

Exhibit 19

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UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of

CERTAIN TOBACCO HEATING
ARTICLES AND COMPONENTS
THEREOF

Inv. No. 337-TA-1199

EXPERT REPORT OF JONATHAN ARNOLD, PH.D.

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III. SUMMARY OF OPINIONS

12. Based on my analysis to date, as well as my skill, knowledge, education, experience, and training, I have formed the following opinions:

- Domestic Industry. Dr. Mody's assessment of Complainants' (i) investment in plant and equipment, (ii) investment in labor or capital, and (iii) exploitation of the patents for VUSE Solo (Generation 1 and 2) and VUSE Vibe is fundamentally flawed for at least two reasons: her analysis (1) disregards the factual record in this matter and (2) depends on unsupported assumptions that have a material effect on her opinions.
- Public Interest. Dr. Mody is incorrect that the public's interest would be unharmed by an exclusion order. Her opinion hinges on her assertion that e-cigarettes, IQOS® and other PRRPs are substitutes; however, the analysis Dr. Mody undertakes is flawed and unreliable. To the contrary, substantial evidence suggests that IQOS® is a differentiated product from other PRRPs and provides features to consumers that other PRRPs do not. As such, an exclusion order for IQOS® would adversely affect the public interest by depriving consumers of a differentiated product.
- Public Health and Welfare. Dr. Mody claims that the granting of an exclusion order would not have a negative impact on public health and welfare. To the contrary, if no exclusion were to issue, then a percentage of combustible cigarette smokers would likely transition to IQOS® use, thereby avoiding the harmful effects of combustible cigarette smoke. Even if only a relatively small percentage of

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direct comparison of product pricing when she asserts that IQOS® has been “launched domestically with a pricing strategy intended to compete with other non-combustible products.”¹³⁰ In other words, in attempting to define the market, Dr. Mody implies that IQOS® is priced similarly to the VUSE products and are therefore in the same market and should be considered substitutes.

99. On the other hand, in her bond analysis she argues that “a direct comparison of product pricing in this case is not meaningful.”¹³¹ Then based on a per-puff analysis (a cost measure Dr. Mody establishes without basis) of VUSE Solo and IQOS® she concludes that the cost of IQOS® is approximately [REDACTED] than the cost of the VUSE products.¹³² (Based on this she concludes that a bond should be set at 100 percent – an opinion with which I disagree and which I address in Section IX.)

100. Dr. Mody cannot have it both ways. If IQOS® and the VUSE products are similarly priced, then her bond analysis must be wrong. If one accepts her bond analysis then her assertions regarding the market definition must be wrong.¹³³

C. Dr. Mody’s Own Evidence Shows that IQOS® and other PRRPs are Differentiated

101. Dr. Mody selects quotes out of a variety of documents to attempt to establish that IQOS® and e-cigarettes are substitute products within the PRRP market. However, if one reviews Dr. Mody’s cherry-picked quotes in their context, these documents reveal that multiple consumer groups in the U.S. markets consider IQOS® to be differentiated from other non-combustible products.

¹³⁰ Mody Report, p. 50.

¹³¹ Mody Report, p. 102.

¹³² Mody Report, p. 104.

¹³³ I make this point to show that, using the internal logic of Dr. Mody’s report, both opinions cannot coexist. As it turns out, neither opinion is correct – for a variety of other reasons that I address throughout this report.

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i. Market Participants View IQOS® and E-Cigarettes as Differentiated Products

102. Dr. Mody cites to certain quotes from industry analysts and experts that “[define] the relevant market as larger than HNB products.”¹³⁴ However, Dr. Mody fails to acknowledge that the documents she cites also discuss the ways in which IQOS® is differentiated from other PRRPs. As I explain above, if IQOS® and other PRRPs are close substitutes, IQOS® could build market share only (or predominantly) by competing on price. If, however, IQOS® and other PRRPs are differentiated (i.e., imperfect substitutes), IQOS® may also build market share by attracting combustible cigarette consumers who prefer certain features of the IQOS® over other PRRPs. Exhibit 10 below details some examples of market reaction to the launch of IQOS® in the U.S.

¹³⁴ Mody Report, p. 43.

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