MARKETS AND PRODUCT SHIFTING

The petitioner argued that the capacity of the Chinese FA industry (at least 50 million pounds) is potentially available for diversion into making THFA, and that the duties on FA imports into the United States make that product shifting an attractive possibility.[9] Kyzen argued that the order on FA from China has been in place for eight years without such product shifting, and that the most attractive time for

[6] Petition, exhibit 10.

[7] Telegram to American embassy in Beijing, June 27, 2003.

[8] Respondents' postconference brief, exhibit 4. Note that the exact quantities were not supplied but instead the submission included graphs in 1 million pound intervals.

[9] Petitioner's postconference brief, p. 23.

the Chinese to have made such a shift would have been in 2001, when Penn's bankruptcy left the market uncertain about supply options.[10]

In addition, the petitioner argued that a recent provisional antidumping duty order against FA imports from China into the European Union (May 7, 2003) further makes the case for potential product shifting because the EU is a major destination for Chinese exports of FA.[11] The EU antidumping duty order against Zhucheng's shipments of FA is 33 Euros per metric ton, or approximately two to three percent, depending on exchange rate variances.[12]

[10] Respondents' postconference brief, p. 2.

[11] Petitioner's postconference brief, p. 23 and exhibit 23.

[12] Respondents' postconference brief, p. 23.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1046 (Preliminary)]

Tetrahydrofurfuryl Alcohol From China

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–1046 (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 of tetrahydrofurfuryl alcohol,[1] provided for in subheading 2932.13.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. 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 August 8, 2003. The Commission's views are due at Commerce within five business days thereafter, or by August 14, 2003.

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

EFFECTIVE DATE: June 23, 2003.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on June 23, 2003, by Penn Specialty Chemicals Inc., Plymouth Meeting, PA.

Participation in the investigation and public service list. Persons (other than petitioner) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 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 this investigation 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 § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, 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 this investigation for 9:30 a.m. on July 14, 2003, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Olympia Hand (202–205–3182) not later than July 9, 2003, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation 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 §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 17, 2003, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of

[1] $C_5H_{10}O_2$ is a primary alcohol which is miscible with water and soluble in many common organic solvents, and is a member of the heterocyclic compounds known as furans. It is clear or water white to pale yellow in color.

§§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

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

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: June 24, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–16446 Filed 6–27–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-887]

Notice of Initiation of Antidumping Duty Investigation: Tetrahydrofurfuryl Alcohol from the People's Republic of China

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

ACTION: Initiation of an Antidumping Duty Investigation.

EFFECTIVE DATE: July 18, 2003.

FOR FURTHER INFORMATION CONTACT: Robert Bolling at (202) 482–3434 or Laurel LaCivita at (202) 482–4243, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

INITIATION OF INVESTIGATION:

The Petition

On June 23, 2003, the Department of Commerce ("the Department") received a petition filed in proper form by Penn Specialty Chemicals, Inc. ("petitioner"). On July 7, 2003, July 10, 2003 and July 11, 2003, the Department received amendments to the petition filed in proper form by the petitioner.

In accordance with section 732(b)(1) of the Tariff Act of 1930 ("the Act"), the petitioner alleges that imports of tetrahydrofurfuryl alcohol ("THFA") from the People's Republic of China ("the PRC") are, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that imports from the PRC are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(c) and 771(9)(D) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. *See infra*, "Determination of Industry Support for the Petition."

Scope of the Investigation

For the purpose of this investigation, the product covered is tetrahydrofurfuryl alcohol (C5H10O2). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classified in the Harmonized Tariff Schedules of the United States ("HTSUS") under subheading 2932.13.00.00. Although the HTS subheadings are provided for convenience and for the purposes of the U.S. Bureau of Customs and Border Protection ("Customs"), the Department's written description of the merchandise under review is dispositive.

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

Determination of Industry Support for the Petition

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

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

time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

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

Based on our analysis of the information presented by the petitioner, we have determined that there is a single domestic like product, THFA, which is defined in the "Scope of the Investigation" section above, and we have analyzed industry support in terms of this domestic like product.

In its initial petition and subsequent submissions, the petitioner states that it comprises 100 percent of U.S. THFA production. Based on all available information, we agree that the petitioner comprises 100 percent of the domestic THFA production.

Our review of the data provided in the petition and other information readily available to the Department indicates that the petitioner has established industry support representing 100 percent of the total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. In addition, the Department received no opposition to the petition from domestic producers of the like product. Therefore, the domestic producer (or workers) who supports the petition accounts for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producer who supports the petition accounts for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

[1] *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), *citing Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (Ct. Int'l Trade 1988).

Period of Investigation

The anticipated period of investigation ("POI") is October 1, 2002, through March 31, 2003.

Export Price and Normal Value

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

Regarding an investigation involving a non-market economy ("NME") country, the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of a country's NME status and the granting of separate rates to individual exporters. *See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994).

Export Price

The petitioner based export price ("EP") on price quotes from Chinese exporters of THFA to unaffiliated purchasers in the United States. The petitioner calculated net U.S. price by deducting foreign inland freight, domestic inland insurance, ocean freight, and brokerage and handling. Petitioner alleged that India was the appropriate surrogate country (see discussion below) and calculated the adjustments to the EP using the surrogate values recorded in the memoranda to the file from Drew Jackson to Howard Smith, *Surrogate Values Used for the Preliminary Results of the Administrative Review of Potassium Permanganate from the People's Republic of China: January 1, 2001 through December 31, 2001* dated January 31, 2003 ("*Surrogate Value Memorandum I*"), and *Surrogate Values Used for the Preliminary Results of the Administrative Review of Potassium Permanganate from the People's Republic of China: January 1, 1999 through December 31, 1999* dated January 30, 2002 ("*Surrogate Value Memorandum II*").

We adjusted petitioner's calculation of the surrogate values used to calculate foreign inland freight, domestic inland insurance, ocean freight, and brokerage and handling for inflation. Petitioner used the unadjusted surrogate values recorded in the Department's surrogate value memoranda for potassium permanganate, but did not account for inflation from the date of the source data to the POI. Therefore, we went back to the original source data for each adjustment and inflated the reported price to the POI using the website of the Office of the Economic Adviser to the Government of India, Ministry of Commerce and Industry, *http://www.eaindustry.nic.in*. We then converted all unit prices expressed in rupees per metric tons to dollars per pound.

The petitioner provided price quotes for the subject merchandise which we determined were sufficient for initiation purposes. In addition, petitioner provided average unit values ("AUVs") calculated from U.S. import statistics as a second basis to estimate dumping margins. However, since these AUVs were calculated using information from a basket category HTS number, we did not use these average unit values calculated from U.S. import statistics as a basis of estimated dumping margins. 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 may re-examine the information and revise the margin calculations, if appropriate. For our complete analysis of EP, *see* the *Initiation Checklist*.

Normal Value

The petitioner asserts that the PRC is an NME country, and notes that in all previous investigations the Department has determined that the PRC is an NME. *See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). The PRC will be treated as an NME unless and until its NME status is revoked. *See* section 771(18)(C)(i) of the Act. Because the PRC's status as an NME remains in effect, the petitioner's estimated the dumping margin using a NME methodology.

For normal value ("NV"), the petitioner based the factors of production ("FOP"), as defined by section 773(c)(3) of Act, on the consumption rates for furfuryl alcohol ("FA") reported in *Technical Progress in Furfuryl Alcohol Production*, by Ma Bao-Qi and Chen Fan-Geng of Xian

Petroleum College ("*Xian Report*"), Xian, and on its own experience. Petitioner contends that consumption rates for the Chinese THFA industry are not reasonably available, and that FA is an intermediate product and feedstock in the production process for THFA. Therefore, petitioner used the factor values included in the *Xian Report* for the production of FA and its own experience as the basis of factor values for the production steps required to convert FA to THFA. As a result, petitioner contends that information provided in the *Xian Report*, and petitioner's own production experience, is the only information reasonably available to petitioner concerning THFA production in China. Thus, when information from the *Xian Report* was not available, petitioner assumed that producers in the PRC use the same inputs in the same quantities as the petitioner. Based on the information provided by the petitioner, we believe that the petitioner's FOP methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

The petitioner asserts that India is the most appropriate surrogate country for the PRC, claiming that India is: i) a market economy, and, ii) at a level of economic development comparable to the PRC in terms of per capita GNP. Petitioner asserts that China is the only other country known to produce THFA. Therefore, none of the potential surrogate countries, including India, are significant producers of the subject merchandise. Petitioners note however, that India is a significant producer of furfural and FA which are intermediate products and feedstocks in the production process for THFA and based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for the purpose of initiating this investigation.

In accordance with section 773(c)(4) of the Act, petitioner valued FOP, where possible, on reasonably available, public surrogate data from India. Petitioner valued furfural, hydrogen and nitrogen based on Indian import values, as published in the 2000 and 2001 *Monthly Statistics of Foreign Trade of India*, and inflated based on the Indian wholesale price index ("WPI"). Petitioner was not able to obtain publicly available data for the furfural-to-FA and the FA-to-THFA catalysts, and therefore, used imports into the United States from India for HTS 3815.90.30.00 (furfural-to-FA catalyst) and HTS 3815.11.00.00 (FA-to-THFA catalyst) as reported in the World Trade Atlas. The Department is not using Indian import values into the United States because India maintains broadly available, non-industry specific export subsidies. It is the Department's policy, based on our earlier determinations and legislative history, to reject such factor input values, whether they are market economy purchases or import statistics into a surrogate country, on the basis that we have found that the existence of these subsidies provide sufficient reason to believe or suspect that export prices from those countries are distorted. Therefore, we set the surrogate values for these factors to zero. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Ball Bearings and Parts Thereof from the People's Republic of China*, 68 FR 10685 (March 6, 2003) and accompanying Issues and Decision Memorandum. *See* Attachment IV of the *Initiation Checklist*.

Petitioner valued labor using the regression-based wage rate for the PRC provided by the Department, in accordance with section 351.408(c)(3) of the Department's regulations. Petitioner valued maintenance supplies based on its own experience. However, the Department has determined that maintenance expenses should be classified as and included in overhead expenses in the calculation of normal value based on the factors of production. *See Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 64 FR 69494 (December 13, 1999). Therefore, in order to eliminate the possibility of double counting overhead expenses which are otherwise included in our analysis, we have set the value of maintenance supplies to zero. Petitioner valued steam produced from coal, water, electricity, factory overhead, SG&A and profit using the *Surrogate Values Memorandum I*. We revised petitioner's factor value calculation for water to take into account inflation from the time period of the original source documentation to the POI. The petitioner inflated these figures to the current POI using the WPI reported on the Indian Office of Economic Advisor website, *www.eaindustry.nic.in*, for chemicals and chemical products.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of THFA from the PRC are being, or are likely to be, sold at less than fair value. As a result of a comparison of EP to NV, petitioner's calculated estimated dumping margins, as adjusted by the Department, range from 159.26 to 200.00 percent.

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 individual and cumulated imports of the subject merchandise sold at less than fair value.

The petitioner contends that the industry's injured condition is evident in the declining trends in financial performance, production volume, capacity utilization rates, U.S. shipments, domestic prices, market share, reduced profitability, capital expenditures and research, and development expenditures. The allegations of injury and causation are supported by relevant evidence including affidavits of company officials, U.S. Census Bureau import statistics, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist*.

Initiation of Antidumping Investigation

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

Distribution of Copies of the Petition

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

ITC Notification

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

Preliminary Determination by the ITC

The ITC will preliminarily determine no later than August 7, 2003, whether there is a reasonable indication that imports of THFA from the PRC are

causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

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

July 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Grant Aldonas, Under Secretary.

[FR Doc. 03–18321 Filed 7–17–03; 8:45 am]

BILLING CODE 3510–DS–S

APPENDIX B

LIST OF WITNESSES

CALENDAR OF PUBLIC CONFERENCE

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

Subject:	Tetrahydrofurfuryl Alcohol from China
Invs. Nos.:	731-TA-1046 (Preliminary)
Date and Time:	July 14, 2003 - 9:30 a.m.

In Support of the Imposition of Antidumping Duties:

Pillsbury Winthrop LLP
Washington, DC
on behalf of

Penn Specialty Chemicals Inc.

Michael W. Neff, Vice President and Chief Financial Officer, Penn Speciality Chemicals
Bruce P. Malashevich, President, Economic Consulting Services
Sabina Neumann, Senior Economist, Economic Consulting Services

Christopher R. Wall, Partner)–OF COUNSEL
William L. Matthews,)
Director of International Services)

In Opposition to the Imposition of Antidumping Duties:

Crowell & Morning, LLP
Washington, DC
on behalf of

Kyzen Corporation and Zhucheng Huaxiang Chemical Co. Ltd.

Kyle Doyel, President and Chief Executive Officer, Kyzen Corp.
Tom Forsythe, Vice President and Chief Accounting Officer, Kyzen Corp.

Matthew P. Jaffe)–OF COUNSEL
Alexander H. Schaefer)

APPENDIX C

SUMMARY DATA

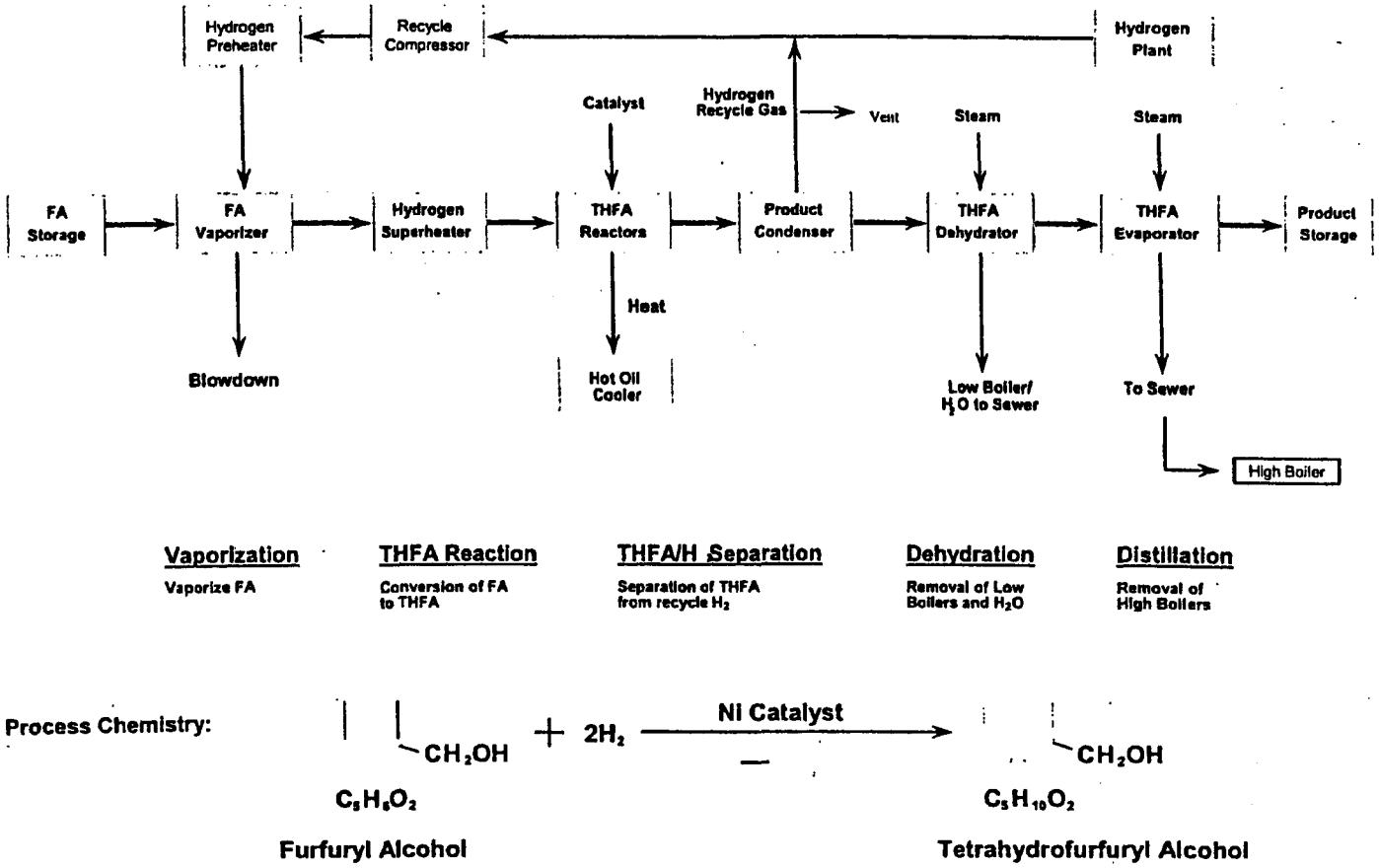
Table C-1
THFA: Sumary data concerning the U.S. market, 200-2002, January-March 2002, and January-March 2003

* * * * * * *

APPENDIX D

MANUFACTURING PROCESSES FOR THFA

Figure 1
THFA vapor phase



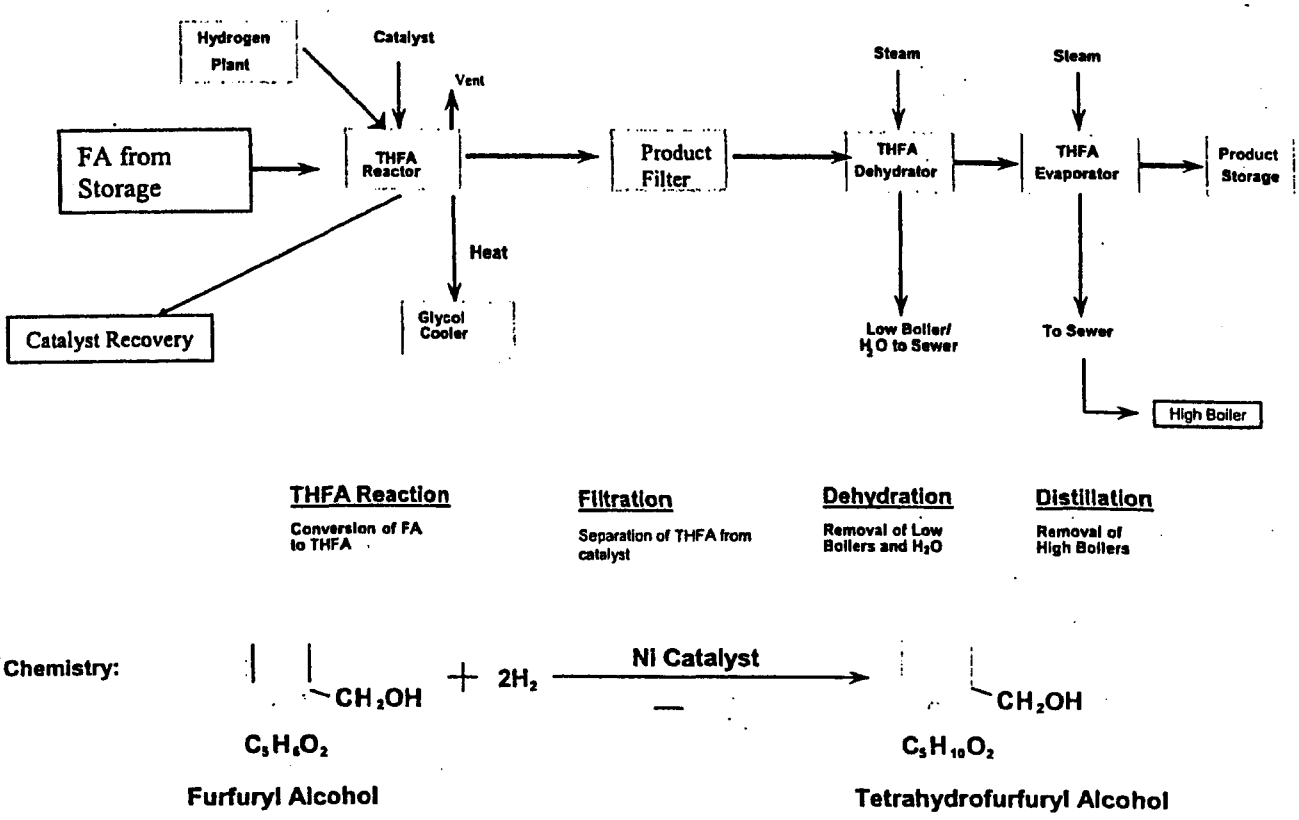
Process Chemistry:

$C_5H_6O_2$ — Furfuryl Alcohol

$C_5H_{10}O_2$ — Tetrahydrofurfuryl Alcohol

Source: Amendment to the petition, exhibit 29.

Figure 2
THFA liquid phase



Process Chemistry:

$C_5H_6O_2$ — Furfuryl Alcohol

$C_5H_{10}O_2$ — Tetrahydrofurfuryl Alcohol

Source: Amendment to the petition, exhibit 29.