

inferior in quality and specification to "prime grade" pulp. It was characterized by such elements as excessive dirt or foreign matter, discoloration, lack of brightness, and weakness in strength, the quality shortcomings inherent in startup production of a new pulp mill. Such offgrade pulp is readily interchangeable with prime grade for some papers; in most instances, however, it has to be further processed before it can be used. Offgrade pulp is an accidental or undesired result of a manufacturing operation intended to produce prime pulp. It is generally sold at a lesser price than the prime product.

The industry. This investigation was aimed principally at the industry which consists of all those facilities in the United States manufacturing hardwood kraft pulp. There were some 30 companies in the United States producing bleached hardwood kraft pulp in 1971, operating in 56 individual establishments which varied in production from less than 100 tons to over 1,200 tons per day. These establishments were located in the following areas of the United States: Eleven in the Northeast, five in the North Central, five in the West, and 35 in the South.

Some pulp manufacturing facilities produce all their pulp primarily for their own papermaking while others usually sell some or all of their pulp on the open market. Of the 56 establishments in the United States, 33 ordinarily use most of the pulp they manufacture in their own papermaking operations. The remaining establishments, as a general practice, produce pulp for sale in the open market as well as for their own needs. When the demand for paper declines and integrated mills have less need for pulp in their own operations, they offer the excess production on the open market. If the integrated establishments require a larger quantity of pulp than they produce to satisfy their demand for paper, they purchase pulp from other pulp producers.

The evidence of record in this investigation shows that all geographical areas of production of bleached hardwood pulp in the United States not only sell such pulp within their particular area but to the other areas as well. Even though Canadian hardwood pulp is principally marketed into the northeast and north-central areas, there are indications that some is sold to the other two areas.

No injury from import penetration. Domestic consumption of pulp rose fairly steadily from 3.8 million tons in 1967 to 4.9 million tons in 1971. Consumption in the first 6 months of 1972 totaled 2.7 million tons compared to 2.5 million tons in the like period in 1971. On the other hand, imports of bleached hardwood kraft pulp during the period January 1967 to June 1972 were quite small relative to U.S. consumption, averaging about 5 percent or less annually except in 1969 when such imports amounted to slightly more than 6 percent of consumption. Canada was the major import source and

during 1971 it was the only foreign supplier. The Canadian product has traditionally filled only a small part of the U.S. demand for pulp and during no one year has there been a dramatic rise in the Canadian share of the U.S. market. Although substantial sales are made in the U.S. market, the Canadian producers are geared to exporting to other countries, particularly in Europe.

Price comparisons. Sales to the U.S. market of northern bleached hardwood pulp from Canada were investigated by the Treasury Department for the period from May 1, 1971 to October 31, 1971. A substantial percentage of the investigated sales to the United States, were determined to be at fair value. Information developed by the Commission in this investigation indicates that in the vast majority of Canadian sales to the United States, the price of Canadian pulp exported to this country was equivalent to or higher than the price of comparable U.S.-produced pulp. This was true even in instances when the price of the exported Canadian pulp was lower than the price realized for pulp sold at home (i.e., sold at less than fair value). In the very few instances in which the price of Canadian pulp was lower than that of U.S. pulp of comparable quality, the difference was minor and short-lived.

The one Canadian firm which sold at LTFV prices and in a few isolated instances undersold domestic firms in 1971, was a firm which had begun production in the latter part of 1970. This Canadian firm in 1971 was still trying to perfect the quality of its product and was in fact selling an offgrade product in the isolated instances when it undersold domestic producers. It is customary in the trade in the United States to offer offgrade pulp at a lesser price than the prime grade. Two-thirds of the sales of the particular Canadian producer to the United States during the period of Treasury's investigation was offgrade pulp. The new Canadian mill underwent the typical difficulties of a new mill in standardizing quality and in obtaining acceptance of its product on the market.

No injury due to loss of sales. The only allegation of loss of sales and injury on the part of all the domestic producers by reason of LTFV sales of bleached hardwood pulp from Canada was made by the complainant producer in this case. This producer was the principal competitor of the Canadian firm whose sales at LTFV undersold it in a few isolated instances. Assuming that this single U.S. firm did not make some relatively small sales which it might have made had there been no competition at LTFV prices, this would not in our opinion constitute injury to the U.S. industry within the meaning of the antidumping statute. Such assumed minor loss of business by one U.S. firm in the northeast area, if indeed it could be attributed to LTFV sales, would not in our opinion constitute injury even if such area were to be considered a separate geographical market area.

The year of 1971 was a depressed year for the pulp industry, not only in the United States but worldwide. In that year the exports of bleached hardwood pulp from the United States dropped by about 283,000 tons from the previous year. Worldwide, as well as in the United States and Canada the pulp industry was in a period of recession. The southern producing area of the United States was particularly hard hit by the loss of export sales to Europe. Domestic production fell from 5.2 million tons to 5 million tons in the year exports dropped off. In an attempt to alleviate the effects of the drop in the export market, the southern producers made efforts to increase sales in the other geographic areas. Prices which had been trending downward in 1970 continued to decline early in 1971 prior to any offers by Canadian producers to customers of the complainant. The general decline of domestic prices was caused by general market conditions and not by the Canadian sales at LTFV.

Financial experience. The extent of the alleged loss, by reason of LTFV imports, to the complainant in 1971 is not substantiated by its profit-and-loss statements. The complainant compared favorably with the rest of the industry—which was suffering from an economic recession. For each of 3 years, 1969-71, the complainant's ratio of net profit to total net sales on its pulp operations approached or substantially exceeded the average of that reported to the Commission by the other firms. (In fact its profit in 1971 was higher than that enjoyed by more than half of the reporting firms.) The complainant is the only firm which has attributed its profit decline to Canadian dumping of pulp.

Market outlook for bleached hardwood pulp. The down-turn in the worldwide demand for pulp has been reversed, consumption has increased during 1972, and the European market is requiring additional quantities of pulp. Prices have increased on the domestic market and the 1971 recession has been reversed. The future demand for bleached hardwood pulp both in the United States and in the European market appears to be very good. There is no indication that the Canadian producers in view of changed economic conditions are likely to resort to cutthroat sales in the United States market in the future. The one Canadian producer which had entered the U.S. market in 1971 is believed to be primarily oriented to the European market.

Conclusion. In view of the above it is our determination that an industry in the United States is not being injured nor is likely to be injured, nor is prevented from being established, by reason of imports of northern bleached hardwood kraft pulp from Canada.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-103 Filed 1-2-73; 8:45 am]

[AA1921-106/108]

PERCHLOROETHYLENE FROM ITALY, JAPAN, AND FRANCE

Determination of No Injury or Likelihood Thereof

DECEMBER 27, 1972.

The Treasury Department advised the Tariff Commission on September 27, 1972, and October 12, 1972, that perchlorethylene, including technical grade perchlorethylene and purified grade perchlorethylene, from Italy, Japan, and France is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted joint investigations Nos. AA1921-106/108 to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations and of a hearing to be held in connection therewith was published in the FEDERAL REGISTER of October 25, 1972 (37 F.R. 22828). A public hearing was held on November 2, 1972.

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the joint investigations, the Commission¹ has determined that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of perchlorethylene, including technical grade perchlorethylene and purified grade perchlorethylene, from Italy, Japan, and France, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS²

The Antidumping Act, 1921, imposes two conditions which must be satisfied before an affirmative determination can be made. First, there must be injury or likelihood of injury to an industry in the United States, or an industry in the United States must be prevented from being established. Second, such injury (or likelihood of injury or prevention of establishment) must be "by reason of" the importation into the United States of the class or kind of foreign merchandise the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV).

In our judgment neither of the aforementioned conditions is satisfied in the instant case. Accordingly, we have made

a negative determination. In arriving at our determinations we gave consideration to the sale of LTFV imports from the three countries—Italy, Japan and France—individually or collectively, depending upon the interpretation given the statute by individual Commissioners.

The industry. In the case, the domestic industry most likely to have been injured by LTFV imports (if any were) consists of those facilities in the United States devoted to the production of perchlorethylene. Within the past year, perchlorethylene has been manufactured by nine companies, the four largest of which accounted for about three-fourths of production.

Domestic oversupply and price depression. Any price depression that has afflicted the domestic perchlorethylene market in recent years has not been in response to imports but rather a reaction to an oversupply in the U.S. market caused principally by domestic overproduction. Perchlorethylene is a large volume, low-cost chemical used principally as a dry-cleaning solvent. Its price depends largely upon the cost and availability of raw materials. It is made primarily from chlorine, which is produced concurrently with caustic soda. When the demand for caustic soda is brisk, as it has been in recent years, large amounts of caustic soda are produced. This necessitates an increase in the production of chlorine, even though the demand for chlorine may not have kept pace with that for caustic soda. This causes an excess of chlorine which is effectively utilized by conversion to perchlorethylene. The end result is a supply of perchlorethylene which at times exceeds demand and causes prices to decrease. Such a situation has been generally prevalent in the United States in the past several years.

Lost sales. The Commission investigated several allegations of injury in the form of sales lost by U.S. producers to LTFV imports, but no evidence was found that would substantiate these allegations. Some sales, claimed to have been lost, were lost to other domestic producers, not to imports. In the prime example, involving a large New York distributor, a domestic producer alleged that sales were lost to imports from France when in fact they were lost to another domestic producer.

Exits from the U.S. industry. We believe the recent exits from the U.S. industry by two domestic producers to have been the direct result of outmoded technology rather than competition from LTFV imports. Both of the facilities that discontinued operations used carbide acetylene, a raw material which was too expensive to allow effective competition with perchlorethylene made from the cheaper raw materials used by most domestic and foreign producers. It is worth noting that one of the two producers that discontinued production will again produce perchlorethylene beginning in late 1973 at a new plant in Texas. This plant will use modern technology based on a low cost raw material.

Expansion of domestic industry. Despite claims of injury by Diamond Shamrock and Detrex, the U.S. perchlorethylene industry is expanding. Current annual capacity of roughly 1 billion pounds is expected to increase to 1.3 billion pounds by the end of 1973. Production increased at an average annual rate of about 7.2 percent during the period 1967-71, and production for the first 9 months of 1972 was nearly 7 percent ahead of production for the same period of 1971. Further, industrywide profits on perchlorethylene operations increased in both 1970 and 1971.

U.S. exports. U.S. exports have exceeded imports every year since 1968. In 1971, U.S. exports were almost triple imports and were more than half again as large as the combined exports of perchlorethylene from Italy, Japan, and France. We view these facts as an indication of the competitive strength of the U.S. perchlorethylene industry in recent years.

Conclusion. In light of increasing profitability, expanding production in the U.S. industry, and the absence of any significant evidence showing that sales at less than fair value of perchlorethylene imported from Italy, Japan, and France have had an adverse impact on sales and prices in the U.S. market, we have made a negative determination.

By order of the Commission.

[SEAL]

KENNETH R. MASON,
Secretary.

[FR Doc.73-104 Filed 1-2-73; 8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary of Labor's Order 38-72]

BENEFITS REVIEW BOARD

Notice of Establishment

1. **Purpose.** To provide for the operation of the Benefits Review Board within the Department of Labor.

2. **Establishment of the Board.** By Public Law 92-576, 86 Stat. 1251, in an amendment made to section 21 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 921), there is established effective November 26, 1972, a Benefits Review Board which shall be composed of three members appointed by the Secretary of Labor from among individuals who are especially qualified to serve on such Board. Such Board is authorized to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims for compensation or benefits under such Act and its extensions, including pneumoconiosis disability and death claims under the provisions of title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended which are administered by the Secretary of Labor. Provision is made for judicial review of final orders of the Benefits Review Board in the U.S. courts of appeals.

¹ Commissioner Young did not participate in the decision.

² Commissioner Abiondi concurs in the result.

3. *Organizational placement.* As prescribed by the statute, the functions of the Benefits Review Board are quasi-judicial in nature and involve review of decisions made in the course of the administration of the above statutes by the Employment Standards Administration in the Department of Labor. I therefore find it appropriate for organizational purposes to place the Board in the Office of the Under Secretary and it is hereby established in that Office, which shall be responsible for providing necessary funds, personnel, supplies, equipment, and records services for the Board.

4. *Rules and regulations.* The Under Secretary may promulgate such rules and regulations as may be necessary or appropriate for effective operation of the Benefits Review Board as an independent quasi-judicial body in accordance with the provisions of the statute. Procedural rules for performance by the Board of its review functions and for ensuring an adequate record for any judicial review of its orders shall be promulgated by the Benefits Review Board with the approval of the Under Secretary. Such rules shall incorporate and implement the procedural requirements of section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act, as amended by section 15 of Public Law 92-576.

5. *Statutes to which Board's jurisdiction extends.* The Board is authorized, as provided in 33 U.S.C. 921(b), as amended, to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims for compensation or benefits arising under:

- (1) The Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq.;
- (2) The Defense Base Act, 42 U.S.C. 1651 et seq.;
- (3) The District of Columbia Workmen's Compensation Act, 36 D.C. Code 501 et seq.;
- (4) The Outer Continental Shelf Lands Act, 43 U.S.C. 1331;
- (5) The Nonappropriated Fund Instrumentalities Act, 5 U.S.C. 8171 et seq.;
- (6) Title IV, section 415 and Part C, of the Federal Coal Mine Health and Safety Act, 83 Stat. 742, as amended by the Black Lung Benefits Act of 1972, 86 Stat. 150.

6. *Time for appeal to the Board.* Notice of appeal must be filed within 30 days of the date the decision or order being appealed from is filed in the office of a deputy commissioner (33 U.S.C. 921(a)). Such notice of appeal shall be in writing and contain the names of the parties, docket or case number, and the date of the decision or order appealed from.

7. *Voting.* For the purpose of carrying out its functions, two members of the Board shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

8. *Representation before the Board.* On any issues requiring representation of the Secretary, the Director, Office of

Workmen's Compensation Programs, a deputy commissioner, or an administrative law judge before the Board, such representation shall be provided by attorney's designated by the Solicitor. Representation of all other persons before the Board shall be as provided for by statute or by the rules of practice and procedure promulgated under paragraph 4 of this order.

9. *Representation of Board in court proceedings.* Except in proceedings in the Supreme Court of the United States, any representation of the Benefits Review Board in court proceedings shall be by attorneys provided by the Solicitor of Labor.

10. *Location of Board's proceedings.* The Board shall hold its proceedings in Washington, D.C., unless for good cause the Board orders that proceedings in a particular matter be held in another location.

11. *Effective date.* This order is effective on November 26, 1972.

Signed at Washington, D.C., this 21st day of December 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.73-30 Filed 1-2-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 145]

ASSIGNMENT OF HEARINGS

DECEMBER 26, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

AB-6 Sub 3, Burlington Northern Inc., abandonment between Grant City and Albany Junction, Worth, and Gentry Counties, Mo., now assigned January 15, 1973, at Grant City, Mo., will be held at the city hall, 101 West Third Street.

MC-P-11563, Ross Truck Lines, Inc.—Purchase (portion)—Robert Foltz, now assigned January 18, 1973, MC-P-11315, Best-Way Frozen Express, Inc.—Purchase—Refrigerated Foods Line, Inc., MC-F-11576, Robco Transportation, Inc.—Purchase—Best-Way Frozen Express, Inc., and Meat Packers Express, Inc., and MC 136786, Robco Transportation, Inc., now assigned January 22, 1973, at Kansas City, Mo., will be held in Room 609, Old Federal Building, 911 Walnut Street.

MC 66886 Sub 30, Belger Cartage Service, Inc., now assigned January 15, 1973, at Kansas City, Mo., will be held in Room 609, Old Federal Building, 911 Walnut Street.

MC 66886 Sub 32, Belger Cartage Service, Inc., now assigned January 19, 1973, at Kansas City, Mo., will be held in Room 148A, New Federal Building, 601 East 12th Street.

MC 61231 Sub 69, Ace Lines, Inc., now assigned January 22, 1973, at Kansas City, Mo., will be held in Room 114, New Federal Building, 601 East 12th Street.

MC 113459 Sub 71, H. J. Jeffries Truck Line, Inc., now assigned January 18, 1973, MC 66886 Sub 31, Belger Cartage Service, Inc., now assigned January 23, 1973, MC 119657 Sub 16, George Transit Line, Inc., now assigned January 24, 1973, and MC 136052 Sub 2, Security Carriers, Inc., contract carrier application, now assigned January 26, 1973, at Kansas City, Mo., will be held in Room 303, Old Federal Building, 911 Walnut Street.

MC 114211 Sub 170, Warren Transport, Inc., MC 117557 Sub 16, Matson, Inc., now assigned January 22, 1973, and MC 114457 Sub 120, Dart Transit Co., extension, Northlake, Ill., now assigned January 24, 1973, at Chicago, Ill., will be held in Room 1992, on January 22, 1973, and in Room 1630, on January 24, 1973, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill.

MC-F-11589, Jim Tiona, Jr.—Purchase (portion)—Monkem Co., Inc., now assigned January 29, 1973, MC 42011 Sub 10, D. Q. Wise & Co., Inc., now assigned February 5, 1973, MC 35628 Sub 334, Interstate Motor Freight System, now assigned February 7, 1973, at Kansas City, Mo., will be held in Room 666, New Federal Building, 601 East 12th Street.

MC 1263 Sub 16, McCarty Truck Line, Inc., now assigned January 29, 1973, at Kansas City, Mo., will be held in Room 609, Old Federal Building, 911 Walnut Street.

MC136358, John S. Badger, common carrier application, and MC 136362, Bob R. Thrush, common carrier application, now assigned January 9, 1973, at Denver, Colo., is canceled and the applications are dismissed.

MC-F-11668, McLean Trucking Co.—Control—Topeka Motor Freight, Inc. (Bruce E. Yeakei, trustee in bankruptcy), now assigned January 31, 1973, at Kansas City, Mo., is canceled and transferred to modified Procedure.

MC 136917, Red Arrow Corp., now assigned February 26, 1973, at Jefferson City, Mo., is canceled and application is dismissed.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.73-21 Filed 1-2-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 26, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG AND SHORT HAUL

FSA No. 42594—Resin or Plastic Plasticizers to New Jersey. Filed by Southwestern Freight Bureau, agent (No.