

March 14, 2024

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Public Version

Business Proprietary Treatment Removed
for Information Contained in Brackets in
Volume I at pages 11, 23–26, 31

BY ELECTRONIC FILING

The Honorable Gina M. Raimondo
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 1870
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

BY ELECTRONIC FILING

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

**Re: Corrected Public Volume I for Petitions for the Imposition of
Antidumping and Countervailing Duties: 2,4-Dichlorophenoxyacetic Acid
("2,4-D") from the People's Republic of China and India**

On behalf of Corteva Agriscience LLC ("Corteva" or "Petitioner"), we hereby resubmit the attached Volume I petition with bracketing corrections on page 26 of the narrative. This corrected narrative replaces Attachment Title 2137740, Document ID 816133. All other documents of the Petition filed earlier today remain unchanged.

Please contact the undersigned with any questions regarding these petitions.

Respectfully submitted,



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ATTORNEY CERTIFICATION

2,4-Dichlorophenoxyacetic Acid (2,4-D) from the People's Republic of China and India

Inv. Nos. 701-TA-___ and 731-TA-_____

In accordance with section 207.3(a) of the Commission's rules (19 C.F.R. § 207.3(a)), I, Daniel Cannistra, of Crowell & Moring, LLP, counsel to Corteva Agriscience LLC, certify that under penalty of perjury under the laws of the United States of America and pursuant to the Commission's regulations:

- (1) I have read the foregoing submission in the above referenced case;
- (2) to the best of my knowledge and belief, the information contained therein is accurate and complete; and
- (3) in accordance with section 201.6(b)(3)(ii) of the Commission's rules (19 C.F.R. § 201.6(b)(3)(iii)), information substantially identical to that for which we request confidential treatment is not available to the general public and the public disclosure of such information would cause substantial harm to the persons, firms, and other entities from which the information was obtained.



Daniel Cannistra

Dated: March 14, 2024

PUBLIC VERSION

DOC Inv. Nos. A-570-160, and C-570-161
A-533-922, and C-533-923
USITC Inv. No. 731-TA-____ and 701-TA-____
Antidumping and Countervailing Duty Investigation
Business Proprietary Information removed from the
Pages and Exhibits Indicated on the Cover Letter

PUBLIC VERSION

**BEFORE THE UNITED STATES DEPARTMENT OF COMMERCE AND
THE UNITED STATES INTERNATIONAL TRADE COMMISSION**

**2,4-DICHLOROPHENOXYACETIC ACID (2,4-D)
FROM THE PEOPLE'S REPUBLIC OF CHINA AND INDIA**

**PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING
DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS
AMENDED
ON BEHALF OF CORTEVA AGRISCIENCE LLC.**

VOLUME I: GENERAL INFORMATION AND INJURY

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Dated: March 14, 2023

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INTRODUCTION

On behalf of Corteva Agriscience LLC (“Corteva” or “Petitioner”), we hereby submit this Petition seeking the imposition of antidumping duties on U.S. imports of 2,4-Dichlorophenoxyacetic Acid (“2,4-D”), an herbicide from the People’s Republic of China (“China”) and the Republic of India (“India”), and countervailing duties on U.S. imports of 2,4-D from China and India pursuant to sections 701 and 731 of the Tariff Act of 1930, as amended (“the Act”), 19 U.S.C. § 1671 and § 1673, respectively to the U.S. Department of Commerce (“Commerce” or “the Department”) and the U.S. International Trade Commission (the “Commission” or “ITC”). Corteva is, to the best of its knowledge, the only domestic manufacturer of 2,4-D and has been a market leader in the development, manufacture, and supply of pesticides.

2,4-D is a commodity active ingredient used in a wide variety of herbicides. 2,4-dichlorophenoxyacetic acid is produced as a dry flake or powder. 2,4-dichlorophenoxyacetic acid may also be converted into salts and esters. Commodity 2,4-dichlorophenoxyacetic acid is an active ingredient and collectively referred to as “2,4-D” throughout this petition. 2-4-D in its acid form cannot be used as an herbicide without first formulating it into an end-use product.

The following sections of Volume I of this Petition provide sufficient evidence reasonably available to Petitioner supporting the fact that imports of 2,4-D are being sold in the United States at less than fair value (“LTFV”), which have caused material injury and threaten to cause further material injury, and have adversely harmed the domestic industry by producing and selling the subject merchandise. Petitioner also alleges that the Governments of China and India are providing, directly or indirectly, countervailable subsidies with respect to the manufacture, production, and export of 2,4-D imported, or sold (or likely to be sold) for importation, into the United States within the meaning of section 701 of the Act, 19 U.S.C. § 1671.

The Petition is filed in accordance with the requirements of 19 C.F.R. § 351.202 of the Department’s regulations and 19 C.F.R. § 207.11 of the Commission’s regulations. Volumes II and III, regarding the allegations of dumping by China and India respectively, are being filed simultaneously at the Department and the Commission. Information related to countervailable subsidies provided by the Government of China and the Government of India are provided in Volumes IV and V, respectively.

Petitioner hereby requests that antidumping duties be imposed on 2,4-D from China and India in an amount equal to the amount by which the constructed normal value exceeds the export price or constructed export price of the subject merchandise and that countervailing duties be imposed on imports of 2,4-D from China and India in amounts sufficient to offset the subsidized imports as described in Volumes IV and V of this Petition, respectively.

I. GENERAL INFORMATION

A. Petitioner Contact Information (19 C.F.R. § 207.11(a); 19 C.F.R. § 351.202(b)(1))

This Petition is filed by Corteva, which is a U.S. producer of the domestic like product and therefore an “interested party” within the meaning of section 771(9)(C) of Act and 19 C.F.R. § 351.102(b). To the best of Petitioner’s knowledge, Corteva is currently the only U.S. producer of the subject merchandise and manufactures all of the domestic like product produced in the United States. *See Exhibit I-1.* As further discussed in the sections of the Petition below, the Department should conclude that the Petition meets the standard for support from the industry producing the domestic like product, as defined in 19 U.S.C. § 1673(a)(c)(4). The contact information for Corteva is:

Corteva Agriscience LLC
9330 Zionsville Road
Indianapolis, IN 46268

T: 1-833-267-8382

W: www.corteva.com

B. Domestic Industry and Degree of Industry

1. U.S. Producers (19 C.F.R. § 207.11(b)(2)(ii); 19 C.F.R. § 351.202(b)(2))

To the best of Petitioner’s knowledge, based on information reasonably available to Petitioner, during the proposed period of investigation (“POI”), there were no other U.S. producers of the subject merchandise with the exception of Corteva. *See Exhibit I-1*. This includes 2,4-D produced for internal consumption. *Id.*

2. Total Volume of Domestic Production (19 C.F.R. § 351.202(b)(3)(i) and 19 C.F.R. § 351.202(b)(3)(ii) and Industry Support

Pursuant to Sections 702(c)(4)(A) and 732(c)(4)(A) of the Act, the Department must determine that the Petition has the support of the domestic industry producing the like product (“industry support”) to ensure that the Petition accounts for “at least 25 percent of the total production of the domestic like product.”¹ Furthermore, the statute requires that the domestic producers or workers who support the Petition account for “more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.”²

As noted above, to the best of its knowledge Corteva was the sole U.S. producer of the domestic like product in the United States between 2021 and 2023 and is currently the sole U.S. producer of the domestic like product, including with respect to 2,4-D produced for internal consumption. As such, its support of the petition satisfies both of the above statutory requirements within the meaning of 19 U.S.C §§ 1671a(c)(4)(A).

¹ 19 U.S.C §§ 1671a(c)(4)(A)(i); 1673a(c)(4)(A)(i).

² 19 U.S.C §§ 1671a(c)(4)(A)(ii); 1673a(c)(4)(A)(ii).

3. Related Proceedings and Previous Requests for Import Relief (19 C.F.R. § 351.202(b)(4))

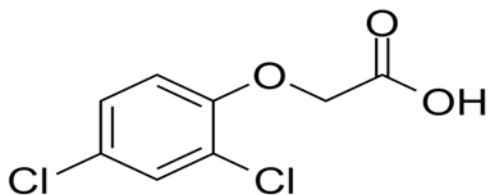
There are no related proceedings to this Petition and Corteva has not filed for import relief pursuant to section 337 of the Act, 19 U.S.C. § 1337, or section 201 or 301 of the Trade Act of 1974, 19 U.S.C. §§ 2251 or 2411, or section 232 of the Trade Expansion Act of 1962, 19 U.S.C. § 1862, with respect to 2,4-D.

C. Product Scope of the Subject Merchandise (19 C.F.R. § 351.202(b)(5))

1. Product Description

This petition covers 2,4-Dichlorophenoxyacetic acid, commonly referred to as 2,4-D. 2,4-D is an herbicide active ingredient that contains carbon, hydrogen, chlorine, and oxygen. Herbicides are a subcategory of pesticides. In its pure form, 2,4-D acid is a dry crystalline solid. For practical application as an herbicide or plant-growth regulator, 2,4-D must be formulated to readily disperse upon application and to suitably mix with water. Accordingly, it is converted into various derivative forms, including salts, and esters. Products containing 2,4-D derivatives, like its salt and ester forms, are blended with other active ingredients, chemicals and/or water to create end-use crop protection products. Over 1,500 herbicide products contain 2,4-D as an active ingredient. Products containing 2,4-D may come in the form of liquids (concentrated or ready-to-use), dusts, or granules.

2,4-Dichlorophenoxyacetic acid



2. Technical Characteristics and End-Uses

2,4-D is a synthetic auxin and growth regulator. A synthetic auxin is a type of herbicide active ingredient that mimics auxin, a plant hormone that regulates many aspects of growth. Synthetic auxin herbicides bind to hormone receptors in plant cells and cause a chain of events within the plant that leads to rapid and uncontrolled growth. These herbicides specifically cause vascular tissue cells that carry water and nutrients to divide and grow at such a rate as to cause stem curl-over, leaf withering, and eventual plant death. *See Exhibit I-5.* Additional information on the physical characteristics of 2,4-D is provided in **Exhibit I-6.**

2,4-D is used for broadleaf weed control in agricultural and nonagricultural settings, and it is registered for use in both terrestrial and aquatic environments. Registered uses include application to field, fruit, and vegetable crops, including soybeans, corn, wheat, barley, oats, sugar cane, rice, citrus, hazelnuts, stone fruits, grapes, nuts, and asparagus. It is registered for use on pastures and rangelands, residential lawns, roadways, aquatic sites, croplands, and forestry applications. *See Exhibit I-7.*

3. Manufacturing Process

There are two methods for synthesizing 2,4-D: chloroxidizing phenol with chlorine and then condensation with chloroacetic acid; or condensation that is then followed by the chlorination process. *See Exhibit I-8.*

2,4-D is most commonly converted into either an amine salt or ester, with respective usage dependent on array of factors, ranging from crop selection, environmental conditions, and other variables. Amine salts are made by reacting amines with strong acids. An amine is any member of a family of nitrogen-containing organic compounds that is derived, either in principle or in practice, from ammonia (NH₃). An ester includes any of a class of organic compounds that react with water to produce alcohols and organic or inorganic acids.

With respect to 2,4-D, the amine salt derivatives are produced when the acid of 2,4-D reacts with an amine, while esters are formed when the 2,4-D acid reacts with an alcohol. 2,4-D salt and ester derivatives include: sodium salt, diethanolamine salt, dimethyl amine salt, isopropylamine salt, triisopropanolamine salt, butoxyethyl ester, ethylhexyl ester, and isopropyl ester. There are nine derivative forms of 2,4-D that are currently on the U.S. market, with dimethyl-amine salt (“DMA”) and 2-ethylhexyl ester accounting for approximately 90-95% of global 2,4-D use. Attached at **Exhibit I-9** is a table with the physical and chemical properties of the 2,4-D derivatives on the market.

Generally, 2,4-D esters have higher vapor pressures than 2,4-D amine salts. Higher vapor pressures result in increased volatilization. Amine salts are generally less volatile than esters. Amine derivatives of 2,4-D are therefore typically used in landscape settings and scenarios when drift is a primary concern. Ester derivatives, on the other hand, are typically more active on weeds in comparison to amine salts. This is due to the fact that esters are more soluble when in contact

with the plant's waxy cuticle. Plants are more likely to quickly absorb esters, as amines are more water soluble. Once the chemical is absorbed into the plant (either amine salt or ester), it is converted to the active acid, which in turn injures or kills plants that are susceptible to the respective herbicide.

4. U.S. Tariff Classification

2,4-Dichlorophenoxyacetic acid is classified under HTS Code: 2918.99.2010, as "2,4-dichlorophenoxyacetic Acid; Its Salts and Esters." This subheading describes 2,4-D as well as its salts and its esters *eo nomine*. Formulations including 2,4-D and its derivative products are classified under 3808.93.0500 and 3808.93.1500. The relevant HTSUS numbers are attached as **Exhibit I-4**.

5. Proposed Scope Language

Based on the product description and production process described in the sections above, this petition requests the following scope language:

The merchandise covered by this investigation is 2,4-dichlorophenoxyacetic acid ("2,4-D"). 2,4-D has the Chemical Abstracts Service ("CAS") registry number of 94-75-7 and the chemical formula $C_8H_6Cl_2O_3$. The 2,4-D component of any derivative products of 2,4-D, including but not limited to, amine salt and ester forms of 2,4-D are covered by the scope of the order.

Salt and ester forms of 2,4-D include, but are not limited to, 2,4-D salt (CAS 2702-72-9), 2,4-D diethanolamine salt (CAS 5742-19-8), 2,4-D dimethyl amine salt (CAS 2008-39-1), 2,4-D-isopropylamine salt (CAS 5742-17-6), 2,4-D triisopropanolamine salt (CAS 32341-80-3), 2,4-D BEE (CAS 1929-73-3), 2,4-D 2-ethylhexylester (CAS 1928-43-4), and 2,4-D -isopropylester (CAS 94-11-1). All 2,4-D, as well as the 2,4-D component of its salt and ester forms, is covered by the scope irrespective of purity, particle size, or physical form.

The conversion of a 2,4-D salt or ester from a subject 2,4-D acid, or the formulation of nonsubject merchandise with the subject 2,4-D, its salts, and its esters in the country of manufacture or in a third country does not remove the subject 2,4-D, its salts, or its esters from the scope. For any such formulations, only

the 2,4-D, 2,4-D salt, and 2,4-D ester components of the mixture is covered by the scope of the order.

2,4-D, its salts, and its esters are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2918.99.2010. Other merchandise subject to the current scope, including the abovementioned formulations that may be classified under 3808.93.0500 and 3808.93.1500. The HTSUS subheadings and CAS registry number are provided for convenience and customs purposes. The written description of the scope of the petition is dispositive.

D. Targeted Countries Concerned (19 C.F.R. § 351.202(b)(6))

The 2,4-D described in the scope in this Petition is produced in and exported from China and India.

E. Foreign Producers and Exporters of Subject Merchandise (19 C.F.R. § 351.202(b)(7)(i)(A))

Pursuant to 19 C.F.R. § 351.202(b)(7)(i)(A) of the Department's regulations, Petitioner identified known producers and/or exporters of the subject merchandise from the countries concerned through industry knowledge and data from the U.S. International Trade Commission's DataWeb. Based on this research, Petitioner provided the names of all identified producers and exporters of 2,4-D that are reasonably available. *See Exhibit I-2*. To the extent specific contact information is not available, Petitioner has so indicated.

F. Calculations of Export Price and Normal Value of the Subject Merchandise (19 C.F.R. § 351.202(b)(7)(i)(B))

Petitioner provided separate volumes which contain information reasonably available from public sources demonstrating that 2,4-D from China and India are being sold in the U.S. at less than fair value within the meaning of section 731 of the Act. The calculations of export price and normal value to arrive at the preliminary antidumping duty margin calculations required by regulations are provided in Volume II, with respect to China, and Volume III, with respect to India.

G. U.S. Import Volume and Value (19 C.F.R. § 351.202(b)(8))

The volume and value data of subject imports from China and India covered by HTSUS code 2918.99.2010 are provided in **Exhibit I-10** and below for calendar years 2021, 2022, and 2023.

U.S. Imports

Item	Quantities (kg)		
	2021	2022	2023
China	9,176,207	23,034,885	9,366,712
India	3,988,600	8,328,602	6,942,604
All Others	248,406	534,811	3,852,929
Total Imports	13,413,213	31,898,298	20,162,245

Item	Value (USD)		
	2021	2022	2023
China	24,277,760	94,225,092	22,917,839
India	9,640,900	35,264,996	21,605,520
All Others	2,010,808	4,459,250	27,772,857
Total Imports	35,929,468	133,949,338	72,296,216

H. Names and Addresses of Potential U.S. Importers (19 C.F.R. § 207.11(b)(2)(iii); 19 C.F.R. § 351.202(b)(9))

The names and addresses of the potential importers of 2,4-D are provided in **Exhibit I-3**. Petitioner developed the contact information for the importers from DataWeb data using the best information readily available; however, it is likely that there are more U.S. importers of subject

merchandise from China and India. Petitioner hereby requests that the Department and the Commission acquire this information from U.S. Customs and Border Protection. Petitioner also notes that there is a substantial volume of known direct imports of subject merchandise from China and India – many of these are imported by larger formulators. Furthermore, there are known Chinese and Indian manufacturers that import subject merchandise produced by affiliated manufacturers in China and India.

II. THE DOMESTIC INDUSTRY HAS BEEN MATERIALLY INJURED BY IMPORTS OF THE SUBJECT MERCHANDISE FROM CHINA PURSUANT TO 19 U.S.C. §§ 1671(a), 1673(a) 1677(7)(B) AND 19 C.F.R. §§ 207.11(b)(1), 351.202(b)(10)

As the industry support section demonstrates, Petitioner is, to the best of its knowledge, the only producer of the domestic like product in the U.S. and comprised [] percent of total U.S. production of the domestic like product as of 2019. *See Exhibit I-1*. In light of this and the information reasonably available to Petitioner at the time of filing, Petitioner believes that its performance during the period of investigation (POI) reflects the performance of the U.S. industry producing 2,4-D.

Petitioner hereby requests that the Commission take into consideration the issues described in the Petition below when evaluating whether imports of the subject merchandise are causing ongoing material injury in the domestic industry.

A. The Domestic Like Product is Coextensive with the Product Scope

The statute 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”³ The Commission considers a number of factors, including: (1) physical

³ 19 U.S.C. § 1677(10).

characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities, production processes and employees; and, where appropriate, (6) price, in defining the like product.⁴ The domestic like product in this investigation is 2,4-D, co-extensive with the scope definition. All 2,4-D sold in the domestic market is interchangeable regardless of location of manufacture because the chemical composition is identical. *See Exhibit I-6.*

1. Physical Characteristics and Uses

2,4-D is an herbicide active ingredient that contains carbon, hydrogen, chlorine, and oxygen. In its pure form, 2,4-D acid is a dry crystalline solid. 2,4-D is also produced in various derivative forms, including salts, and esters. For practical application as an herbicide or plant-growth regulator, 2,4-D must be processed to readily disperse upon application and to suitably mix with water. Products containing 2,4-D derivatives, like its salt and ester forms, are often blended with other active ingredients and chemicals into end-use products.

2,4-D is used for broadleaf weed control in agricultural and nonagricultural settings, and it is registered for use in both terrestrial and aquatic environments. Major sites include pasture and rangeland, residential lawns, roadways, and cropland. It functions by causing vascular tissue cells that carry water and nutrients to divide and grow at such a rate as to cause stem curl-over, leaf withering, and eventual plant death. *See Exhibit I-5.* Roughly 600 U.S. agricultural and residential use products contain 2,4-D as its active ingredient, making it one of the most extensively used herbicides in the United States.

⁴ *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (Ct. Int'l Trade 1995).

There are nine derivatives of 2,4-D that are currently on the U.S. market, with dimethylamine salt and 2-ethylhexyl ester accounting for approximately 90-95% of global 2,4-D use. **Exhibit I-9** includes a table with the physical and chemical properties of the 2,4-D derivative forms on the market.

2,4-D and its derivative forms are either internally consumed to produce end-use products or sold to third party formulators as a component to produce end-use products, which act as pesticides for various applications. End-use products containing 2,4-D may contain other active ingredients and are distinct products from 2,4-D and its salts and esters. Indeed, the Commission has previously determined that chemical blends and components of such blends are distinct products. *See Arkema, Inc. v. United States*, 393 F. Supp. 3d 1177, 1185 (Ct. Int'l Trade 2019) (“The court also concludes that the Commission reasonably reached its overarching determination that ‘HFC Blends and HFC components are distinct domestic like products.’”). In *Hydrofluorcarbon (“HFC”) Blends from China*, the Court of International Trade sustained the Commission’s findings that HFC blends and the individual components of such blends are distinct, even when the individual components of such blends were not often used for other purposes except for being incorporated into blends. *Id.* at 1184. Separate investigations for many components of HFC blends later were subject to distinct AD and CVD investigations.⁵

2. Interchangeability

2,4-D is used as a pesticide. 2,4-D that is produced in the United States directly competes with 2,4-D produced anywhere in the world, including China and India. Other types of pesticide active ingredients have different chemical properties. As discussed above in Section I, 2,4-D is a

⁵ *1,1,1,2-Tetrafluoroethane (R-134a) From the People’s Republic of China*, A-570-044; *Difluoromethane (R-32) From the People’s Republic of China*, A-570-121; *Pentafluoroethane (R-125) From the People’s Republic of China*, A-570-137.

synthetic auxin and functions by causing uncontrolled growth leading to the death of the unwanted foliage. Other herbicide active ingredients, such as amino acid inhibitors, photosynthesis inhibitors, and cell division inhibitors function in different manners. The below chart indicates the different types of herbicides available and their different functions:

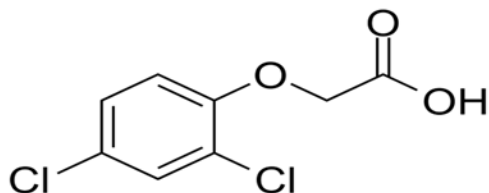
Common Applications and Modes of Action of the Ten Most Heavily Used Herbicides in the United States, 2001		
Herbicide	Common Application	Mode of Action
Amino Acid Inhibitors		
Glyphosate <i>Roundup, Ultra, Rodeo, TouchDown Pro, Accord</i>	Applied primarily to genetically engineered, glyphosate-resistant varieties of soybeans, corn, canola and cotton. Also applied to control woody plants. Because of its broad spectrum and relatively low toxicity to animals, it is used in horticulture and in the control of aquatic macrophytes.	Applied to the foliage and transported with sugars to metabolic sites where they inhibit amino acid production. Effects will manifest in two or more weeks as discoloration of foliage and deformations in new growth.
Imazethapyr <i>Pursuit</i>	Applied to control weeds in alfalfa, barley, soybeans and wheat.	
Thifensulfuron <i>Beacon, Pinnacle, Harmony</i>	Applied to control weeds in small grains, soybeans and corn and in conifer and hardwood plantations.	
Photosynthesis Inhibitors		
Atrazine <i>Aatrex, Atrazine</i>	Applied to crops such as corn, soybeans and sorghum, particularly for conservation tillage.	These broad spectrum herbicides are applied at the soil and carried to the leaves by transpiration. They inhibit photosynthesis.
Cyanazine <i>Bladex/DuPont</i>		
Synthetic Auxin, Growth Regulators		
2,4-D	Applied to broad-leafed weeds in corn, small grains, sorghum, pastures and rangeland. Urban use on lawns and grassy rights of way. Also applied for control of broad-leafed trees when planting conifers.	These synthetic growth hormones are applied to the foliage of dicots and transported to meristems causing uncontrolled growth. Effects can be observed as discoloration of foliage and deformations in new growth. They are fast acting: effects on foliage are visible within minutes of application.
Dicamba <i>Banvel, Clarity, Vanquish, Veteran</i>		
Cell Division Inhibitors		
Trifluralin	Applied to control grasses and	These herbicides are applied to the

<i>Treflan and others</i>	broadleaf weeds in crops such as beans, peanuts, cotton and tobacco.	soil to control target vegetation before emergence by inhibiting root growth.
Pendimethalin <i>Prowl, Pentagon, Pendulum, Stomp</i>		
Metolachlor <i>Dual, Dual Magnum, Pennant Magnum</i>	Applied pre-planting to control annual grasses and broadleaf weeds among crops such as corn and soybeans.	This herbicide is applied to the soil to control target vegetation by inhibiting or disrupting cell division in shoots.
Adapted from Ross and Childs (1996) and USDA; commercial names in italics.		

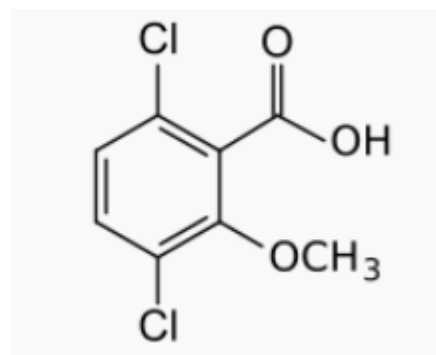
See **Exhibit I-5**.

Other synthetic auxins, such as Dicamba, have different chemical structures and are produced from a different manufacturing process. A comparison of the chemical structures of Dicamba and 2,4-D is below:

2,4-D



Dicamba



Furthermore, 2,4-D has a distinct chemical composition and must be used in precise quantities to produce particular downstream formulations.

3. Channels of Distribution

2,4-D is produced primarily to be used as a component within pesticide formulations for various applications. During the POI, both domestically produced 2,4-D and subject imports were sold to pesticide formulators and end-users.

4. Customer and Producer Perceptions

Customers and producers view 2,4-D produced in the United States, India, and China to be the same product. 2,4-D differs, however, from other pesticides. As discussed above, 2,4-D has specific chemical and physical properties and functions in a manner different from other herbicides.

5. Common Manufacturing Facilities, Production Processes, and Employees

In-scope product is produced using the same manufacturing processes (further described in Section I), the same equipment, and the same employees. The facility manufacturing 2,4-D does not produce other pesticide active ingredients and would not be able to do so without first making a significant investment of time and cost.

6. Pricing

2,4-D is a commodity chemical and is therefore priced based on supply and demand within the pesticide market.

B. Proposed Pricing Products

Pursuant to section 207.11(b)(2)(iv) of the Commission's regulations, Petitioner recommends that the Commission collect pricing data on the following proposed pricing product definitions:

PRODUCT 1: 2,4-D acid, Form: white to brown crystalline solid

PRODUCT 2: 2,4-D salt, Form: white or cream-colored power

PRODUCT 3: 2,4-D salt, Form: amber aqueous liquid

PRODUCT 4: 2,4-D 2-ethylhexylester (“EHE”), Form: dark amber liquid

C. Imports of 2,4-D from China and India Are Not Negligible

Imports of 2,4-D surpass the three percent negligibility threshold established by 19 U.S.C. § 1677(24)(A)(i) and section 771(24) of the Tariff Act. As illustrated in the shipment data above, imports from China and India are 47 and 34 percent respectively and 81 percent cumulatively of the total volume of all shipments of the subject merchandise into the United States during the most recent 12 months for which data is reasonably available (January – December 2023). Therefore, imports from China and India are not negligible. *See Exhibit I-11* and below.

Table of U.S. imports (Jan. 2023 – Dec. 2023)

Volume of imports		
Country	Jan. 2023 – Dec. 2023 (in kg)	Percentage of the total market
China	9,366,712	47%
India	6,942,604	34%
Cumulated imports of the subject countries	16,309,316	81%
Total	20,162,245	100%

D. The Commission Should Cumulate Imports from the Subject Countries in Analyzing the Effects of the Unfair Imports

In assessing material injury, the Commission is required by statute to cumulate the volume and price effects of subject imports from all countries with respect to which petitions are filed on the same day and that compete with each other and the domestic like product in the U.S. market. *See* 19 U.S.C. § 1677(7)(G)(i). The statutory criteria for cumulation are met in this case.

Specifically, Petitions against imports of 2,4-D and its derivative forms from China and India are being filed simultaneously. Further, none of the statute’s exceptions to cumulation

applies in this case. *See* 19 U.S.C. § 1677(7)(G)(i)(i). Therefore, as there is evidence of a reasonable overlap in competition, cumulation of subject imports for purposes of this investigation is required by the statute.

The Commission typically considers four factors in determining whether there is a reasonable overlap in competition between subject imports and the domestic like product: (1) fungibility of the product from various sources; (2) the presence of sales or offers to sell in the same geographic markets; (3) common channels of distribution; and (4) simultaneous presence in the market.⁶ *See e.g., Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, USITC Pub. 1845 (Final) (May 1986), *aff'd*, *Fundicao Tupy S.A. v. United States*, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988). No single factor is determinative. *See Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1086 (Ct. Int'l Trade 1998). As discussed below, each factor is met in this case.

1. Imports from All Subject Countries and Domestic 2,4-D are Fungible

Imports from all subject countries are highly substitutable with each other and with the domestic like product. 2,4-D that is imported into the United States, regardless of source, has similar characteristics, including chemical makeup and production processes, and is ultimately sold to the same end users for the same end uses. The same is also true of the domestic like product. Thus, there is a high degree of fungibility among the subject imports from China and India, and between subject imports from China and India and the domestic like product.

⁶ Only a reasonable overlap of competition is required. *See Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) (stating that “cumulation does not require two products to be highly fungible”); *Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); *Wieland Werke, AG v. United States*, 718 F. Supp. 50, 52 (Ct. Int'l Trade 1989) (stating that “{c}ompletely overlapping markets are not required”).

2. All Subject Imports Compete in the Same Geographic Markets and Are Sold Through the Same Channels of Distribution

Imports from each of the subject countries also compete with imports from the other subject countries and with the domestic like product throughout the U.S. market. These products are all sold on a nationwide basis to the major end users. With regard to channels of distribution, subject imports and the domestic like product are sold to formulators that incorporate 2,4-D and its derivative products into formulations by both the Petitioner and importers from the subject countries.

3. Subject Imports are Simultaneously Present in the U.S. Market

Imports of 2,4-D from India and China have been simultaneously present in the U.S. market for the entire POI (2021– 2023). *See Exhibit I-10*. Domestically-produced 2,4-D has also been available in the U.S. market throughout the POI. *See Exhibit I-12*. This factor further provides evidence that subject imports are competing with each other and the domestic like product.

4. Conclusion

In sum, there is a reasonable overlap of competition among the subject imports and between subject imports and the domestic like product within the meaning of the statute. Accordingly, the Commission should cumulate imports of 2,4-D from China and India in analyzing whether subject imports have caused material injury to the domestic industry in this case.

E. Unfairly-Traded Imports from China India Are Causing Material Injury to the Domestic Industry of 2,4-D

In determining whether the domestic industry has been injured by reason of the imports under investigation, the statute directs the Commission to consider: (1) the volume of imports of

the subject merchandise; (2) the effect of imports of that merchandise on prices in the U.S. for the domestic like product; and (3) the impact of imports of such merchandise on domestic producers in the context of production operations within the United States. 19 U.S.C.

§ 1677(7)(B). Information reasonably available to Petitioner indicates that increasing volumes of unfairly traded 2,4-D from China and India has been, and continues to be, a cause of material injury to the domestic industry.

1. The Volume of Cumulated Imports is Significant and Increasing

In 2021, 13,164,804 kilograms of the subject merchandise were imported into the United States from the subject countries. 9,176,207 kilograms were imported from China and 3,988,600 kilograms were imported from India, totaling 98 percent of all imports of the subject merchandise. In 2022, imports of subject merchandise from India and China totaled 31,363,487 kilograms, representing nearly all imports.

The import data from 2021 to 2023 shows that imports from China and India increased by 19 percent cumulatively.

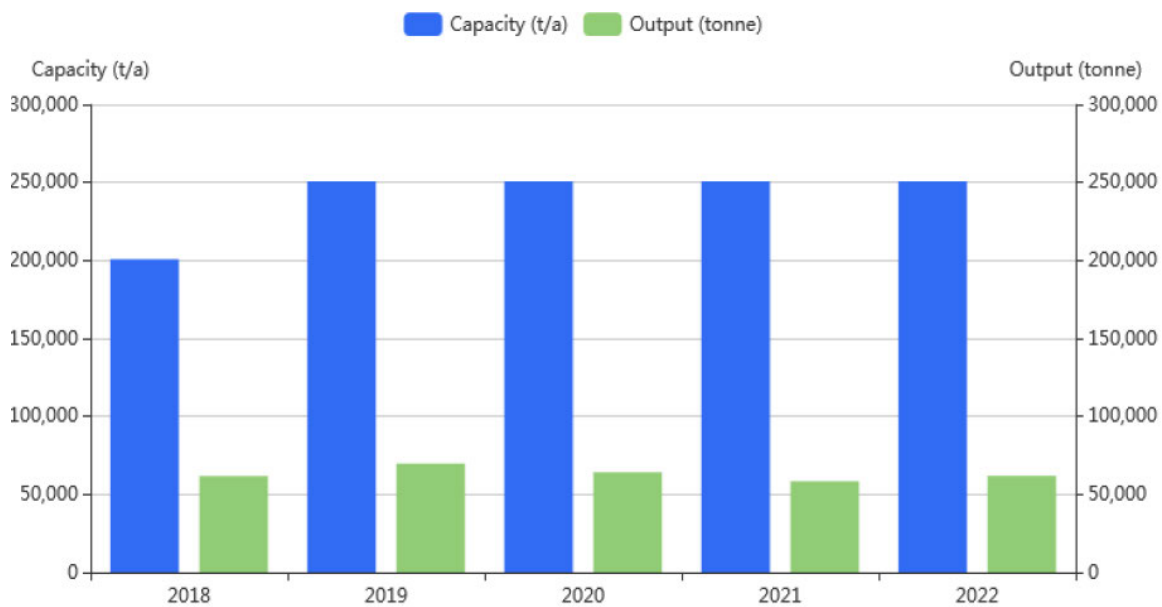
U.S. Imports

Item	US Shipments (kg)		
	2021	2022	2023
China	9,176,207	23,034,885	9,366,712
India	3,988,600	8,328,602	6,942,604
Cumulated imports of the subject countries	13,164,807	31,363,487	16,309,316
Total Imports	13,413,213	31,898,298	20,162,245

Cumulated imports of the subject countries (in %)	98	98	81
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Per published reports, Chinese 2,4-D producers began expanding their production capacity in 2019.

Capacity and output of 2,4-D technical in China, 2018-2022E



Note: All the volumes of output are calculated by 100% technical.

Source: CCM

See Exhibit I-14.

Additional capacity expansions are reported for 2024 and 2025. On October 28, 2023, Hubei Xingchen Technology Co., Ltd, a subsidiary of China’s Xingfa Group publicly announced its launch of a new 2,4-D production project. The project includes the installation of 2,4-D

equipment with an annual output of 50,000 tons, the supporting utility work, auxiliary, environmental facilities, and as risk prevention measures.⁷

2. Unfairly-Traded Imports Have Had Significant Negative Price Effects on the U.S. 2,4-D Industry

Increasing volumes of subject imports from China and India have adversely impacted prices in the domestic industry. Price underselling by subject imports has depressed the prices at which Petitioner sold 2,4-D during the proposed POI. For example, the average unit prices of subject imports from China and India declined by 33 and 29 percent respectively in 2023 compared to their level in 2022. Meanwhile, import volumes from China and India increased by 171 and 292 percent respectively and 195 percent cumulatively from 2021 to 2022. *See Exhibit I-13 and I-15.* Import prices unit have continued to fall in 2023:

	Price Per KG (2023)				Percent Change
	Q1	Q2	Q3	Q4	
China	3.07	3.05	1.83	1.68	-45.2%
India	3.36	2.92	2.56	1.94	-42.1%

a) Subject Imports Have Undersold Domestically-Produced 2,4-D by Substantial Margins, Causing Lost Sales and Revenues and Price Depression and Suppression to the Domestic Industry

Chinese and Indian importers have increased their volume and market share. As a result, Petitioner progressively reduced its presence in the merchant market of 2,4-D sales. A

⁷ *Xingfa plans to build an 50,000 t/a 2, 4-D project*, ECHEMI.COM (Oct. 28, 2023), <https://www.echemi.com/cms/1449282.html>.

comparison between Petitioner’s average selling price for 2,4-D demonstrates the underselling. See **Exhibit I-15** and below.

Table of prices for 2,4-D

Prices (USD/kg)			
Country/Year	2021	2022	2023
Average Price per kg for Imports from China	\$2.65	\$4.09	\$2.45
Average Price per kg for Imports from India	\$2.42	\$4.23	\$3.11
Average Subject Countries’ price	\$2.58	\$4.13	\$2.73
Average Price per kg for Corteva’s Sales in the merchant market	\$[]	\$[]	\$[]
Underselling	[]%	[]%	[]%

3. Unfairly-Traded 2,4-D Has Had a Significant Negative Impact on the Domestic Industry

In assessing whether the domestic industry is materially injured by reason of unfairly traded imports, the Commission considers relevant statutory factors reflecting the status of the domestic industry. See 19 U.S.C. § 1677(7)(c)(iii). Data indicates that the domestic 2,4-D industry has suffered material injury by reason of subject imports, as manifested in the market share lost to the unfairly traded imports and the suppressed and depressed U.S. prices. This has resulted in weakness and deterioration of key U.S. industry, trade, and financial indicators. The significant volume of low-priced subject imports that undersold domestically-produced 2,4-D

has resulted in Petitioner’s reduced presence in the domestic merchant market. The data, described in more detail below, demonstrate a causal link between the rising volume of imports of unfairly priced 2,4-D and the material injury being suffered by the domestic industry.

For the following reasons, the domestic industry has been significantly and negatively impacted by reasons of imports of subject merchandise pursuant to 19 U.S.C. § 1677(7)(c)(iii).

a) During the period of investigation, subject imports from China and India had an adverse effect on the domestic industry’s financial performance.

(i) Declining Profitability

The domestic industry experienced operating losses during the POI due to the impact of imports. Financial data indicates large operating losses in all years:

Profitability table

2021	2022	2023
[]	[]	[]

(ii) Capacity Utilization

During the POI Corteva’s annual production capacity remained stable at [] kilograms. Corteva uses a plant to produce 2,4-D and its installed capacity cannot be reduced easily. This plant solely produces the subject merchandise and no other products. During the POI, Corteva’s volume of production of 2,4-D followed a downward trend. Most recently, volume of production decreased by [] percent between 2022 and 2023, dropping to levels lower than any year since 2020. See **Exhibit I-17**. Corteva’s capacity utilization declined between 2021 and 2023 from [] percent to [] percent. Continuing this trajectory will result in consequences for domestic manufacturing and U.S. manufacturing jobs.

Corteva Production table

UoM = kg	2021	2022	2023
2,4-D Production Volume Midland	[]	[]	[]
Percentage of utilization	[]	[]	[]

(iii) Lost Sales and Lost Revenues

Sales of 2,4-D declined over the POI. Corteva was shipping [] kg of 2,4-D in 2021 whereas in 2023, Corteva's presence in the merchant market was reduced to [] kg. Data in the below table indicates that the trend in volume shipped since 2021. *See Exhibit I-18* and below.

Sales table for Corteva

Volume Shipped (2,4-D) KG AE Equivalent			
	2021	2022	2023
US Shipments	[]	[]	[]
Captively Consumed	[]	[]	[]
Total	[]	[]	[]

Lost sales and lost revenue allegations are attached at **Exhibit I-19**. These allegations are also being filed electronically pursuant to 19 C.F.R. § 207.11 and the Commission's instructions.

(iv) Lost Market Shares

Corteva's market share decreased during the period of investigation. In 2021, Corteva's share of the U.S. 2,4-D was [] percent. In 2023, Corteva's share of the 2,4-D market was [] percent of the merchant market. Over the same period, the market share of the subject countries has increased from [] percent to [] percent. Petitioner has reduced its presence in the domestic merchant market in 2022 due to unsustainable market prices. *See Exhibit I-12*.

Total market shares table

US Shipments			
Year	2021	2022	2023
Merchant	[]	[]	[]
Captive	[]	[]	[]
Total	[]	[]	[]

IMPORTS			
Year	2021	2022	2023
China	9,176,207	23,034,885	9,366,712
India	3,988,600	8,328,602	6,942,604
Subject Countries	13,164,807	31,363,487	16,309,316
Other Countries	248,406	534,811	3,852,929
Total Imports	13,413,213	31,898,298	20,162,245

Total Market [] [] []

U.S. Shipments			
Year	2021	2022	2023
Merchant	[]	[]	[]
Captive	[]	[]	[]
Total	[]	[]	[]

IMPORTS			
Year	2021	2022	2023
China	[]	[]	[]
India	[]	[]	[]
Subject Countries	[]	[]	[]
Other Countries	[]	[]	[]
Total Imports	[]	[]	[]

Total Market	100%	100%	100%
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b) The estimated dumping margins are high.

Petitioner estimates the dumping margin for the subject merchandise to range between 142 percent and 388 percent for China and 55 percent to 139 percent for India.

F. Conclusion

All indicia of material injury are present in this case. Subject imports increased substantially over the POI while they continually undersold domestically-produced products and suppressed U.S. domestic prices despite increasing demand. As a result, U.S. producers continually lost sales and revenues which led to Petitioner's lost 2,4-D market share, declining sales of the same, and deteriorating financial performance related to the sale of 2,4-D. These factors indicate that subject imports will continue to cause material injury to the domestic industry.

Therefore, the Commission should find that imports of the subject merchandise from China and India caused material injury to the domestic industry.

III. THE DOMESTIC INDUSTRY IS THREATENED WITH FURTHER MATERIAL INJURY DUE TO UNFAIR IMPORTS OF SUBJECT MERCHANDISE.

In addition to providing evidence to support the claim that the domestic industry is currently being materially injured by reason of imported 2,4-D from China and India, information reasonably available to Petitioner shows that the domestic industry is threatened with material injury by unfair imports of the subject merchandise from China and India pursuant to 19 U.S.C. § 1677(7)(F)(i).

The Commission examines a number of enumerated factors, such as an imminent increase in foreign producers' production capacity or existing unused capacity; a significant rate of increase of imports by volume; whether imports of the subject merchandise are being imported into the U.S. at prices that are likely to have a significant depressing or suppressing effect on the domestic industry; inventories of the subject merchandise; the potential for product-shifting if there are production facilities in the foreign country which are currently being used to produce other products; the actual and potential negative effects on the current production efforts of the domestic industry; and, any other demonstrable adverse effects on the domestic market that will likely lead to material injury of the subject merchandise.

Foreign producers and exporters of subject merchandise have already significantly increased their capacity since 2019. With growing capacity, production, and government subsidies of 2,4-D from China and India, the domestic industry is and will continue to be threatened with further material injury by reason of imports from the subject countries.

A. Imports from China and India Benefit from Subsidies that Will Encourage Increased Exports of Subject Merchandise to the United States

Section 771(7)(F)(i)(I) of the Act and 19 U.S.C. § 1677(7)(F)(i)(I) provides that "if a countervailable subsidy is involved, such information as may be presented to it by administering

authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase.”⁸ Furthermore, Article 3 of the World Trade Organization (“WTO”) Agreement on Subsidies and Countervailable Measures (the “Subsidies Agreement”) provides that Members of the WTO “shall neither grant nor maintain” subsidies “contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance” or “{...} upon the use of domestic over imported goods.”⁹ According to Article 6 of the Subsidies Agreement, all other subsidies are countervailable if they involve a “financial contribution” from a foreign government or public entity, which confers a “benefit” to the company’s production, manufacture, or exportation of merchandise, and which is “specific.” Therefore, the U.S. statutory provision indicated above asks the Commission to consider whether subject products benefit from export subsidies or import substitution subsidies.

In Volume IV of this Petition, Petitioner alleges that Chinese producers of 2,4-D receive several export subsidies or import substitution subsidies:

- Export Subsidy in the Form of Export-Only Permits
- Provision of Land Use Rights for LTAR
- Provision of Electricity for LTAR
- Export Buyer’s Credits
- Export Seller’s Credits
- Income Tax Reductions
- Tax Offsets for Research & Development Expenditures

⁸ 19 U.S.C. § 1677(7)(F)(i).

⁹ See the Subsidies Agreement at Article 3, and Article 6.1 and 31.

- Preferential Income Tax Rates
- Currency Undervaluation

In Volume V of this Petition, Petitioner alleges that India producers of 2,4-D receive:

- Advance Authorization Program
- Duty Drawback Program
- Export Promotion of Capital Goods Scheme (EPCGS)
- Duty Free Import Authorization
- Merchandise Export from India Scheme (MEIS)
- Incremental Exports Incentive Scheme
- Remission of Duties and Taxes on Exported Products (RodTEP)
- Market Development Assistance Scheme
- Market Access Initiative
- Subsidies to “Export Oriented Units”
- State and Union Territory Sales Tax Incentive
- State of Gujarat (“SGOG”) Subsidies
- State Government of Rajasthan (“SGOR”): Investment Promotion Schemes
- State Government of Haryana Package of Incentives
- State of Maharashtra Subsidy Programs

Several of these subsidy programs are either contingent upon export performance, and represent prohibited subsidies as described in Article 3 of the Subsidies Agreement. Other programs represent actionable subsidies within the meaning of Article 6 of the Subsidies Agreement, and take the form of a 1) direct transfer of funds; 2) potential transfer of funds or

liabilities; 3) foregone government revenue; or, 4) the purchase of goods, or the provision of goods or services other than general revenue.

B. The Domestic Industry is Susceptible to Further Material Injury due to Imports from China and India

The domestic industry is susceptible to further material injury by imports from China and India of the subject merchandise. As discussed above, Petitioner experienced declines in capacity utilization, prices, and market share of 2,4-D since 2021. Underselling margins reached [] percent and will likely increase as the Chinese and Indian producers continue to penetrate the U.S. 2,4-D market. Also, as noted above, Chinese and Indian producers have captured significant market share since 2021 due to increasing imports from the subject countries. After 2021, Petitioner's presence in the U.S. merchant market reduced.

Furthermore, the 2,4-D market is unique in that it is sold on a spot market, ensuring that competition occurs on the basis of price. This unique market situation leaves the domestic market vulnerable to unfair imports from India and China. Even in 2021, with significant global disruptions in supply and shipping, subject imports increased markedly, with imports from China and India nearly doubling between 2021 and 2022. As Petitioner's position in the market continues to wane and prices decline in the domestic market, the adverse effects of imported 2,4-D will continue to deteriorate.

1. China's capacity for 2,4-D has and will increase as China's 14th Five Year National Development Plan is Implemented

Chinese producers have significantly increased capacity over recent years. Publicly available information indicates that Chinese 2,4-D producers expanded their production capacity in 2019 despite heightened regulatory oversight in China on the domestic consumption of 2,4-D and low domestic utilization. *See Exhibit I-14.* Furthermore, recent reports suggest that there is a

continuing effort to expand capacity and output of the subject merchandise in China. For example, on October 28, 2023, Hubei Xingchen Technology Co., Ltd, a subsidiary of China's Xingfa Group publicly announced its launch of a new 2,4-D production project. Under this project, a new 2,4-D plant will be built with an annual output of 50,000 tons.¹⁰

China's 14th Five Year Plan (2021–2025) will likely further exacerbate the injury caused to the domestic industry by encouraging Chinese manufacturers to further increase capacity and exports. China's 14th Five Year Plan demonstrates the Government of China's present actions and continued intention to prop up key industries within the agricultural center, including the pesticide industry. The 14th Five Year Plan underscores the Government of China's commitment to the development of equipment, technology, standards, and services in the agricultural industry, with a focus on precision seeding, fertilization, and pesticide application industries.

The National Pesticide Industry Development Plan ("Pesticide Plan")—a subsection of the 14th Five Year Plan (2021–2025)—lists 2,4-D production as a target area of development. The Pesticide Plan lays out the GOC's driving objective to regulate and relocate enterprises in the pesticide industry to agricultural and agrochemical industrial parks in special economic zones, while correspondingly allocating significant resources towards research and development in a push towards "green agriculture."

Notably, the Pesticide Industry Development Plan emphasizes "going global," noting that in tandem with the "'Belt and Road' and in-depth advancement of international cooperation," the new development plan foresees "the domestic and international dual cycles promoting each other." The Plan asserts a production target, such that by 2025, "'China's pesticide industry will

¹⁰ *Xingfa plans to build an 50,000 t/a 2, 4-D project*, ECHEMI.COM (Oct. 28, 2923), <https://www.echemi.com/cms/1449282.html>.

focus on fostering 10 enterprises with revenue of more than 5 billion yuan (around 794 million USD) and 10 enterprises with revenue of more than 1 billion yuan (around 159 million USD) and that ‘industry concentration will be further enhanced’ such that the future supply of pesticides in China will amount to ‘20% of Chinese pesticide enterprises {supplying} 80% of the world’s pesticide demand.’”

To meet these targets, the Plan details certain government policies and measures to be implemented. As an organizational matter, the Plan provides that “all localities should formulate local plans, plans or implementation plans based on actual conditions, . . . strengthen planning guidance, increase support measures, and promote the sustainable and healthy development of the pesticide industry.” Specifically, the GOC commits to strengthen policies to “support the development of the pesticide industry and optimize {its} development environment.” This includes, “guid{ing} pesticide production enterprises to concentrate in chemical industry parks, and provid{ing} policy support in planning land, energy distribution, environmental protection facilities, financing loans, etc,” as well as “encourage{ing} enterprises to develop and introduce advanced equipment and processes, improve green, intelligent, and continuous production levels, promote industrial transformation and upgrading.”

2. China’s Guidance Catalogue for Industry Restructuring / Export Permits.

China’s industrial policies are implemented through state mandates and advisories that control and provide direct subsidization to provinces, localities, and certain enterprises. The GOC’s administrative apparatus ensures provincial and local policy goals conform to the objectives of the central government. The “Guidance Category for Industry Restructuring 2019” (“Guidance Catalog”) provides key industries and products that are “encouraged” by the state. It listed the “agriculture and forestry” industries as encouraged, underscoring the development of

“high quality, safe, and environmental protection agricultural inputs such as feeds, feed additives, fertilizers, pesticides, veterinary drugs and permitted food additives for green food production.” Accordingly, the pesticide industry, as an “encouraged” industry, enjoys preferential treatment and benefits conferred by a variety of different subsidies programs. Indeed, the Decision of the State Council No. 40 outlines the nature of policy incentives and financing schemes directed towards “encouraged” industries:

The people’s governments of all provinces, autonomous regions, and municipalities directly under the Central Government, the relevant administrative departments of the state for development and reform, public finance, taxation, state land resources, environmental protection, industry and commerce, quality inspection, banking supervision, electric power supervision, work safety supervision, as well as the administrative departments of all industries, etc. shall establish and improve the mechanism of organization and coordination, supervision and inspection for the industrial structure adjustment work, perform their respective duties, cooperate with each other closely, form a resultant force, and effectively intensify the effectiveness of implementing industrial policies.¹¹

During the POI, the GOC began providing regulatory incentives to Chinese producers and manufacturers of 2,4-D products that strictly export such products. Specifically, in June 2020, the Chinese Ministry of Agricultural and Rural Affairs issued Announcement 269, revitalizing the issuance of export-only permits in the pesticide industry, a practice that was previously discontinued in 2006 (a limited form of such export-only permits existed until 2013).¹² Under the regulation, producers of certain pesticides, including 2,4-D, can circumvent the regulatory costs that come with temporary and full-pesticide registration, by registering products under a special “EX” code. In exchange for refraining to sell 2,4-D on the domestic market, companies benefiting

¹¹ *Temporary Provisions on Promoting Industrial Structure Adjustment*, LAWS OF THE PEOPLE’S REPUBLIC CHINA, <http://www.asianlii.org/cn/legis/cen/laws/tpopisa783/>.

¹² Announcement No. 269 of the Ministry of Agriculture and Rural Affairs, China, CROP LIFE CHINA www.croplifechina.com/upload/29_20201121_nybgg_269_en.pdf

from export-only permits can avoid the expenses domestic companies would otherwise incur meeting data reporting, product testing, and other registration demands.

Such regulatory incentives make it cheaper and quicker for 2,4-D manufacturers that opt to avail themselves of the program, to produce 2,4-D products relative to the costs imposed on domestic industry producers. In doing so, the program confers more favorable terms to exporters than directly competitive products for use in domestic industries. The timing of the EX permits' reintroduction in 2020, illustrates that the U.S. domestic industry will continue to be materially injured by unfair Chinese imports in the future.

3. Indian 2,4-D Producers Benefit from Myriad Subsidies Conferred Pursuant to the Government of India's "Make in India" Scheme

In 2014, the Government of India launched the "Make in India" scheme, the country's flagship campaign, intending to transform India into a global manufacturing hub, facilitate investment, and build a robust manufacturing industry. To do so, the Make in India scheme provides for the issuance of sector-specific subsidies such as rebated land cost incentives, relaxation in stamp duty exemption on the sale/lease of land, power tariff incentives, concessional rates of interest on loans, investment subsidies and various tax incentives, backward area subsidies, and special incentive packages for mega-projects. The scheme also encourages Indian states to promote regional manufacturing development by providing state-specific subsidies to certain industries.

Building on the scheme, the Government of India introduced Make in India 2.0 in December 2022. This iteration of the scheme continues to focus on promoting domestic manufacturing capabilities but emphasizes reducing dependence on imports. Notably, Make in India 2.0 focuses on 27 sectors of the Indian economy, with particular focus on ten "champion sectors". The chemical sector is included on this list of "champion sectors" and will become a key

pillar in India’s drive to expand its manufacturing base. Accordingly, Indian producers of 2,4-D—which is itself a chemical and reliant on chemical products as inputs—will only continue to see expanded benefits from the various incentive programs envisaged under Make in India and Make in India 2.0.

4. Indian, 2,4-D Producers Have Benefited and Will Continue to Benefit from India’s Robust Export Incentive Schemes

On March 31, 2023, the Government of India released a policy entitled Foreign Trade Policy 2023 (“FTP 2023”). FTP 2023 enshrines certain longstanding GOI export incentive schemes and lays out a vision for expanding the country’s manufacturing base.¹³ The goal of the policy is to grow exports and “get more deeply involved in the global value chain.” Specifically, the FTP 2023 aims at “process re-engineering and automation to facilitate ease of doing business for exporters” as well as “collaborating with {Indian} States and Districts for export promotion.”¹⁴

Indian producers of 2,4-D products have benefitted from export incentives conferred under the schemes laid out in the FTP 2023, and will only continue to benefit as the GOI commits itself to further expanding the programs’ reach and incentives.

C. Unfairly Priced Subject Imports Will Continue to Harm the Domestic Industry of 2,4-D

As demonstrated above, subject imports have already had adverse effects on domestic sales: the domestic industry has already experienced a loss in revenue and prices. The underselling margins are suppressing domestic prices and will continue to do so as long as imports are sold at dumped and subsidized prices. As noted above, Petitioner’s sales of 2,4-D during this same period have decreased because of increased subject imports. *See Exhibit I-18.*

¹³ *Foreign Trade Policy 2023 Announced*, MINISTRY OF COMMERCE & INDUSTRY (Mar. 31, 2023), <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1912572>.

¹⁴ *Id.*

Indeed, Furthermore, the financial positions of Chinese and Indian importers ensure that they will continue to threaten the U.S. market with unfairly priced subject merchandise. Chinese producers have already announced their intention to expand their 2,4-D production capacity. From 2021 to 2023, imports of subject merchandise from China increased. *See Exhibit I-13. See Exhibits I-15, I-18.* Since foreign produced and domestic 2,4-D are interchangeable, price is the most significant factor in purchasing decisions for 2,4-D and, when interchangeable, foreign and domestic producers of 2,4-D compete for sales, they do so on the basis of price.

D. Imports Have Affected and will continue to Affect Petitioner’s Ability to Invest in Production and Capacity Increases

Petitioners’ continued losses have inhibited its ability to invest in 2,4-D production and continue to grow to meet domestic demand. Petitioner’s presence in the merchant market for 2,4-D is now reduced.

IV. CONCLUSION

The U.S. 2,4-D industry is being materially injured by subject imports from China and India. Without relief, the domestic industry will continue to be materially injured by reason of imports. Producers and exporters of the subject merchandise will continue to export their product at prices significantly lower than those produced domestically, which will further increase subject import market share in the United States. Petitioner’s loss of 2,4-D market share, along with the decreasing prices of 2,4-D, threaten to reduce Petitioner’s financial performance.

Accordingly, Petitioner requests that antidumping duties be imposed on imports of 2,4-D from China and India in amounts sufficient to offset the unfair dumped imports as described in Volumes II and III, of this Petition. Petitioner also requests that countervailing duties be imposed on imports of 2,4-D from China and India in amounts sufficient to offset subsidized imports as described in Volumes IV and V of this Petition.

Respectfully submitted,



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List of Exhibits

<i>No.</i>	<i>Description</i>	<i>BPI/PUB</i>
I-1	Corteva Declaration	BPI
I-2	List of Identified Exporters and Producers from India and China	PUB
I-3	List of Identified Importers from India and China	PUB
I-4	HTS Codes for 2,4-D	PUB
I-5	EPA.Gov Herbicides Website	PUB
I-6	2,4-D Compound Summary and Information	PUB
I-7	2,4-D Technical Specifications and Target Weeds	PUB
I-8	2,4-D Manufacturing Process Flow Chart	PUB
I-9	2,4-D Technical Fact Sheet – National Pesticide Information Center	PUB
I-10	Volume and Value of U.S. Imports	PUB
I-11	Market Share and Volume of U.S. Imports (January 2023-December 2023)	BPI
I-12	U.S. Shipments and Market Table	BPI
I-13	Cumulated U.S. Imports by Volume	PUB
I-14	Capacity and Output of 2,4-D Technical in China, 2018-2022E	PUB
I-15	Prices for 2,4-D	BPI
I-16	Corteva Profitability Table	BPI
I-17	Corteva Production Table	BPI
I-18	Corteva Sales Table	BPI
I-19	Lost Sales Revenue	BPI