

# **SULFANILIC ACID FROM THE PEOPLE'S REPUBLIC OF CHINA**

Determination of the Commission in  
Investigation No. 731-TA-538 (Preliminary)  
Under the Tariff Act of 1930,  
Together With the Information  
Obtained in the Investigation

**USITC PUBLICATION 2457**

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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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



UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-538 (Preliminary)

SULFANILIC ACID FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured<sup>2</sup> or threatened with material injury<sup>3</sup> by reason of imports from the People's Republic of China of sulfanilic acid and sodium sulfanilate, provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On October 3, 1991, a petition was filed with the Commission and the Department of Commerce by R-M Industries, Inc., Fort Mill, SC, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of sulfanilic acid from the People's Republic of China. Accordingly, effective October 3, 1991, the Commission instituted antidumping investigation No. 731-TA-538 (Preliminary).

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

<sup>2</sup> Acting Chairman Brunsdale and Commissioner Lodwick determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports from the People's Republic of China.

<sup>3</sup> Commissioner Rohr and Commissioner Newquist determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 10, 1991 (56 F.R. 51236). The conference was held in Washington, DC, on October 24, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.



## VIEWS OF THE COMMISSION

On the basis of the information obtained in this preliminary investigation, we have made an affirmative determination.<sup>1</sup> Acting Chairman Brundsdale and Commissioner Lodwick determine that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly less than fair value (LTFV) imports of sulfanilic acid from the People's Republic of China (China).<sup>2</sup> Commissioners Rohr and Newquist determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly LTFV imports of sulfanilic acid from China.<sup>3</sup>

### I. LIKE PRODUCT AND THE DOMESTIC INDUSTRY

In determining whether there is a reasonable indication of "material injury" or "threat of material injury" to a domestic industry by reason of the subject imports, the Commission must first define the "domestic industry." Section 771(4)(A) of the Tariff Act of 1930 defines the relevant domestic industry as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major

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<sup>1</sup> The legal standard in preliminary antidumping duty investigations is set forth in section 733(a) of the Tariff Act of 1930, 19 U.S.C. § 1673b(a), which requires the Commission to determine whether, based on the best information available at the time of the preliminary determination, there is a reasonable indication of material injury to a domestic industry, or threat thereof, or material retardation of the establishment of such an industry, by reason of imports alleged to be sold at less than fair value (LTFV). See, e.g., American Lamb v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); New Steel Rails from Canada, Inv. Nos. 701-TA-297 and 731-TA-422 (Preliminary), USITC Pub. 2135 (November 1988); Shock Absorbers and Parts, Components, and Subassemblies Thereof from Brazil, Inv. No. 731-TA-421 (Preliminary), USITC Pub. 2128 (September 1988).

<sup>2</sup> See Additional Views of Acting Chairman Brundsdale and Additional Views of Commissioner Lodwick.

<sup>3</sup> See Additional Views of Commissioners Rohr and Newquist.

proportion of the total domestic production of that product . . . ."<sup>4</sup> "Like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."<sup>5</sup>

In its notice of initiation, the Department of Commerce (Commerce) defined the class or kind of merchandise subject to investigation as follows:

[A]ll grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt or aminobenzenesulfonic acid.<sup>6</sup>

The principal like product issue raised in this investigation is whether the domestically produced technical sulfanilic acid, sulfanilic acid sodium salt, and refined sulfanilic acid should be considered one like product.<sup>7</sup> Petitioner argues that technical, refined and salt forms should all be considered one like product. Respondents argue that the different forms of sulfanilic acid constitute three separate well-defined like products: technical, salt (powder and liquid) and refined sulfanilic acid.<sup>8</sup>

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<sup>4</sup> 19 U.S.C. § 1677(4)(A).

<sup>5</sup> 19 U.S.C. § 1677(10).

<sup>6</sup> 56 Fed. Reg. 55660 (October 29, 1991). Although the Commission accepts the class or kind determination of Commerce, the Commission determines which domestic products are like those within Commerce's scope. See, e.g., Algoma Steel Corp., Ltd. v. United States, 12 Ct. Int'l Trade 578, 688 F. Supp. 639 (1988), aff'd 865 F.2d 240 (Fed. Cir. 1988), cert. denied, 109 S.Ct. 3244 (1989); Bulk Ibuprofen from India, 701-TA-308 and 731-TA-526 (Preliminary), USITC Pub. 2428 (September 1991) at 4; Steel Wire Rope from Argentina and Mexico, 731-TA-476 and 479 (Final), USITC Pub. 2410 (August 1991) at 4.

<sup>7</sup> Petitioner produced refined sulfanilic acid until 1989, but discontinued its production and currently only produces technical sulfanilic acid and the sulfanilic acid sodium salt. Report at I-12; Preliminary Conference Transcript (October 24, 1991) (hereinafter "Tr.") at 17.

<sup>8</sup> To the extent that this argument rests on the assumption that we could define the "like product" to be something that is not domestically produced, we have rejected such arguments in the past. Cambridge Lee Industries, Inc. v. United States, 728 F. Supp. 748, 750 (Ct. Int'l Trade 1989).

The Commission's decision regarding the appropriate like product in an investigation is essentially a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.<sup>9</sup> The like product factors considered by the Commission include: (1) physical characteristics, (2) end uses, (3) interchangeability, (4) channels of distribution, (5) customer perceptions, (6) common manufacturing facilities and production employees and, where appropriate, (7) price.<sup>10</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation.<sup>11</sup>

Physical Characteristics. All three forms of sulfanilic acid are available as dry free-flowing powders, although the salt form is also sold in a liquid solution.<sup>12</sup> The primary physical characteristic that distinguishes the different forms of sulfanilic acid is the amount and nature of impurities in the product, rather than its absolute purity, since certain forms have greater quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid.<sup>13</sup> Refined sulfanilic acid and sulfanilic acid sodium

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<sup>9</sup> Asociacion Colombiana de Exportadores de Flores, et al. v. United States, 12 Ct. Int'l Trade 634, 693 F. Supp. 1165 (1988) ("Asocoflores").

<sup>10</sup> Torrington Co. v. United States, 747 F. Supp. 744 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (1991); Asocoflores, 693 F. Supp. 1165, 1169-170 (Ct. Int'l Trade 1988).

<sup>11</sup> Gray Portland Cement and Cement Clinker from Venezuela, Inv. No. 303-TA-21 and 731-TA-519 (Preliminary), USITC Pub. 2400 (July 1991) at 12.

<sup>12</sup> Report at I-12; Antidumping Petition of R-M Industries, Inc. (October 2, 1991) (hereinafter "Petition") at 9.

<sup>13</sup> Petition at 9-10. For example, technical sulfanilic acid has a typical absolute purity of 98 percent, but contains up to one percent each of certain impurities such as residual aniline and alkali insolubles. Refined sulfanilic acid also has an absolute purity of 98 percent, but contains typically less than 0.3 percent of the aniline and alkali insolubles. Sulfanilic acid sodium salt typically contains less than 0.1 percent of aniline and insolubles. Petition at 9-10.

salt have the least amount of undesirable impurities.<sup>14</sup>

End Uses. All forms of sulfanilic acid can be used by consumers in making optical brighteners (used in detergents and paper production), food colors, specialty dyes and concrete additives.<sup>15</sup> Approximately fifty percent of all forms of sulfanilic acid is used to make optical brighteners.<sup>16</sup> The next largest use (approximately 20-25 percent) of sulfanilic acid is in the production of certain synthetic food colorants.<sup>17</sup> The remaining 25 percent is used in miscellaneous other products such as specialty dyes and concrete additives.<sup>18</sup>

Interchangeability. Respondents maintain that sulfanilic acid sodium salt and refined sulfanilic acid are not interchangeable without substantially changing production processes and adding chemicals, manufacturing equipment, and labor time. Petitioner argues that substitution is relatively simple and inexpensive.<sup>19</sup> Technical sulfanilic acid is not well suited for many refined grade applications because the higher level of impurities can affect the quality of downstream products.<sup>20</sup> One can use refined sulfanilic acid and sulfanilic acid sodium salt, however, for technical sulfanilic acid applications.<sup>21</sup> In addition, certain customers may purchase the technical

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<sup>14</sup> Id.

<sup>15</sup> Report at I-6.

<sup>16</sup> Report at I-6; Tr. at 9, 75.

<sup>17</sup> Report at I-6; Tr. at 75.

<sup>18</sup> Report at I-7; Tr. at 75.

<sup>19</sup> Tr. at 82. According to petitioner, the only alteration that may be required to convert from refined to salt is a pH adjustment (accomplished by adding sulfuric acid), which does not require a significant increase in capital, equipment or time by the purchaser. Petitioner calculated that the additional cost of adding sulfuric acid ranges from \$0.009/lb to \$0.005/lb. Petitioner's Post-Conference Brief at 22.

<sup>20</sup> Tr. at 131 (testimony of Mr. Dickson, President, R-M Industries).

<sup>21</sup> Substituting the refined or salt forms for the technical sulfanilic acid may be uneconomical, however, due to the fact that the purer forms are more

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product and refine it themselves.<sup>22</sup>

Several purchasers of sulfanilic acid have stated that they had preferences for one form or grade over another depending primarily on their process requirements, but the vast majority stated that they could use either the sulfanilic acid sodium salt or the refined sulfanilic acid.<sup>23</sup> "To the extent that the various grades are not completely interchangeable, we should note that, in the past, the Commission has not required complete interchangeability to include products in one like product."<sup>24</sup> Based on the information of record, we find that the different forms of sulfanilic acid are sufficiently interchangeable to warrant considering them a single like product.

Channels of Distribution. The channels of distribution of all forms of

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<sup>21</sup>(...continued)

expensive than the technical form. Nevertheless, two of petitioner's major customers of technical sulfanilic acid reportedly switched to the Chinese refined material because the pricing was comparable. Tr. at 69-70 (testimony of Mr. Dickson, President, R-M Industries). In Magnesium from Canada and Norway, the Commission found one like product relying, inter alia, on the fact that the ultra pure grade of magnesium was substitutable for the commodity grade in commodity grade uses, even though the reverse was not true. Inv. Nos. 701-TA-309 and 731-TA-528 and 529 (Preliminary), USITC Pub. 2443 (October 1991). Similarly, the Commission found one like product in Silicon Metal from the People's Republic of China, relying in part on the ability to substitute the higher grade product for the lower grade one. Inv. No. 731-TA-472 (Final), USITC Pub. 2385 (June 1991).

<sup>22</sup> Tr. at 86 (testimony of Bob Beck, Purchasing Manager, Sandoz Chemicals).

<sup>23</sup> Report at I-8. The primary difference between the sulfanilic acid sodium salt and the refined "free acid" is that the former must be added to a process that has a neutral pH or alkaline pH, and the latter must be added to a process that has an acidic pH. In some cases a purchaser will already have neutralized the solution and, consequently, the salt product can be used directly by the purchaser without any change in its process; in other cases the customer may have to add sulfuric acid to the sodium salt to precipitate the free acid from the salt mixture. In fact, depending upon the manufacturing process used, a pH adjustment may be required for the refined sulfanilic acid as well. Id.

<sup>24</sup> Industrial Nitrocellulose from Brazil, People's Republic of China, Republic of Korea, United Kingdom, West Germany and Yugoslavia, Inv. Nos. 731-TA-439-445 (Preliminary), USITC Pub. 1989 (Nov. 1989) at 6.

sulfanilic acid are basically the same. Petitioner ships its products directly to its customers by domestic trailer.<sup>25</sup> The respondent exporters sell sulfanilic acid and salt to customers in the United States either directly or through agents and trading companies.<sup>26</sup> The imports are shipped first by ocean carrier and then overland by truck or in container.<sup>27</sup>

Customer Perceptions. As noted earlier, while purchasers may prefer one form or grade of sulfanilic acid over another, almost all of the purchasers stated that they could use sulfanilic acid sodium salt instead of refined sulfanilic acid.<sup>28</sup> The information of record indicates that considerations of cost and/or availability may lead customers to purchase a different form of sulfanilic acid.

Common Manufacturing Facilities and Production Employees. The production of technical sulfanilic acid is always the first step in making the other two forms.<sup>29</sup> The next step in the process is to make sulfanilic acid sodium salt.<sup>30</sup> The refined material can then be produced from additional

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<sup>25</sup> Report at I-14; Petition at 13.

<sup>26</sup> Report at I-12.

<sup>27</sup> Report at I-14.

<sup>28</sup> Report at I-8.

<sup>29</sup> Report at I-4; Petition at 16. Technical sulfanilic acid is produced by mixing equal molar quantities of aniline with sulfuric acid and then heating the reaction to remove water. It is then ground and either sold to the customer or refined and then sold to the customer. Refinement is sometimes necessitated to take out two impurities found in the technical grade product - residual unreacted aniline and alkali solubles. Report at I-4; Petition at 14; Tr. at 11.

<sup>30</sup> This is done by dissolving the technical material in a solution of caustic soda and water (which converts the sulfanilic acid into a neutralized salt) and then filtering it to remove aniline and other impurities. Tr. at 11. The result is a 30 percent solution of sulfanilic acid sodium salt. Salt can either be sold in the liquid solution form or it can be fed into a continuous dryer, which reduces it to a powder. Report at I-4; Petition at 16-17; Tr. at 12.

processing of the sodium salt product.<sup>31</sup> The information of record indicates that the same facilities and production employees can be employed in making technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate.<sup>32</sup>

Price. Petitioner sells its technical sulfanilic acid at \$0.89 per pound, f.o.b. Fort Mill, South Carolina in truckload quantities.<sup>33</sup> Petitioner sells its sulfanilic acid sodium salt at \$1.25 per pound, f.o.b. Fort Mill, South Carolina for truckload quantities.<sup>34</sup> The respondents sell refined sulfanilic acid in the range of \$0.80 per pound to \$0.90 per pound, delivered to the customer.<sup>35</sup>

The Commission has often found that different grades of chemicals are one like product despite some differences between the grades.<sup>36</sup> The information on the record indicates that, although they are different forms, the sulfanilic acid sodium salt, the technical sulfanilic acid, and the

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<sup>31</sup> Petition at 17; Tr. at 8. To produce the refined material the manufacturer treats the sodium salt solution with sulfuric acid, which precipitates the solid free acid. It is then filtered, dried and packed into bags. Report at I-4; Petition at 17-18; Tr. at 12-13.

<sup>32</sup> Report at I-4.

<sup>33</sup> Petition at 18.

<sup>34</sup> Petition at 19; Petitioner's Post-Conference Brief at 5.

<sup>35</sup> Petition at 19.

<sup>36</sup> For example, the Commission found in Magnesium from Canada and Norway, that the similarities of the different forms of the products outweighed the apparent differences in the specialized uses. Inv. Nos. 701-TA-309 and 731-TA-528 and 529 (Preliminary) (October 1991). See also Aluminum Sulfate from Venezuela, Inv. No. 731-TA-431 (Preliminary), USITC Pub. 2242 (December 1989); Polychloroprene from France and the Federal Republic of Germany, Inv. Nos. 731-TA-446 and 447 (Preliminary), USITC Pub. 2233 (November 1989); Electrolytic Manganese Dioxide from Greece, Ireland and Japan, Inv. Nos. 731-TA-406 and 408 (Final), USITC Pub. 2177 (April 1989); Dry Aluminum Sulfate from Sweden, Inv. No. 731-TA-430 (Preliminary), USITC Pub. 2174 (March 1989); Barium Chloride and Barium Carbonate from the People's Republic of China, Inv. No. 731-TA-149 (Final), USITC Pub. 1584 (October 1984); Chloropicrin from the People's Republic of China, Inv. No. 731-TA-130 (Final), USITC Pub. 1505 (March 1984); Potassium Permanganate from the People's Republic of China, Inv. No. 731-TA-125 (Final), USITC Pub. 1480 (January 1984); Menthol from the People's Republic of China, Inv. No. 731-TA-28 (Final), USITC Pub. 1151 (June 1981).

refined sulfanilic acid are similar in purity levels, end uses and are interchangeable products in many applications.<sup>37</sup> More importantly, most purchasers of sulfanilic acid have indicated that they are able to use, and have used in the past, all forms interchangeably.<sup>38</sup> Based on the information of record in this preliminary investigation, we determine that all forms of domestically produced sulfanilic acid constitute a single like product.

The domestic industry in this case consists of the U.S. producers of sulfanilic acid, R-M Industries, Inc. and Hilton Davis Company.<sup>39</sup>

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<sup>37</sup> Congress directed the Commission to disregard minor variations between the articles subject to an investigation and the Commission generally looks for "clear dividing lines among possible like products." S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Certain Laser Light-Scattering Instruments and Parts Thereof from Japan, Inv. No. 731-TA-455 (Final), USITC Pub. 2328 (November 1990) at 6 n.13; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom, Inv. Nos. 303-TA-19, 20 and 731-TA-391-399 (Final), USITC Pub. 2185 (May 1989) at 27; Certain Telephone Systems and Subassemblies Thereof from Japan, Korea and Taiwan, Inv. Nos. 731-TA-426-428 (Preliminary), USITC Pub. 2156 (February 1989) at 4 n.4 (citing Asocoflores, 693 F. Supp. at 1170 n.8).

<sup>38</sup> Report at I-8.

<sup>39</sup> Respondents argue that the petitioner lacks standing. Respondents' argument is based on the notion that the only product subject to investigation is imported refined sulfanilic acid and that the domestic like product must be the identical product to that which is imported, i.e., refined sulfanilic acid. Respondents reason that because petitioner no longer manufactures refined sulfanilic acid, it is not a domestic producer of the like product and, as a result, petitioner lacks standing. Respondents' argument is both legally and factually flawed. First, the Commission has stated that it lacks authority to make standing determinations. See, e.g., Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (April 1991) (views of Commissioners Lodwick and Newquist, Commissioner Rohr concurring) at 4-5. The Commission continues to defer to Commerce on the issue of standing pending the outcome of the appeal in Suramerica de Aleaciones Laminadas, et al. v. United States, 746 F. Supp. 139 (Ct. Int'l Trade 1990), appeal docketed, No. 91-1015 (Fed. Cir. Nov. 2, 1990). Second, questionnaire data from importers demonstrate that there are, in fact, imports of Chinese sulfanilic acid sodium salt, and the Commerce notice of initiation includes imports of all three forms of sulfanilic acid in its scope. Finally, even assuming that there were no importation of sulfanilic acid sodium salt from China and refined sulfanilic acid were the only product subject to investigation, the Commission would still need to decide what domestically

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## II. CONDITION OF THE INDUSTRY

The factors normally considered by the Commission in assessing the condition of the industry include: consumption, production, shipments, capacity, capacity utilization, employment, wages, inventories, financial performance, capital investments, and research and development expenditures.<sup>40</sup> No single factor is determinative; rather, in each investigation the Commission must consider the particular nature of the relevant industry.

Because the domestic industry consists of only one major commercial U.S. producer of sulfanilic acid, we can discuss only general trends regarding the condition of the industry in order to avoid disclosing business proprietary information.

In terms of quantity, apparent U.S. consumption decreased from 6,338,000 pounds in 1988 to 5,402,000 pounds in 1989, and then increased to 5,731,000 pounds in 1990. Apparent U.S. consumption then increased from 4,149,000 pounds in the interim period of January through September 1990 to 6,366,000 pounds in the interim period of January through September 1991. Similarly, in terms of value, apparent U.S. consumption decreased from \$5,220,000 in 1988 to \$4,970,000 in 1989 and then increased in 1990 to \$5,205,000. The value of apparent U.S. consumption increased dramatically from \$3,648,000 in the interim period of 1990 to \$6,443,000 in the interim period of 1991.<sup>41</sup>

U.S. production of sulfanilic acid decreased significantly from 1988 to

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<sup>39</sup>(...continued)

produced product is most similar to the articles under investigation. The Commission has rejected the notion that a like product could be defined as a product not produced by a U.S. industry. See, e.g., Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (March 1989) at 7-8.

<sup>40</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>41</sup> Report at I-11.

1990, but then increased dramatically during the 1991 interim period as compared with the interim period of 1990.<sup>42</sup> U.S. shipments, in terms of both quantity and value, decreased regularly from 1988 to 1990, but then increased significantly during interim 1991 as compared with interim 1990. The unit value of the shipments increased over the period of investigation.<sup>43</sup> U.S. producers' inventories increased substantially between 1988 and 1989 and then decreased in 1990. Inventories then increased by 93 percent from September 30, 1990 to September 30, 1991.<sup>44</sup>

U.S. capacity to produce sulfanilic acid remained stable from 1988 to 1990, and then increased in the interim period of 1991 as compared with that of 1990. Capacity utilization decreased continuously from 1988 to 1990, but then increased during interim 1991 as compared with interim 1990.<sup>45</sup> U.S. employment levels remained stable throughout the period of investigation, except that in July of 1991, petitioner laid off six production workers and six administrative staff.<sup>46</sup> U.S. productivity decreased from 1988 to 1990, but then increased in interim 1991 as compared with interim 1990.<sup>47</sup> Hours worked increased slightly from 1988 to 1989 and then decreased in 1990.<sup>48</sup> Hourly wages increased slightly from 1988 to 1989, decreased in 1990, and then decreased during January through September 1991 as compared with the corresponding interim period of 1990.<sup>49</sup>

Net sales and operating income on sulfanilic acid operations decreased

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<sup>42</sup> Report at I-14-15.

<sup>43</sup> Report at I-15-16.

<sup>44</sup> Tr. at 24.

<sup>45</sup> Report at I-14-15.

<sup>46</sup> Tr. at 25-26.

<sup>47</sup> Report at I-17.

<sup>48</sup> Id.

<sup>49</sup> Id.

from 1988 to 1989. Sales continued to decline in 1990, although operating income improved. Between the interim periods of January through September 1990 to January through September 1991, net sales and operating income increased dramatically.<sup>50</sup> Capital expenditures and investment in productive facilities decreased from 1988 to 1989, and then increased somewhat in 1990. No data were provided for the interim periods.<sup>51</sup>

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<sup>50</sup> Report at I-19-20.

<sup>51</sup> Report at I-20-21.



**Additional Views of Commissioners David B. Rohr and Don Newquist**

We determine that there is a reasonable indication the domestic industry producing sulfanilic acid is threatened with material injury by reason of imports of sulfanilic acid from the People's Republic of China (PRC or China) alleged to be sold in the United States at less than fair value (LTFV). In making our determination, we particularly note that although the data do not indicate the domestic industry is currently experiencing material injury, the particular characteristics of, and the conditions of trade in, this industry make it vulnerable to the adverse effects of the rapidly increasing allegedly LTFV Chinese imports.

***Vulnerability of the Industry***

For purposes of our analysis of the vulnerability of the sulfanilic acid industry, we incorporate the discussion contained in the Condition of the Industry section of the Views of the Commission.<sup>1</sup> In making our determination, we relied on no single indicator. We conclude that the indicators as a whole reveal an industry that, based on its most recent performance, cannot be said to be currently experiencing material injury.

We note, however, that the performance of this industry appears to have experienced very pronounced swings over the period of investigation. The impressive performance achieved in most of its operating indicators for the interim 1991 period may not, therefore, reflect long or even moderate term trends. Further, while the improvement in its operating income margin is impressive, the improvement in actual operating profits is not particularly large in absolute terms nor in relation to the capital intensive nature of the production process. Therefore, while we cannot find that the data provide a reasonable indication that the industry is currently experiencing material injury, we find that the

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<sup>1</sup> See Views of the Commission, *supra*, at 11. We note that we concur in the unanimous Views of the Commission as to the definition of the like product and domestic industry. See Views of the Commission at 3.

industry remains vulnerable to the effects of allegedly unfair import competition.

*The Statutory Factors*

Section 771(7)(F) of the Tariff Act of 1930 directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of unfair imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."

The factors the Commission must consider in a threat analysis are:

(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation,

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

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>2</sup>

The determination of the Commission cannot be based on mere speculation. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class of merchandise suggest a threat of material injury to the domestic industry.<sup>3</sup>

Initially, we note that items (I), (VIII), and (IX) are not legally relevant to our determination in this investigation. This investigation involves dumping of a single non-agricultural product. Further, there is no information indicating either the development of derivative or more advanced products that would involve item (X), or that Chinese exports of sulfanilic acid have been the subject of antidumping determinations in third countries. We therefore focus our analysis on the remaining factors.

Petitioner contends that the domestic industry is threatened with material injury, due to: 1) a huge increase in the volume of allegedly LTFV Chinese imports; 2) a similarly large increase in Chinese capacity to produce such imports; 3) the rapid increase in U.S. market penetration achieved by these imports in recent months; 4) rising inventories; and 5) the probability that imports will enter the U.S. market at prices that will have a depressing effect on domestic prices. We conclude that the evidence supporting these claims provides a reasonable indication that the domestic industry is threatened with material injury by reason of LTFV imports of sulfanilic acid from the People's Republic of China.

We begin by noting that LTFV imports from the PRC, totalling just 447,000 pounds in 1990, increased dramatically in 1991. In interim (Jan.-Sept.) 1991, the subject imports totalled 2.4 million pounds, an increase of 511 percent over the 392,000 pounds imported in interim 1990.<sup>4</sup> By value, the subject imports totalled \$329,000 in 1990. In interim 1991, however, they rose to \$1.75 million, an increase of 509 percent over the \$288,000 reported

<sup>2</sup> 19 U.S.C. § 1677(7)(F)(i), as amended by 1988 Act sections 1326(b), 1329.

<sup>3</sup> See 19 U.S.C. § 1677(7)(F)(iii), as amended by 1988 Act, section 1329.

<sup>4</sup> Report, Table II.

in interim 1990.<sup>5</sup>

Specific data concerning import penetration are, in large part, confidential. However, we note that the import penetration level for 1990 was 7.8 percent. Import penetration in interim 1991 had risen to 37.6 percent compared to merely 9.5 percent in interim 1990. These levels clearly are significant, and there is at least a reasonable indication that they may become injurious, in light of sizeable reported increases in Chinese production capacity and the limited market for sulfanilic acid within China.<sup>6</sup>

As noted earlier, domestic consumption increased substantially in interim 1991. This increase, along with the departure of the Japanese from the market, was largely responsible for the significant improvement in the operating performance of the domestic industry during interim 1991. Nevertheless, due to the surge in Chinese imports which commenced in late 1990, it appears that Petitioner's sales fell in the third quarter of 1991.<sup>7</sup> By September 30, 1991, inventories had increased 93 percent over their level one year earlier.<sup>8</sup> Specific data regarding U.S. importers' inventory levels, which are confidential, also support our affirmative threat determination.<sup>9</sup>

Among the other statutory factors which we examined was the situation with respect to Chinese capacity to produce and export the allegedly LTFV imports of sulfanilic acid to the U.S. market. Much of this information is confidential and therefore cannot be discussed. We can note that our information concerning Chinese production methods and the demonstrated ability of the Chinese to expand capacity over a short period of time suggest that capacity limitations do not pose a significant barrier to the Chinese ability to

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<sup>5</sup> *Id.*

<sup>6</sup> Report at I-24, and Table 10; Tr. at 120; Petitioner's Post-Conference Brief at 11. We note that there are other export markets for Chinese sulfanilic acid in Europe, Asia and Latin America. Tr. at 103, 120. In any final investigation, we shall seek additional information on the size of those markets and on projected Chinese sales thereto, as well as evidence of excess global supply and increases in production capacity in other countries, such as Hungary and India. Tr. at 91, 98, and 124.

<sup>7</sup> Tr. at 21a (Exhibit 1).

<sup>8</sup> Tr. at 22.

<sup>9</sup> See Report at I-23; Petitioner's Post-Conference Brief at 12.



expand sales in the United States.<sup>10</sup>

We also examined the probability that future imports of the class or kind of merchandise subject to investigation will have price depressing or suppressing effects on the industry. We note, initially, that Chinese imports are primarily of refined sulfanilic acid, while the domestic industry sells primarily sodium sulfanilate. Further, the Chinese imports began to enter the United States market in significant quantities only during the first three quarters of 1991. These factors make the use of traditional price comparisons of somewhat limited utility. Despite these problems, it appears, at this time, that the Chinese refined product is selling at prices in the United States well below the domestic industry's prices for the intermediate sodium sulfanilate, and close to and sometimes below the domestic industry's price for the lower grade technical sulfanilic acid.<sup>11</sup>

The 1991 data appear to indicate, however, that the domestic industry was able to implement price increases in 1991 which sharply increased the unit value of its shipments. Coming at a time of the huge increase in Chinese imports, this suggests that possibly the Chinese imports may have little effect on domestic prices. However, we note that the price increases reportedly resulted from the domestic industry's contract sales that were negotiated before the huge amounts of new Chinese material became available in the United States markets.<sup>12</sup> It appears that these contracts are negotiated on a calendar year basis and are now subject to renewal under conditions in which the Chinese have established a significant market presence with significant available capacity.<sup>13</sup>

That the data for even the most recent quarters do not reflect the price suppressing or depressing effects of the Chinese imports is not surprising under such conditions.<sup>14</sup> The ease with which a significant number of the domestic industry's customers have switched

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<sup>10</sup> Report at I-24.

<sup>11</sup> Report at I-31 - I-32.

<sup>12</sup> We note that these contracts were also negotiated at a time immediately after the departure from the market of significant quantities of Japanese product.

<sup>13</sup> We recognize that this investigation may have a significant effect on the contract negotiation. In any final investigation, we will examine these contracts very carefully.

<sup>14</sup> We do note, however, that Petitioner appears to have had to recently rescind a published price increase due to the availability of cheaper Chinese product. See Tr. at 29.

to the imported product, and their willingness to do so given the extremely low prices of the Chinese product, suggest that these imports could have a significant price depressing or suppressing effect as the domestic industry renews its contracts for the coming year. In such conditions, we find that there is a reasonable indication that the allegedly LTFV imports will have price depressing or suppressing effects within a reasonably imminent timeframe.

Although we recognize that following the withdrawal of Japanese imports from the market, Petitioner was able to increase its production, capacity, and its prices,<sup>15</sup> the evidence appears to support R-M's contention that it now faces intense price competition from LTFV imports, consisting of not only refined sulfanilic acid, but also fairly substantial quantities of sodium sulfanilate. In any final investigation, upon verification of Petitioner's financial records, we shall further consider R-M's claim that this pressure on domestic prices may prevent it from selling its output at a break even point, and thereby force R-M to exit this business entirely within one year.<sup>16</sup>

In regard to the negative effects of LTFV imports on the domestic industry's development and production, Petitioner has already begun to lay off employees.<sup>17</sup> Looking to the future, R-M contends that recently imposed environmental standards are likely to significantly increase its costs of production,<sup>18</sup> and thereby increase Petitioner's vulnerability to injury by LTFV imports.

We therefore conclude that there is a reasonable indication that allegedly LTFV Chinese imports pose a real and imminent threat of material injury to the domestic industry.

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<sup>15</sup> Report at I-14 - I-15; Tr. at 51.

<sup>16</sup> Tr. at 35. Respondents appear to concede that if Petitioner left the business, as happened to at least one large domestic producer in 1984, it is highly unlikely that another U.S. producer would be able to enter this market. Tr. at 98.

<sup>17</sup> Tr. at 25 - 26.

<sup>18</sup> Tr. at 36-38.

Additional Views of Acting Chairman Anne E. Brunsdale  
Sulfanilic Acid from the People's Republic of China  
Inv. No. 731-TA-538 (Preliminary)

I concur in the Commission's determination that there is a reasonable indication that the domestic industry producing sulfanilic acid is materially injured or threatened with material injury by reason of allegedly dumped imports from the People's Republic of China (PRC).<sup>1</sup> The Views of the Commission adequately discuss the issues of like product and condition of the domestic industry. In these additional views I will comment briefly on that discussion and then focus these remarks on causation.

The discussion on like product provides adequate support for the preliminary conclusion that there is one domestic like product. Refined sulfanilic acid (refined) has not been produced in the U.S. since 1989 and, due to high manufacturing costs and environmental hazards, is unlikely to be produced here again. Therefore, it is questionable whether it should be considered a domestic like product. The discussion comparing refined sulfanilic acid and sulfanilic acid sodium salt (salt) in the like product analysis is relevant, however, in determining how substitutable the domestic salt is for the refined product from the PRC.

The discussion on condition of the industry is important in

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<sup>1</sup> Material retardation of the establishment of a domestic industry is not an issue in this investigation.

deciding whether any injury resulting from the dumped imports is material. I do not, however, reach a separate legal conclusion on material injury based on the health of the industry.<sup>2</sup>

My approach to preliminary determinations is governed by American Lamb v. United States.<sup>3</sup> The Court held there that a negative determination is appropriate only when "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."

This does not mean, of course, that the absence of some information normally considered in a final investigation would require the Commission to find in the affirmative in a preliminary investigation.<sup>4</sup> Clearly, given the short time period allowed in a preliminary investigation, the burden of requiring

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<sup>2</sup> I do not believe that a separate legal conclusion on the presence or absence of material injury can be reached by simply reviewing the condition of the industry. Such a conclusion is not required by the statute, nor does it serve any useful purpose. See Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 10-15 (Views of Chairman Brunsdale and Vice Chairman Cass).

<sup>3</sup> 785 F.2d 994 (Fed. Cir. 1986).

<sup>4</sup> Id., at 1001-04. "Clear and convincing" evidence supporting a negative determination must be "substantial," and more than a preponderance of the evidence. Since the Commission is permitted to weigh the evidence in the record, however, a negative preliminary determination may be issued if some evidence supports an affirmative determination, and even if some reasonable doubt exists as to whether a negative determination is warranted. See, e.g., Buildex Inc. v. Kason Industries, Inc., 849 F.2d 1461, 1463 (Fed. Cir. 1988).

that all information be collected in order to find in the negative would nearly preclude such a finding. Rather, I consider the relation of any missing information to the likely disposition of a final investigation. In cases where there is a question as to what the evidence would show in a final investigation, as instructed by the statute, I give every benefit of the doubt to petitioner.

Reasonable Indication of Material Injury by Reason of Allegedly Dumped Imports

The statute requires a reasonable indication that material injury to the domestic industry is "by reason of" the allegedly dumped imports. In assessing the effect of dumped imports, I compare the current condition of the domestic industry to that which would have existed had imports not been dumped. Then, taking into account the condition of the industry, I determine whether the resulting change of circumstances constitutes material injury. I do not believe that it is necessary or sufficient to find that an industry has been declining or is in "poor condition" in some absolute sense in order to find in the affirmative. Furthermore, I find that underselling, i.e. imports priced cheaper than the domestic products, alone, is not a sufficient basis for a causation finding, particularly in a case like this one where there are clear differences between the domestic like product and the imported product.

In assessing whether material injury is by reason of dumped

imports, the statute instructs the Commission to consider, among other factors: (1) the volume of the imports subject to the investigation, (2) the effect of those imports on prices in the United States for like products, and (3) the impact of those imports on domestic producers of like products<sup>5</sup>

In considering the volume of imports, I take into account the volume both in absolute terms and in terms of their share of the relevant market. I also consider the dumping margin, or in a preliminary investigation the alleged dumping margin, so that I can determine the likely effect that dumping would have on the price and volume of subject imports. The higher the dumping margin the greater the difference between the dumped price of imports and their price at fair value. This, in turn, affects the magnitude of the increased volume of unfair imports.

In this case, imports from the PRC accounted for a small share of the domestic market until the interim period, when their share increased substantially to 28 percent.<sup>6</sup> On the other hand, fairly traded imports captured a large part of the market until interim 1991, when their share declined.<sup>7</sup> The market share of the domestic producers decreased throughout the period of investigation until the interim period when it increased slightly.

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<sup>5</sup> See 19 U.S.C. 1677(7)(B).

<sup>6</sup> In order to give the benefit of the doubt to petitioner, I base my affirmative determination on the Chinese market share attained during the interim period.

<sup>7</sup> Report at I-28, Table 12.

In a preliminary investigation, the only information on the dumping margin is contained in the allegations of the petitioner. In this case, petitioner alleges dumping margins from 43.7 to 94.1 percent.<sup>8</sup> The dumping margin indicates the maximum increase in the domestic price of imports if they were being sold at fair value. In other words, petitioner alleges that imports from the PRC would have been a maximum of 94.1 percent more expensive, had they been sold at fair value.

In considering the impact of the dumped imports on the prices in the United States of the like product and on domestic producers, I look at the underlying economics of the market. First, I examine the relationship between the price of a product and the quantity demanded of that product. If a small decline in price would lead to a large increase in purchases, then the effect of dumped imports on the domestic industry would be mitigated. When dumping ceased, prices would rise and demand would contract, leaving the domestic producer only slightly better off. There appears to be no close substitute for sulfanilic acid and its sodium salt and there is no other indication, at this point, that demand for sulfanilic acid is price sensitive. Therefore, it is likely that producers of dumped imports took sales away from either domestic producers or producers of fair imports.

Second, I examine the substitutability of the like product, the subject imports, and the fairly traded imports in the eyes of

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<sup>8</sup> Report at I-10, n. 27.

consumers. If the domestic like product and the subject imports are quite different, then it is less likely that consumers of the domestic like product would switch to the import, given a small reduction in the import's price. If they are identical, one would expect consumers to switch quite readily. If fairly traded imports are a better substitute for the unfair imports than the domestic like product, it is likely that dumping would hurt producers of fairly traded imports more than domestic producers.

Substitutability is the most important issue that will need to be explored in a final investigation. While it appears that producers can use both the imported refined acid and the domestic salt, many stated a preference for one or the other.<sup>9</sup> It is unclear at this time how costly it is for a customer to use its "second-choice" product. It is also unclear how big a role transport costs play in a buyer's decision. Finally, since such a large proportion of imports of refined sulfanilic acid are "fairly traded," it is unclear whether firms would buy more "fair" imports or would buy more of the domestic like product if dumping duties were imposed on the Chinese product.

The data support the hypothesis that the Chinese product took market share from other importers rather than from the domestic like product. Because this is a preliminary determination, however, I have given the benefit of the doubt to petitioners and assumed the products are reasonably close

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<sup>9</sup> There is also some evidence that Chinese salt may be of lower quality than domestic salt.



substitutes. In a final investigation, I hope petitioner and respondent will provide more information on this issue.

Finally, I consider the likelihood that domestic firms and foreign firms would alter their sales in the United States if the price of the product changed. This gives me an indication whether there would be a greater change in the price of the domestic like product or in the volume of output, as a result of the dumping.

It appears that domestic firms could increase output if price increased. Chinese producers are operating at close to capacity and at present ship most of their product to the United States. Therefore, it is unclear whether they could increase sales in the United States significantly. We also do not have a clear picture of the capacity of producers of "fair imports" at this time.

In conclusion, based on the relatively high dumping margins alleged in this case and the large market share of the Chinese during the interim period, there is a reasonable indication that the domestic industry producing sulfanilic acid has been materially injured by reason of dumped imports from the PRC. While all factors that I discussed above are relevant, the ones that needs the most further exploration in the final investigation are the substitutability between the domestic like product and the subject imports and the relative importance of fairly traded imports in the domestic market.



## Additional Views of Commissioner Lodwick

The Commission must determine whether there is a reasonable indication that the domestic industry has suffered material injury by reason of the subject imports.<sup>1</sup> Material injury is defined as "harm which is not inconsequential, immaterial or unimportant."<sup>2</sup>

When making a determination as to whether there is a reasonable indication of material injury, the statute requires the Commission to consider the following factors in each case:

- (I) the volume of imports of the merchandise which is the subject of the investigation,
- (II) the effect of imports of that merchandise on prices in the United States for like products, and
- (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations in the United States;<sup>3</sup>

The Commission may consider other factors it deems relevant, but must explain why they are relevant.<sup>4</sup>

When determining whether material injury to the domestic industry is "by reason of" the imports under investigation, the Commission may take into account information concerning other causes of harm to the domestic industry, but it is not to weigh causes.<sup>5</sup> The imports need only be

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<sup>1</sup> 19 U.S.C. § 1673b(a)(1)(A).

<sup>2</sup> 19 U.S.C. § 1677(7)(A).

<sup>3</sup> 19 U.S.C.(7)(B)(i).

<sup>4</sup> 19 U.S.C. § 1677(7)(B)(ii).

<sup>5</sup> S. Rep. No. 249, 96th Cong. 1st Sess. 57-58, 74 (1979).

a cause of material injury.<sup>6</sup>

### Condition of the U.S. Industry

In evaluating the U.S. sulfanilic acid industry, it is apparent that the condition of the industry deteriorated from 1988 to 1990 but recovered to some degree from interim period 1990 to interim period 1991. As indicated in the Commission's joint views, many of the U.S. industry's relevant economic factors showed declines or had negative trends from 1988 to 1990. There is also some data suggesting that the U.S. industry has been doing worse than expected.

The U.S. sulfanilic acid industry lost a considerable amount of its share of apparent U.S. consumption during a period of falling consumption from 1988 to 1990.<sup>7</sup> Not only were U.S. shipments falling from 1988 to 1990, but they were falling faster than apparent U.S. consumption in relative and absolute amounts.<sup>8</sup> Thus, U.S. capacity utilization, production, net sales and exports fell from 1988 to 1990.<sup>9</sup> But, inventories as a percent of shipments also rose as did selling, general and administrative expenses.<sup>10 11</sup> I also note the considerable rise in unit values of domestic shipments from 1988 to 1990.<sup>12</sup> It appears that, despite rising prices, the condition of the U.S.

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<sup>6</sup> See, e.g., Granges Metallverken AB v. United States, 716 F. Supp. 17, 25 (Ct. Int'l Trade 1989); LMI-La Metall Industriale, S.p.A. v. United States, 712 F. Supp. 959, 971 (Ct. Int'l Trade 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (1988).

<sup>7</sup> Report at I-11, Table 1 and at I-28, Table 12.

<sup>8</sup> Of note is the R-M decision to discontinue production of refined sulfanilic acid in 1989 and sell sodium sulfanilate to those consumers who had previously purchased refined sulfanilic acid. Report at I-12.

<sup>9</sup> Report at I-15, Table 2 and at I-20, Table 7.

<sup>10</sup> Report at I-17, Table 4.

<sup>11</sup> I note the caution by staff regarding the reliability of the income-and-loss statements. Report at I-20.

<sup>12</sup> Report at I-16, Table 3. Part of this price increase can be explained by a shift in the domestic product mix from technical sulfanilic acid to sodium sulfanilate, a further processed product. However, both the price of technical and sodium sulfanilate appeared to rise from the

industry has deteriorated from 1988 to 1990 as the U.S. industry has had trouble moving its inventories and selling its products.

Despite the sudden departure of some of the nonsubject imports and a swift rise in U.S. consumption from interim period 1990 to interim period 1991, the U.S. industry, while increasing its number of shipments, gained back very little market share in quantity or value terms during this period of time.<sup>13</sup> Rather, the bulk of the increase in apparent U.S. consumption was captured by the allegedly LTFV Chinese imports. I note that the decline in Japanese imports, from interim period 1990 to interim period 1991, consisted of refined sulfanilic acid and that the rapid increase in imports from China during that period also consisted of refined sulfanilic acid.<sup>14</sup> While the U.S. industry has not produced refined sulfanilic acid since 1989, there are questions of substitutability of sodium sulfanilate supplied by the domestic industry for refined sulfanilic acid in the types of enduses demanded by U.S. buyers. There is conflicting testimony from parties and users on this point.<sup>15 16</sup> This aspect of the conditions of competition needs to be developed further in any final investigation to aid in the understanding of the decisions made by producers, importers and users in this market.

As refined or pure sulfanilic acid and sodium sulfanilate generally have few impurities and are often priced the highest because of further processing, it would appear that users of technical sulfanilic acid would be able to use sodium sulfanilate or refined sulfanilic acid in their processes if price differentials between the forms of sulfanilic acid warranted the substitution. However, the

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beginning of 1988 to the end of 1990. Report at I-31, Table 13. A question to answer in any final investigation is whether U.S. producers are selling more sodium sulfanilate because they face price pressure on technical sulfanilic acid sales due to prices of imported refined sulfanilic acid.

<sup>13</sup> Report at I-28, Table 12.

<sup>14</sup> Report at I-25.

<sup>15</sup> Report at I-18-19 and I-28-29.

<sup>16</sup> Petitioner's Post Conference Brief at 3-5, Respondent's Post Conference Brief at 13-19.

opposite substitution of technical sulfanilic acid for sodium sulfanilate or refined sulfanilic acid in an enduse may be physically difficult to do, no matter what the price differentials, depending on the maximum level of impurities tolerated by the end use.<sup>17</sup>

As noted in the like product discussion in the Commission's joint views, I find that technical sulfanilic acid, sodium sulfanilate and refined sulfanilic acid are one like product and are to some degree substitutable in enduses. Therefore I find that the decline in U.S. market share by domestic producers from 1988 to 1990 and their limited gains in market share during the interim period indicate that there is a reasonable indication that an industry in the U.S. producing sulfanilic acid is materially injured.

#### **Material Injury By Reason of LTFV Imports**

The possibility of a limited one way substitutability between the forms of sulfanilic acid raises serious questions about injury and causation during the period of investigation. If most of the present users of refined sulfanilic acid are unable to use technical sulfanilic acid or sodium sulfanilate in their enduse<sup>18</sup>, then rapid increases in Chinese imports of refined sulfanilic acid filling the void left by non-Chinese importers of refined sulfanilic from interim period 1990 to interim period 1991 could be seen as a normal noninjurious market response to domestic producers' inability to supply sulfanilic acid to users requiring this form of sulfanilic acid.<sup>19</sup> If U.S. sulfanilic acid producers are unable profitably to produce and sell technical sulfanilic acid or sodium

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<sup>17</sup> Whether the maximum level of impurities in an enduse can be adjusted depending on the prices of inputs is another consideration that may warrant exploring in any final investigation.

<sup>18</sup> This may be indicated by a large majority of users having technical specifications requiring maximum impurity levels less than those normally found in technical sulfanilic acid.

<sup>19</sup> Respondents argue that Petitioner was forcing endusers to accept an environmentally undesirable product. Endusers unwilling to refine the Petitioner's technical grade turned to imports instead. Respondent's Post Conference Brief at 21.

sulfanilate due to low prices of imported refined sulfanilic acid, or if endusers, able to use technical sulfanilic acid in their processes or able to refine technical sulfanilic acid themselves, buy imported refined sulfanilic acid because of favorable price differentials, then rapidly increasing imports of refined sulfanilic acid can be viewed as having an adverse affect on the domestic industry producing technical sulfanilic acid and sodium sulfanilate.

Information gathered for the period of investigation indicates that imports of sulfanilic acid from China increased rapidly. Chinese import penetration by quantity rose from less than 5% in 1988 to 7.8% in 1990 and then jumped from 9.4% in interim 1990 to 36.5% in interim 1991. Chinese import penetration by value rose from less than 5% in 1988 to 6.6% in 1990 and then bounded from 8.3% in interim 1990 to 28.7% in interim 1991.<sup>20</sup> More important, some of these increases in relative and absolute quantities of Chinese imports occurred during a period of falling apparent U.S. consumption and sharply falling U.S. shipments from 1988 to 1990.<sup>21</sup> During the interim periods, Chinese imports also captured most of the increase in U.S. apparent consumption.

Chinese imports by quantity rose from being less than 10% of total imports in 1988 to constituting over 55% of total imports in interim 1991. Their greater presence enabled Chinese imports increasingly to influence price and marketing decisions in the U.S. market. An examination of per unit values indicates that Chinese prices were at least 15% less than the per unit values of competing imports throughout the period of investigation.<sup>22</sup> If both Chinese and non-Chinese imports being sold in the U.S. market were predominately refined sulfanilic acid, it is obvious why the Chinese rapidly increased their market share in the U.S. market by consistently selling their products at this level of price differential. In fact, Chinese per unit values, presumably for refined

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<sup>20</sup> Report at I-28, Table 12.

<sup>21</sup> Report at I-28, Table 12.

<sup>22</sup> Report at I-26.

sulfanilic acid<sup>23</sup>, were considerably less than U.S. per unit values and U.S. delivered prices for technical sulfanilic acid and sodium sulfanilate.<sup>24</sup> If these unit value differentials represent prices made available to users of sulfanilic acid during the period of investigation, the rapid market penetration by the Chinese and the inability by domestic producers to fill a large portion of the void left by the non-Chinese imports are very likely consequences of these price differentials.<sup>25</sup>

As indicated in the staff report, there are few direct price comparisons possible between U.S. produced and Chinese imported sulfanilic acid. However, of note, are relative delivered price levels of U.S. produced and imported Chinese refined sulfanilic acid.<sup>26</sup> Though the prices for U.S. produced and Chinese imports are for different time periods, notice that even though the U.S. producer was receiving prices often in excess of \$1.00 per pound in 1988 and 1989, the U.S. producer decided to terminate production of refined sulfanilic acid by the end of 1989.<sup>27</sup> However, in 1991, Chinese imports of refined sulfanilic acid was coming in at less than \$.90 per pound, which is less than the prices that U.S. produced refined sulfanilic acid received two years earlier. Moreover, this imported refined sulfanilic acid was coming in prices lower than that of domestic sodium sulfanilate. Unless, there is evidence that U.S. producers can restart production of refined sulfanilic acid at costs lower than those previously incurred in 1988 and 1989 or sell sodium sulfanilate profitably at lower prices, current prices of imports of Chinese refined sulfanilic acid

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<sup>23</sup> Report at I-32.

<sup>24</sup> Report at I-11, Table 1, at I-26, Table 11 and at I-31, Table 13.

<sup>25</sup> Petitioner states that refined sulfanilic acid offered by the PRC has replaced its technical sulfanilic acid and sodium sulfanilate. Petitioner's Post Conference Brief at 10.

<sup>26</sup> Report at I-32, Table 14.

<sup>27</sup> I recognize that R-M discontinued refined sulfanilic acid production in 1989 due, in part, to high manufacturing costs and contaminated waste water. However, import unit values, were less than \$.90 per pound in 1988 and 1989 for predominantly refined sulfanilic acid which were considerably less than the U.S. prices for refined sulfanilic acid during that period. Report at I-26, Table 11, at I-27 and at I-32, Table 14.



effectively curtail any U.S. profitable production of sulfanilic acid to fill the void left by non-Chinese imports and growing U.S. consumption of sulfanilic acid in interim 1991.

An examination of the lost sales and revenue information reveals that one witness said that Chinese sodium sulfanilate is currently available at about \$.80 per pound; this compares to a current U.S. produced price of well over \$1.00 per pound of sodium sulfanilate.<sup>28</sup>

It appears that U.S. producer prices have generally risen, especially for sodium sulfanilate, throughout the period of investigation.<sup>29</sup> Import unit values while rising, appear to have risen less than U.S. unit values during the period.<sup>30</sup> One could argue that U.S. producers are increasing their income or cash flows during a period of rising prices and consumption instead of seeking to expand their market share by matching the import prices or products offered to U.S. buyers of sulfanilic acid.<sup>31 32</sup> However, this short term income behavior affects U.S. producers' ability to compete in the future. This strategy has detrimental long run impacts on market share strategies and future market power by domestic producers. Petitioner testified that rapid market increases by the Chinese inhibited U.S. growth, stalled price increases, hurt employment and reduced sales.<sup>33</sup> Petitioner also testified that if imports from China continue, they could force the U.S. company into bankruptcy if the company is unable to produce at sufficient volumes to meet the break even

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<sup>28</sup> Report at I-31.

<sup>29</sup> Report at I-31, Table 13.

<sup>30</sup> Report at I-26, Table 11.

<sup>31</sup> Petitioner notes that its sulfanilic acid business was profitable the fourth quarter of 1990 and the first five months of 1991 but that sales lost to the PRC have caused losses since May 1991. Petitioner's capacity utilization was 60% for technical grade and less than 75% for sodium sulfanilate. Petitioner also estimates that lost sales represent more than 40% of total sales last year. Petitioner's Post Conference Brief at 10-11.

<sup>32</sup> This behavior may be consistent with the financial situation that R-M Industries is in. Report at I-18 to I-22.

<sup>33</sup> Report at E-3.

point.<sup>34</sup>

Therefore, based on rapidly increasing imports of sulfanilic acid from China and evidence of price underselling by these imports, I find that there is a reasonable indication that the U.S. sulfanilic acid industry has been injured by allegedly LTFV imports from China.

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<sup>34</sup> Petitioner also states that they will be unable to replace their reactors on schedule if sales revenues continue to fall below the breakeven point. Petitioner's Post Conference Brief at 12.

**INFORMATION OBTAINED IN THE INVESTIGATION**



## INTRODUCTION

On October 3, 1991, a petition was filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by R-M Industries, Inc. (R-M), Fort Mill, SC, alleging that an industry in the United States is being materially injured, and is threatened with further material injury, by reason of imports from the People's Republic of China (China) of sulfanilic acid<sup>1</sup> that are alleged to be sold in the United States at less than fair value (LTFV). Imports of sulfanilic acid are provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States (HTS).

Accordingly, effective October 3, 1991, the Commission instituted antidumping investigation No. 731-TA-538 (Preliminary), under section 733(a) of the Tariff Act of 1930 (the act), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

The statute directs the Commission to make preliminary determinations within 45 days of receipt of the petition, or in this case by November 18, 1991. Notice of the institution of this investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 10, 1991 (56 F.R. 51236). Commerce published its notice of institution in the Federal Register of October 29, 1991 (56 F.R. 55659).<sup>2</sup> The conference was held on October 24, 1991,<sup>3</sup> and the Commission's vote in this investigation was held on November 13, 1991. The Commission has not conducted a previous investigation on the subject product.

## THE PRODUCT

## Product Description

Sulfanilic acid and sodium sulfanilate<sup>4</sup> are grey-white to white crystalline solids. All grades of sulfanilic acid (also called 4-aminobenzenesulfonic acid) and its monosodium salt, sodium sulfanilate (4-aminobenzenesulfonic acid, monosodium salt) imported from China are the subject of this investigation. Sulfanilic acid is assigned the Chemical Abstracts Service registry number CAS 121-57-3, while the sodium salt is assigned the number CAS 515-74-2. According to the petitioner, sulfanilic acid is produced in two grades, namely, technical (or crude) sulfanilic acid,

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<sup>1</sup> The products covered by this investigation include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium sulfanilate (or sulfanilic acid, sodium salt).

<sup>2</sup> Copies of the Commission's and Commerce's notices are shown in app. A.

<sup>3</sup> A list of witnesses appearing at the conference is presented in app. B.

<sup>4</sup> These products are often collectively referred to in the industry and in this report as "sulfanilic acid."

and refined (or pure) grade. On the other hand, sodium sulfanilate is produced and sold in only one grade. There appear to be no universally defined grade distinctions for either the acid or its monosodium salt, except for a third grade specified by the American Chemical Society (ACS reagent grade). Sulfanilic acid and sodium sulfanilate are used to produce synthetic dyes (including food colorants) and optical brightening agents, and are used in concrete additives.

### Manufacturing Processes

The chemistry for producing sulfanilic acid and its monosodium salt is the same for all U.S. and Chinese producers and is commonly called the "baking process" (see figure 1).<sup>5</sup> The synthesis of sulfanilic acid is accomplished by first combining aniline with sulfuric acid in equimolar quantities.<sup>6</sup> This results immediately in the formation of the sulfuric acid salt of aniline, aniline hydrogen sulfate. The aniline hydrogen sulfate is then heated (or "baked") to convert it to crude sulfanilic acid, which is purified by neutralizing the acid with an inorganic base, such as sodium hydroxide (caustic soda) or sodium carbonate, to form sodium sulfanilate, which is soluble in water. Then the aqueous sodium sulfanilate solution can then be filtered to remove any particulate impurities and either dried to isolate the sodium sulfanilate, or made acid with additional sulfuric acid to precipitate a purified form of sulfanilic acid.

The petitioner conducts the synthesis of crude sulfanilic acid \*\*\*. To further purify the acid to meet customer specifications, the technical-grade material is converted into the sodium salt by the addition of aqueous sodium hydroxide. The solution, 30 percent by weight sodium sulfanilate, is heated to 60°C and filtered to remove the insoluble materials. The hot solution is then treated with activated charcoal (carbon), which absorbs a large portion of the remaining aniline and other undesirable organic contaminants.<sup>7</sup> The aqueous solution is then either loaded into tank trucks for delivery to customers, or dried and packaged as a free-flowing powder into packages containing 60 pounds equivalent weight of sulfanilic acid as the sodium salt. According to the petitioner, the only other U.S. producer of sulfanilic acid, Hilton Davis Co., uses a process similar to the petitioner's in order to minimize the risk of exposing production workers to the hazards associated with aniline and sulfuric acid.

Both the petitioner and the respondents agree that the Chinese producers use the more traditional process of mixing the two reactants (aniline and

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<sup>5</sup> H.E. Fierz-David and L. Blangey, Fundamental Processes of Dye Chemistry, (New York: Interscience Publishers, Inc., 1949), pp. 126-128.

<sup>6</sup> Addition in "equimolar" quantities refers to the practice of adjusting the weights of each chemical added such that a one-to-one ratio of molecules is maintained in the reaction mixture.

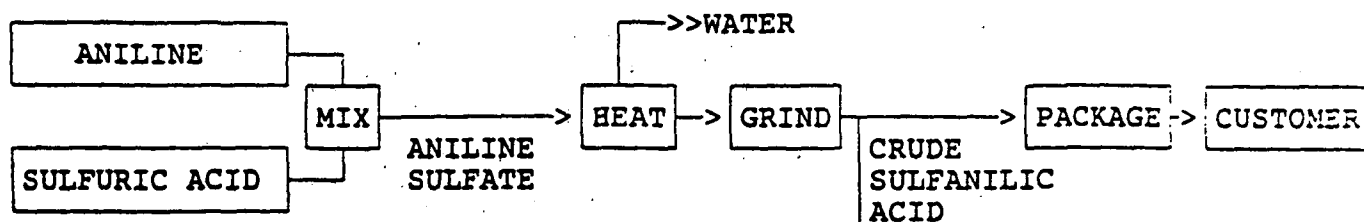
<sup>7</sup> The removal of aniline is a necessary step for certain end uses of sulfanilic acid and its monosodium salt, particularly in the production of dyes (including food, drugs, and cosmetics (FD&C) colorants) and optical brighteners. The presence of aniline in the dyes and brighteners production processes leads to off-colored material which cannot be sold.

Figure 1

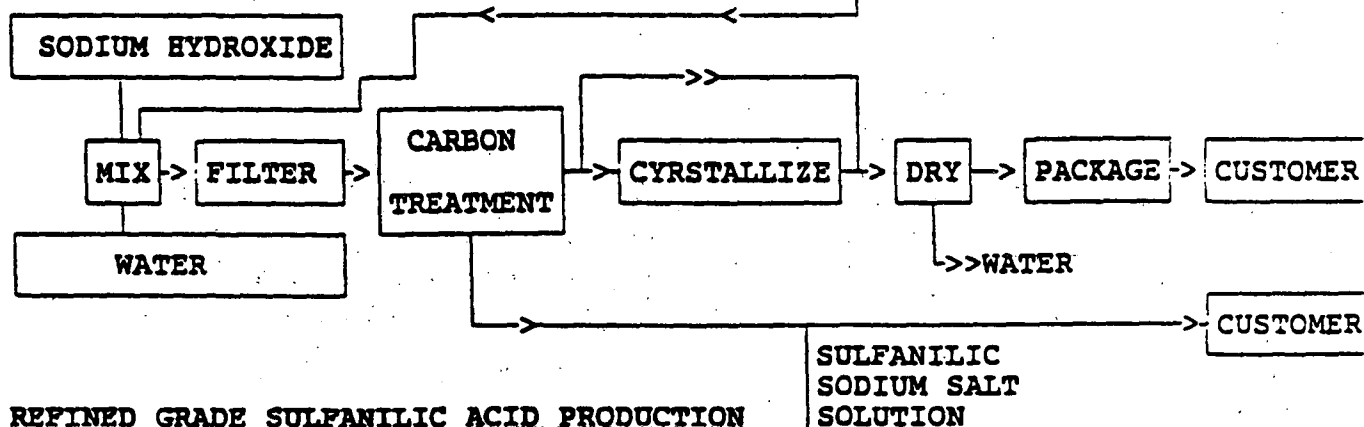
Sulfanilic acid: Flow diagram for the production of technical sulfanilic acid, sodium sulfanilate, and refined sulfanilic acid

SIMPLIFIED SULFANILIC FLOW DIAGRAM

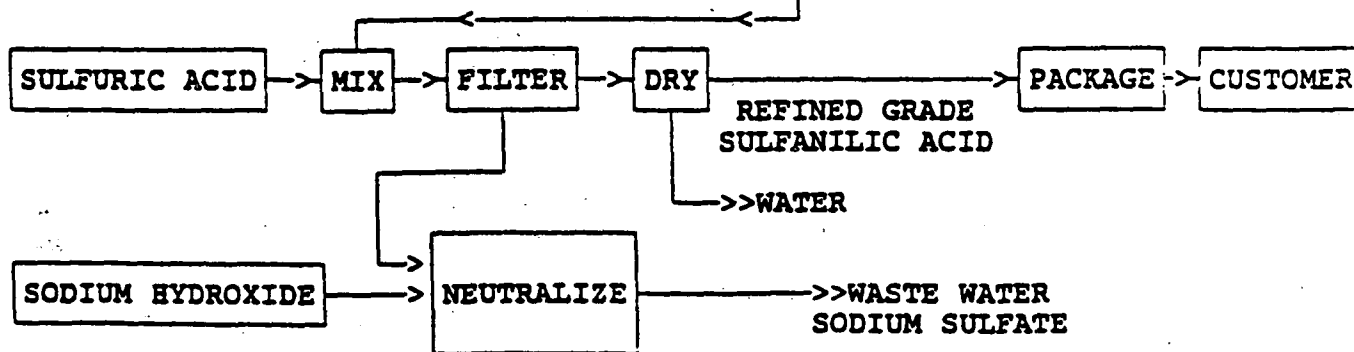
CRUDE (TECHNICAL) SULFANILIC ACID PRODUCTION



SULFANILIC ACID SODIUM SALT PRODUCTION



REFINED GRADE SULFANILIC ACID PRODUCTION



Source: Petition, Attachment A.

sulfuric acid) together in an open vessel, then pour the paste into metal pans that are transferred to an oven.<sup>8</sup> After heating, the solid sulfanilic acid chunks are broken into smaller pieces using manual labor, and then pulverized into a powder form. \*\*\*. The sodium salt is produced by a process similar to the petitioner's. However, a portion of the aqueous solution of sodium sulfanilate is acidified, and the resulting purified sulfanilic acid is dried and packaged for shipment.

### Uses

Sulfanilic acid and sodium sulfanilate are used in the production of optical brighteners, synthetic organic dyes (including FD&C colorants), and to produce a certain concrete additive. The particular purity, chemical form, and physical form preferred depend on the end user's process. In all cases, the source of sulfanilic acid used for the production of synthetic organic dyes and optical brighteners must be refined material (either sodium sulfanilate or refined sulfanilic acid), generally meeting or exceeding the end user's specifications with respect to the nature and amount of contained impurities. Technical grade sulfanilic acid is used principally as a raw material to produce sodium sulfanilate and in the production of a chemical used for special concretes.

### Optical Brighteners

Optical brighteners, particularly paper brighteners, constitute the largest single end use for refined sulfanilic acid and sodium sulfanilate (approximately 50 percent of total annual U.S. consumption). Also known as fluorescent whitening agents (FWAs) or fluorescent brightening agents, optical brighteners are synthetic organic chemicals used to compensate optically for the yellow cast obtained when white textiles or paper are bleached to remove colored impurities.<sup>9</sup> Optical brighteners are also used to enhance the whiteness of plastics and paints, and as detergent additives. Sulfanilic acid or its monosodium salt, as in the case of food colorants and other synthetic organic dyes, contribute a unique portion of the chemical structure of FWAs and, therefore, have no substitutes. Commission records indicate that there were a total of six domestic producers of FWAs in 1989.<sup>10</sup>

### Food Colorants

Approximately 20 to 25 percent of the U.S. consumption of all refined sulfanilic acid and sodium sulfanilate combined is used to produce two FD&C colorants--namely tartrazine, or FD&C Yellow No. 5 (CAS 12225-21-7), and sunset yellow, or FD&C Yellow No. 6 (CAS 15790-07-5).<sup>11</sup> Commission records

<sup>8</sup> Fundamental Process of Dye Chemistry, pp. 126-128.

<sup>9</sup> Encyclopedia of Chemical Technology, vol. 4, 1978.

<sup>10</sup> Synthetic Organic Chemicals, United States Production and Sales, 1989, USITC publication 2338, Dec. 1990.

<sup>11</sup> Daniel M. Marmion, Handbook of U.S. Colorants for Food, Drugs and Cosmetics, (New York: John Wiley and Sons, Inc., 1979), pp. 56-57.



show that there were three producers of FD&C Yellow No. 5, and four producers of FD&C Yellow No. 6, in 1989.<sup>12</sup> FD&C Yellow No. 5 was manufactured by Hilton Davis, McCormick and Company, Inc., and Warner-Jenkinson Company.<sup>13</sup> FD&C Yellow No. 6 was produced by the Crompton and Knowles Corp., Hilton Davis, McCormick, and Warner-Jenkinson. Of the firms producing these two colorants, only Hilton Davis is back integrated to sulfanilic acid production.

Because its unique chemical structure is essential to both the chemical structure and color properties of FD&C Yellows Nos. 5 and 6, no other chemicals can substitute for sulfanilic acid or its monosodium salt in these applications. These two FD&C colorants are approved for use in gelatin desserts, ice cream and frozen desserts, carbonated beverages, dry powdered drinks, candy and confectionery products that are oil- and fat-free, bakery products and cereals, and puddings.<sup>14</sup> FD&C Yellow No. 5 is approved for ingested use only,<sup>15</sup> whereas FD&C Yellow No. 6 has no use restrictions.<sup>16</sup>

### Specialty Synthetic Organic Dyes

Refined sulfanilic acid or its monosodium salt are the basis for a large number of azo dyes. Azo dyes have no similar analogs among natural coloring matter.<sup>17</sup> These dyes are adaptable to a wider variety of applications than any other dye group, including uses with all natural and synthetic fibers.<sup>18</sup>

### Concrete Additives

Crude (technical) grade sulfanilic acid is used to produce a chemical, which when added to specialty concretes reduces the amount of water required. This lighter material is used in the construction of high-rise buildings. Although refined sulfanilic acid could be used in this application, cost factors favor the technical grade material. This end use for sulfanilic acid is probably the smallest market for this chemical, although this market has been growing in recent years.

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<sup>12</sup> Synthetic Organic Chemicals, United States Production and Sales, 1989.

<sup>13</sup> In 1989, Warner-Jenkinson purchased the food dyes operations of the McCormick Company.

<sup>14</sup> Kirk-Othmer, Encyclopedia of Chemical Technology, 3d ed., vol. 6, 1978, (New York: John Wiley and Sons, 1978).

<sup>15</sup> In the Federal Register of Feb. 4, 1977, the Food and Drug Administration proposed that the use of FD&C Yellow No. 5 in drugs be declared in the form of a precautionary label statement, i.e., "this product contains FD&C Yellow No. 5 which may cause allergic-type reactions in certain susceptible individuals." Also proposed was that FD&C Yellow No. 5 not be permitted in analgesic, antihistaminic, cough and cold, oral nasal decongestant, and antiasthmatic drugs.

<sup>16</sup> No colorant is certified for use in the area of the eye. In addition, no color additive is certified for use in injectable drugs or surgical sutures unless specifically stated for such use.

<sup>17</sup> K. Venkataraman, Synthetic Dyes, vol. I, (New York: Academic Press, Inc., 1982), p. 409.

<sup>18</sup> Synthetic Dyes, p. 410.

## Substitute Products

In the production of FD&C Yellow Nos. 5 and 6, certain FWAs, and specialty azo dyes, sulfanilic acid or its monosodium salt provides a unique portion of the molecular structure of these chemicals and, therefore, has no chemical substitutes. The singular molecular identity of a chemical accounts for the physical properties associated with that chemical, particularly, in the case of dyes, their color (or chromophoric) properties. All respondents to Commission questionnaires for this investigation responded that there were no other chemical substitutes for sulfanilic acid or sodium sulfanilate for their respective end-use applications. However, Sandoz and \*\*\* contend that, in their opinion, the refined acid is not directly interchangeable with the sodium salt since their production lines are built around the addition of the refined acid as a starting material for synthesis of their products.<sup>19</sup> Both firms have in the past used the sodium salt in their processes, but stated that this resulted in increased costs and loss of process efficiency because additional chemicals (i.e., sulfuric acid) and time were required to adapt their production lines to accept the salt solution.<sup>20</sup>

\* \* \* \* \*

From the information provided by the industry representatives contacted by Commission staff, it seems clear that the refined acid and its monosodium salt have been used interchangeably by the domestic industry. Although a particular consumer may have a material preference in deciding which form of the chemical to purchase, if supply disruptions occur, the refined acid can be substituted for the salt and vice versa in all major end-use applications.

## Like Product Positions

R-M argues that the "like product" is technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate, because the physical characteristics are similar<sup>21</sup> and are all used in the production of optical brighteners, food colors, specialty dyes, and concrete additives;<sup>22</sup> they are interchangeable; the channels of distribution are the same; there are common manufacturing facilities and employees; and producer and customer perceptions are the same.<sup>23</sup> Counsel for respondents argues that the technical sulfanilic acid and sodium sulfanilate that R-M produces are not "like" the imported refined

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<sup>19</sup> Testimony of Robert Beck, purchasing manager, Sandoz Chemical Corp., at the Commission's public conference held on Oct. 24, 1991, and telephone conversation with \*\*\*.

<sup>20</sup> In a telephone conversation with Commission staff, \*\*\*.

<sup>21</sup> They all provide the same molecular entity in the synthesis of the downstream products.

<sup>22</sup> All of R-M's major customers have used sulfanilic acid for the same applications. These customers are \*\*\*; postconference brief, pp. 3-4.

<sup>23</sup> For a more detailed discussion of "like product" see pages 8-19 of the petition, pages 8-15 of the transcript of the conference (TR), and R-M's postconference brief, pp. 3-5.

sulfanilic acid. Counsel argues that the products are not interchangeable<sup>24</sup> and that end users who purchase the refined product would need additional chemicals, manufacturing equipment, and labor time if they were to use either of the other products.<sup>25</sup>

Insofar as the "domestic industry" is concerned, petitioner states that because the like product is technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate, the domestic industry consists of the producers of the same. Counsel for respondents argues that because the product imported from China, refined sulfanilic acid, is not produced by the petitioner, the petitioner lacks the legal standing to file the petition.<sup>26</sup>

### U.S. Tariff Treatment

As of February 1980, all U.S. imports from China are eligible for entry under the rates of duty afforded to products of most-favored-nation (MFN) status countries (see appendix C for explanations of tariff and trade agreement terms). In 1988 and previously, all grades of sulfanilic acid and sodium sulfanilate were provided for in item 404.88 of the former Tariff Schedules of the United States. With the implementation of the HTS in 1989, all forms of the acid and its monosodium salt were classified in subheading 2921.42.50, a residual (basket) provision for derivatives of anilines and their salts. On May 1, 1991, pursuant to Presidential Proclamation number 6282 (to modify duty-free treatment under the Generalized System of Preferences (GSP)), metanilic acid and sulfanilic acid were provided for separately under new HTS subheading 2921.42.24, with a column 1-general rate of duty of 2.4 cents per kilogram plus 18.8 percent ad valorem. Imports of these two chemicals are eligible for duty-free entry under the GSP, the Caribbean Basin Economic Recovery Act (CBERA), and the United States-Israel Free Trade Area Implementation Act of 1985. The column 2 rate of duty is 15.4 cents per kilogram plus 60 percent ad valorem, and the Canada Free Trade Agreement (FTA) rate is 0.9 cents per kilogram plus 7.5 percent ad valorem.

Sodium sulfanilate is classified in HTS subheading 2921.42.70, with other aniline derivatives and their salts. The column 1-general rate of duty for these chemicals is also 2.4 cents per kilogram plus 18.8 percent ad valorem. Imports of chemicals classified in this subheading are not eligible for duty-free entry under the GSP; however, duty-free entry is provided under the CBERA and the United States-Israel Free Trade Area Implementation Act of 1985. The column 2 and Canada FTA rates of duty are identical to those of subheading 2921.42.24.

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<sup>24</sup> Respondents testified at the conference that sodium sulfanilate and technical sulfanilic acid cannot be used in the production of optical brighteners and food colors. \*\*\*.

<sup>25</sup> TR, pp. 83-94.

<sup>26</sup> TR, p. 82, and postconference brief, pp. 5-7 and 10-18.

## NATURE AND EXTENT OF THE ALLEGED SALES AT LTFV

The petitioner alleges that imports of sulfanilic acid from China are being sold in the United States at LTFV margins ranging from 43.7 percent for sodium sulfanilate to 94.1 percent for refined sulfanilic acid.<sup>27</sup> These alleged margins were calculated by comparing prices of Chinese refined sulfanilic acid in the U.S. market with prices for comparable sulfanilic acid produced in India. As China is a state-controlled-economy country under section 773(c) of the act, the foreign market value (FMV) was based on the prices of sulfanilic acid produced in a surrogate non-state-controlled economy, in this case India. The U.S. price was based on the ex-factory purchase price. Adjustments were made, where appropriate, for overland freight charges, both in China and the United States, ocean freight charges, import duties, freight-forwarding brokerage, marine insurance, and custom clearance in the United States. These adjustments were based on information provided by Fracht FWO, Inc., International Freight Forwarders, located in Georgia, to the petitioner.<sup>28</sup> Petitioner calculated the FMV using constructed value estimates generally based on petitioner's own experience.<sup>29</sup>

The petitioner also alleges that there are massive imports of sulfanilic acid from China and a history of dumping in the United States to the extent that the importers knew or should have known that China was exporting the sulfanilic acid at LTFV. Thus, pursuant to section 733(e) of the act, the petitioner requests a finding of critical circumstances and a retroactive suspension of liquidation of duty on Chinese sulfanilic acid to a date 90 days prior to Commerce's preliminary determination of sales at LTFV.

## U.S. MARKET

### Apparent U.S. Consumption

Data on apparent U.S. consumption of sulfanilic acid were compiled from information submitted in response to Commission questionnaires. These data, presented in table 1, are composed of the sum of U.S. shipments<sup>30</sup> of U.S. producers and importers.

Total reported apparent U.S. consumption of sulfanilic acid, by quantity, decreased irregularly by 9.6 percent from 1988 to 1990 and then increased by 53.4 percent from January-September 1990 to January-September 1991. The application for concrete additives in which the sulfanilic acid is used to make another chemical that reduces the amount of water that is needed in the concrete so that it is more pumpable, has been growing despite the

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<sup>27</sup> The weighted-average dumping margin for the period Jan. 1, 1989, through June 30, 1991, is 87.0 percent. As calculated by Commerce, dumping margins range from 0 to 85.2 percent.

<sup>28</sup> Attachments G and H to the petition.

<sup>29</sup> Attachments I, J, and K to the petition.

<sup>30</sup> U.S. producers' shipments represent the sum of shipments of technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. App. D presents selected trade and financial data by type of sulfanilic acid.

Table 1

Sulfanilic acid: U.S. producers' and importers' U.S. shipments<sup>1</sup> and apparent U.S. consumption, 1988-90, January-September 1990, and January-September 1991

	January-September--				
Item	1988	1989	1990	1990	1991
Quantity (1,000 pounds)					
U.S. producers' shipments .	***	***	***	***	***
U.S. importers' shipments:					
China . . . . .	***	***	447	392	2,321
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
Apparent consumption . . .	6,338	5,402	5,731	4,149	6,366
Value (1,000 dollars)					
U.S. producers' shipments .	***	***	***	***	***
U.S. importers shipments:					
China . . . . .	***	***	346	301	1,851
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
Apparent consumption . . .	5,220	4,970	5,205	3,648	6,443

<sup>1</sup> Includes company transfers and open-market sales.

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

downturn in the construction business.<sup>31</sup> In terms of value, total reported apparent U.S. consumption decreased by 4.8 percent from 1988 to 1989, and then increased by 4.7 percent in 1990 and by 76.6 percent in interim 1991.

#### U.S. Producers

##### R-M Industries, Inc.

The petitioner, R-M Industries, Inc., is the largest commercial producer of sulfanilic acid in the United States. R-M is a privately held company headquartered in Fort Mill, SC,<sup>32</sup> and accounts for more than 95 percent of the

<sup>31</sup> TR, pp. 48-49. A number of importers cited new uses of sulfanilic acid as an additive in concrete as a reason for the increase in demand in 1991.

<sup>32</sup> Everlight Chemical Industrial Corp., Taipei, Taiwan, has a 33-percent ownership in R-M.

sulfanilic acid manufactured in the United States.<sup>33</sup> Prior to R-M's startup of production in May 1984, American Cyanamid Company had produced sulfanilic acid for at least 30 years at its facility in Bound Brook, NJ. American Cyanamid discontinued production of sulfanilic acid in 1982.<sup>34</sup> There was a period of almost 2 years in which the U.S. industry had no U.S. supplier. According to the petitioner, a nontraditional import source, Bayer AG, in Germany, filled the void. Bayer is a producer of sulfanilic acid, optical brighteners, and specialty dyes. Bayer traditionally produced sulfanilic acid for its own use but was persuaded by a U.S. purchaser to supply it with sulfanilic acid.<sup>35</sup>

R-M produced refined sulfanilic acid during 1986-89 but discontinued its production in 1989 because of high manufacturing costs and the large amount of contaminated waste water generated during the production process.<sup>36</sup> R-M sells sodium sulfanilate to those consumers who previously purchased refined sulfanilic acid. R-M sells all of its production directly to end users located within \*\*\* miles of its plant. R-M reported in its questionnaire that \*\*\* percent of its sales of sulfanilic acid were in a liquid form.<sup>37</sup> Sulfanilic acid accounts for approximately half of R-M's business. R-M also produces preemergent herbicides and specialty dyes on a contract basis and is the only U.S. producer of these materials.<sup>38</sup>

#### Hilton Davis Co.<sup>39</sup>

Hilton Davis Co. occasionally produces technical sulfanilic acid mainly for internal consumption at its plant in Cincinnati, OH.<sup>40</sup> It sold \*\*\* in 1990 and \*\*\* in January-September 1991 to an end user. \*\*\*.

#### U.S. Importers

The petition lists four Chinese agencies and non-Chinese agents and trading companies<sup>41</sup> that petitioner believes are responsible for the majority

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<sup>33</sup> Petitioner testified at the conference that Kesslet Chemical produced sulfanilic acid from time to time but was an insignificant factor in the market; TR, p. 45.

<sup>34</sup> R-M negotiated with American Cyanamid for almost 3 years to purchase the equipment necessary to startup production of sulfanilic acid. R-M built a new building with a foundation specially prepared for the four reactors purchased from American Cyanamid to produce technical sulfanilic acid; TR, pp. 47-48.

<sup>35</sup> TR, pp. 60-61.

<sup>36</sup> TR, pp. 13-14. \*\*\*; petition, pp. 17-18.

<sup>37</sup> Shipments in liquid form usually occur within 50 miles of the plant because shipping costs are almost three times greater for the liquid versus the dry product. \*\*\*.

<sup>38</sup> TR, pp. 57-58.

<sup>39</sup> Hilton Davis indicated in its questionnaire response that \*\*\*.

<sup>40</sup> \*\*\*.

<sup>41</sup> Sulfanilic acid is sold directly to consumers by China National Import Export Corporation, Sinochem (U.S.A.), with offices in New York and

(continued...)

of imports of sulfanilic acid from China. However, a review of the Customs Net Import File disclosed over 50 U.S. firms importing under the HTS items listed in the petition.<sup>42</sup> The Commission sent questionnaires to 30 importers, including the 4 firms listed in the petition.<sup>43</sup>

Of the 30 firms who received questionnaires, the Commission received responses from 28 companies. Fourteen of those firms indicated that they did not import the merchandise subject to this investigation.<sup>44</sup> Twelve firms provided usable data on imports of sulfanilic acid.<sup>45</sup> Six of these firms reported importing sulfanilic acid from China during the period of investigation:<sup>46</sup> Sandoz Chemicals, Sinochem (U.S.A.), Goodring International, and Nu-Tech Chemical Industries imported \*\*\*; J.A. Moeller imported \*\*\*;<sup>47</sup> and \*\*\*.<sup>48</sup> The remaining firms reported imports of sulfanilic acid from Japan, Hungary, the United Kingdom, and India. J.A. Moeller reported that all of its imports of Chinese sulfanilic acid \*\*\*.

In its questionnaire, the Commission asked firms to report future contracts for importing sulfanilic acid from China after September 30, 1991.

\* \* \* \* \*

The Commission also asked if there had been any changes in the character of the operations relating to the importation of sulfanilic acid. \*\*\* responded that \*\*\*, thereby posing a threat of the shutdown of its production facilities. This belief led \*\*\* to purchase sulfanilic acid from \*\*\* import sources.

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<sup>41</sup> (...continued)

California, and is also sold by agents and trading companies, such as Nu-Tech Chemical Industries; petition, p. 4.

<sup>42</sup> The HTS items listed in the petition are basket categories which include imports of other chemicals; therefore, the Commission could not rely on official statistics for import data. Many of the firms contacted by Commission staff reported that they did not import sulfanilic acid.

<sup>43</sup> The firms reporting imports of sulfanilic acid are concentrated in the northeast.

<sup>44</sup> Many firms reported that although they were not the importer of record, they did purchase and use imported sulfanilic acid.

<sup>45</sup> These firms are \*\*\*.

<sup>46</sup> Almost all of the reported imports from China occurred in 1990 and interim 1991.

<sup>47</sup> In 1990, Nu-Tech Chemical accounted for \*\*\* of total imports of sulfanilic acid from China; Sandoz and Sinochem accounted for \*\*\*; and \*\*\*. Goodring International and J.A. Moeller reported importing sulfanilic acid in \*\*\*.

<sup>48</sup> There were no reported imports of technical sulfanilic acid from China. Imports of technical sulfanilic acid were from \*\*\*. Most of the imported material is refined sulfanilic acid because a pound of sodium sulfanilate does not contain an equivalent pound of sulfanilic acid. Therefore, the importer would be paying for a substantial quantity of unusable material; \*\*\*.

Many of the responding importers reported having an affiliation with foreign producers, usually through direct ownership. \*\*\*.

A majority of the imported product was reportedly either used to manufacture optical brighteners by the importer of record or resold to firms that produce optical brighteners. Importers reported that almost 90 percent of their shipments were to unrelated end users.

#### **Channels of Distribution**

All of the sulfanilic acid produced in the United States is sold directly to end users that manufacture optical brighteners, food colors, specialty dyes, and concrete additives. Sulfanilic acid imported from China is sold both to distributors and end users, with the majority going directly to end users. The only difference in the manner in which the U.S. consumer receives merchandise from the U.S. producer and the Chinese is that the U.S.-produced product is shipped by domestic trailer, and the Chinese product is shipped by ocean container and then delivered by truck or in container to the customer. All dry merchandise is packed in 50- to 80-pound plastic or paper bags.

#### **CONSIDERATION OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES**

The information presented in this section of the report is based on the questionnaire responses of two firms that represent 100 percent of U.S. production of sulfanilic acid during the period of the investigation.

#### **U.S. Producers' Capacity, Production, and Capacity Utilization**

Data for U.S. capacity, production, and capacity utilization are summarized in table 2.<sup>49</sup> Capacity to produce sulfanilic acid was \*\*\* pounds during 1988-90. Such capacity \*\*\* in the interim periods, from \*\*\* pounds in January-September 1990 to \*\*\* pounds during the corresponding period of 1991. \*\*\*. Early in 1991, R-M made major improvements to its continuous dryer for making sodium sulfanilate, which increased capacity by at least 50 percent.<sup>50</sup> R-M testified at the conference that its capacity to produce sodium sulfanilate could easily be expanded from 3 million pounds a year to 4 million pounds per year by a simple modification to its carbon treatment facility.

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<sup>49</sup> To avoid double counting R-M's capacity and production of sulfanilic acid when technical sulfanilic acid is further processed into refined sulfanilic acid and sodium sulfanilate, the staff used R-M's reported capacity and production of technical sulfanilic acid.

<sup>50</sup> TR, p. 23 and pp. 27-28.



Table 2

Sulfanilic acid: U.S. capacity, production, and capacity utilization, 1988-90, January-September 1990, and January-September 1991<sup>1</sup>

Item	1988	1989	1990	January-September--	
				1990	1991

\* \* \* \* \*

<sup>1</sup> Capacity and production data are provided for U.S. producers' capacity for and production of technical (crude) sulfanilic acid.

<sup>2</sup> \*\*\*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. production \*\*\* from 1988 to 1990, but \*\*\* in the interim periods.<sup>51</sup>  
Capacity utilization \*\*\* in 1988 to \*\*\* in 1990 but \*\*\* in interim 1990 to \*\*\* in interim 1991.

#### U.S. Producers' Domestic Shipments<sup>52</sup> and Export Shipments

U.S. producers' domestic and export shipments of sulfanilic acid are presented in table 3.

#### Domestic Shipments

U.S. producers' domestic shipments of sulfanilic acid \*\*\* from 1988 to 1990, and then \*\*\* from January-September 1990 to January-September 1991. The value of these shipments \*\*\* between 1988 and 1990 and \*\*\* from January-September 1990 to January-September 1991. The unit value of domestic shipments of sulfanilic acid \*\*\* per pound in 1988 to \*\*\* per pound in January-September 1991.

<sup>51</sup> R-M's production of sulfanilic acid increased in late 1990 and early 1991 when the Japanese, who were a major supplier to the U.S. market, essentially withdrew. R-M's production and capacity began increasing in September 1990 and continued through May 1991; TR, pp. 19-20 and p. 50.

<sup>52</sup> Since R-M produced refined sulfanilic acid and sodium sulfanilate from its technical sulfanilic acid, such consumption is not considered a company transfer. Roughly \*\*\* of R-M's production of technical sulfanilic acid is used to produce sodium sulfanilate. Hilton Davis, a small U.S. producer, consumes internally most of the technical sulfanilic acid it produces. Such consumption is a company transfer and is included in the data for domestic shipments.

Table 3

Sulfanilic acid: U.S. producers' shipments, by types, 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	January-September--	
				1990	1991
	*	*	*	*	*

<sup>1</sup> Includes company transfers and open-market sales.

<sup>2</sup> Not applicable.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### Export Shipments

\* \* \* \* \*

#### Total Shipments

Total U.S. producers' shipments of domestically produced sulfanilic acid (by quantity) \*\*\* between 1988 and 1990 but \*\*\* in the interim periods. The value of U.S. shipments followed the same trend, \*\*\* between 1988 and 1990 and then \*\*\* in the interim periods.

#### U.S. Producers' Inventories<sup>53</sup>

U.S. producers' end-of-period inventories of sulfanilic acid \*\*\* between 1988 and 1989 and then \*\*\* in 1990 (table 4). Inventories \*\*\* from September 30, 1990, to September 30, 1991. The ratio of inventories to total shipments \*\*\* in 1988 to \*\*\* percent in 1989 and then \*\*\* in 1990. The ratio of inventories to annualized shipments \*\*\* in January-September 1990 to \*\*\* in the corresponding period of 1991.

<sup>53</sup> \*\*\*.

Table 4

Sulfanilic acid: End-of-period inventories of U.S. producers, 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	January-September--	
				1990	1991

\* \* \* \* \*

Note.--Partial year ratios are calculated using annualized shipments.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### U.S. Employment, Wages, and Productivity

Data on employment and productivity are shown in table 5. In its questionnaire, the Commission requested employment data for all sulfanilic acid combined but asked if producers could provide the employment information for the three types of sulfanilic acid. Both producers reported that the data could not be provided separately. \*\*\*.

Table 5

Average number of production and related workers producing sulfanilic acid, hours worked,<sup>1</sup> wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,<sup>2</sup> 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	January-September--	
				1990	1991

\* \* \* \* \*

<sup>1</sup> Includes hours worked plus hours of paid leave time.

<sup>2</sup> On the basis of total compensation paid.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The number of production and related workers was \*\*\* throughout the period of investigation. Hours worked \*\*\* from 1988 to 1989 and then \*\*\* in 1990. Hours worked \*\*\* in interim 1991. Wages paid and total compensation paid to such workers \*\*\* between 1988 and 1989 but \*\*\* in 1990 and interim 1991.

In its questionnaire, the Commission requested producers to provide detailed information concerning reductions in the number of production and related workers producing sulfanilic acid during the period January 1988-September 1991, if such reductions involved at least 5 percent of the workforce, or 50 workers. R-M reported reductions in its workforce on \*\*\*; it laid off \*\*\* workers producing sodium sulfanilate because of a \*\*\* and laid off \*\*\* workers producing technical sulfanilic acid because of a \*\*\*. In addition, R-M reduced the salaried administrative staff by six employees.<sup>54</sup>

### Financial Experience of U.S. Producers

R-M Industries,<sup>55</sup> representing \*\*\* percent of U.S. sulfanilic acid production in 1990, submitted financial data on the establishment<sup>56</sup> in which sulfanilic acid is produced and on its sulfanilic acid operations. R-M also submitted separate financial data on its technical, sodium, and refined sulfanilic acid operations. Hilton Davis provided \*\*\* income-and-loss data on sulfanilic acid operations.<sup>57</sup>

### Overall Establishment Operations

Income-and-loss data of R-M on its overall establishment operations in which sulfanilic acid is produced are shown in table 6. Net sales on overall establishment operations \*\*\* from \*\*\* in 1988 to \*\*\* in 1989, and \*\*\* to \*\*\* in 1990. The operating \*\*\* was \*\*\* in 1988, \*\*\* in 1989, and \*\*\* in 1990. The operating \*\*\* as a share of sales was \*\*\* percent in 1988, \*\*\* percent in 1989, and \*\*\* percent in 1990. Net sales of \*\*\* for the 9-month period ended September 30, 1991, were \*\*\* percent \*\*\* than the net sales of \*\*\* for the 9-month period ended September 30, 1990. The operating \*\*\* was \*\*\* in the 1991 interim period compared to an operating \*\*\* of \*\*\* in interim 1990. The operating \*\*\* margin as a share of sales was \*\*\* percent in interim 1990 and \*\*\* percent in interim 1991.

\* \* \* \* \*

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<sup>54</sup> Those laid off were the Sales Manager, Maintenance Manager, Maintenance Supervisor, Laboratory Supervisor, Secretary/Receptionist, and Controller; TR, p. 26.

<sup>55</sup> \*\*\*.

<sup>56</sup> R-M produces sulfanilic acid in its plant in Fort Mill, SC. Sulfanilic acid accounted for approximately \*\*\* percent of the total sales of the overall establishment in 1990. \*\*\*.

<sup>57</sup> Hilton Davis submitted overall data on establishment operations in which sulfanilic acid is produced showing sales of \*\*\* in each year and \*\*\* in each interim period. Sales of sulfanilic acid as reported by Hilton Davis accounted for \*\*\* of Hilton's sales for overall operations in 1990. \*\*\*.

Table 6

Income-and-loss experience of R-M Industries on its overall establishment operations in which sulfanilic acid is produced, calendar years 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	Jan. -Sept--	
				1990	1991

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

<sup>1</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

<sup>2</sup> \*\*\*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### Operations On Sulfanilic Acid

Income-and-loss data for R-M on sulfanilic acid operations are shown in table 7. Net sales of sulfanilic acid \*\*\* percent from \*\*\* in 1988 to \*\*\* in 1989, and \*\*\* percent to \*\*\* in 1990. The operating \*\*\* was \*\*\* in 1988, \*\*\* in 1989, and \*\*\* in 1990. Operating \*\*\* margins were \*\*\* percent in 1988, \*\*\* percent in 1989, and \*\*\* percent in 1990. Net sales of \*\*\* for the 9-month period ended September 30, 1991, were \*\*\* percent \*\*\* than the net sales of \*\*\* for the 9-month period ended September 30, 1990. The operating \*\*\* was \*\*\* in the 1991 interim period compared to an operating \*\*\* of \*\*\* in interim 1990. The operating \*\*\* margin as a percent of sales was \*\*\* percent in interim 1990 and \*\*\* percent in interim 1991.

As shown in table 7, the ratios to net sales of cost of goods sold; gross profit; selling, general, and administrative expenses; operating income; and net income are \*\*\*. R-M also submitted income-and-loss data for technical, sodium, and refined sulfanilic acid \*\*\*. These data are presented in appendix D.

Table 7

Income-and-loss experience of R-M Industries on its operations producing sulfanilic acid, calendar years 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991

\* \* \* \* \*

<sup>1</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The average unit sales value, as shown in the following tabulation, for R-M's sulfanilic acid was \*\*\*. The quantity sold in interim 1991 was \*\*\* than the quantity sold in the interim period of 1990. The quantity sold in interim 1991 \*\*\* the quantity sold in calendar years 1989 and 1990.

Item	1988	1989	1990	Interim--	
				1990	1991
	*	*	*	*	*

Hilton Davis provided \*\*\* financial data for sulfanilic acid \*\*\* produced for \*\*\*. Hilton Davis valued the company transfers and sales at \*\*\*. These data are shown in the following tabulation:

Item	1988	1989	1990	Interim	
				1990	1991
	*	*	*	*	*

#### Capital Expenditures

Capital expenditures of R-M for its establishment in which sulfanilic acid is produced and for its operations on sulfanilic acid are shown in table 8. Capital expenditures for sulfanilic acid were \*\*\* in 1988, \*\*\* in 1989, and \*\*\* in 1990.

Table 8

Capital expenditures by R-M Industries on its overall establishment and sulfanilic acid operations, calendar years 1988-90, January-September 1990, and January-September 1991

(In thousands of dollars)						
Item				Jan. -Sept. --		
	1988	1989	1990	1990	1991	
	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### Investment In Productive Facilities

The investment in productive facilities and the annual return on total assets for R-M are presented in table 9 for operations on its overall establishment and sulfanilic acid.

Table 9

Value of assets and return on assets of R-M Industries for its overall establishment and sulfanilic acid operations, calendar years 1988-90, January-September 1990, and January-September 1991

Item	As of Dec. 31--			As of Sept. 30--		
	1988	1989	1990	1990	1991	
	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

#### Research and Development Expenses

R-M replied in the questionnaire response that research and development expenses \*\*\*.

#### Impact of Imports on Capital and Investment

The Commission requested the U.S. producers to describe any actual or potential negative effects of imports of sulfanilic acid from the People's Republic of China on their growth, development and production efforts, investment, and ability to raise capital (including efforts to develop a

derivative or improved version of its product). Comments from the companies are presented in appendix E.

**CONSIDERATION OF THE QUESTION OF  
THREAT OF MATERIAL INJURY**

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors<sup>58</sup>--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

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<sup>58</sup> Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."



(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,

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

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>59</sup>

Subsidies (item (I)) and agricultural products (item (IX)) are not issues in this investigation; information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in appendix E. Available information follows on U.S. inventories of the subject product (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets.

#### U.S. Importers' Inventories

According to questionnaire responses, U.S. importers of sulfanilic acid from China \*\*\* of the product. Imported sulfanilic acid is either purchased \*\*\*.

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<sup>59</sup> Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

# Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other Than the United States

The Commission requested that counsel representing China National Chemicals Import & Export Corp., Hebei Branch, a Chinese producer/exporter,<sup>60</sup> provide information on the Chinese producers of sulfanilic acid. The information requested consisted of the production, inventories, capacity, home market shipments, and exports to the United States and all other countries for the period of the investigation and projections for 1991-92. The information received from counsel is presented in table 10. The data provided include information for the following plants: \*\*\*.

Table 10

Sulfanilic acid: Chinese production capacity, production, capacity utilization, shipments, and end-of-period inventories, actual 1989-90, January-September 1990, and January-September 1991, and projected 1991-92 data

(1,000 pounds, except as noted)						
Item	1989	1990	Jan.-Sept.--		Projected--	
			1990	1991	1991	1992
	*	*	*	*	*	*

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted by counsel for the Chinese respondent.

China's reported capacity to produce sulfanilic acid \*\*\* from \*\*\* pounds in 1989 to \*\*\* pounds in 1990, or by \*\*\* percent. Capacity \*\*\* in the interim periods, from \*\*\* pounds in January-September 1990 to \*\*\* pounds in the corresponding period of 1991. Capacity is projected to \*\*\* from \*\*\* pounds in 1991 to \*\*\* pounds in 1992, \*\*\* of \*\*\* percent. Capacity is expected to increase because of increased demand in South America and Europe. Capacity utilization \*\*\* from \*\*\* percent in 1989 to \*\*\* percent in 1990. Capacity utilization \*\*\* from \*\*\* percent in interim 1990 to \*\*\* percent in interim 1991. Projected capacity utilization is \*\*\* percent in 1991 and then \*\*\* to \*\*\* percent in 1992.

China National Chemicals \*\*\*. Exports of sulfanilic acid to the United States \*\*\* by \*\*\* percent during 1989-90. Such exports to the United States \*\*\* by \*\*\* percent in interim 1991.<sup>61</sup> Exports to all other countries \*\*\* percent between 1989 and 1990. Such exports \*\*\* by \*\*\* percent in interim

<sup>60</sup> The Chinese respondent exporter accounts for approximately \*\*\* percent of Chinese production of sulfanilic acid; postconference brief, p. 2.

<sup>61</sup> Counsel for respondent was \*\*\*. However, in its postconference brief, respondent states that it has no plans to increase exports to the United States in 1991 and 1992; brief, p. 2 and Exhibit 9.

1991. Total Chinese exports of sulfanilic acid \*\*\* by \*\*\* percent between 1989 and 1990 and \*\*\* by \*\*\* percent in interim 1991. Such exports are projected to \*\*\* by \*\*\* percent from 1991 to 1992.

Respondents testified that China produced sodium sulfanilate in substantial quantities prior to 1988 and that China has a growing internal use for the product as an additive to the detergent, textile, and paper industries. China also produces optical brighteners.<sup>62</sup>

#### CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

##### U.S. Imports

Table 11 presents data received from the 12 responding importers of sulfanilic acid, which are believed to account for almost all imports of sulfanilic acid. Imports of sulfanilic acid from China \*\*\* from \*\*\* pounds in 1988 to 447,000 pounds in 1990, or by \*\*\* percent. From January-September 1990 to January-September 1991, imports from China climbed 511 percent. The value of imports from China \*\*\* during 1988-90, by \*\*\* percent. From interim 1990 to interim 1991, the value of imports from China rose by 509 percent. The unit value of imports from China \*\*\* from \*\*\* per pound in 1988 to \$0.74 per pound in 1990. The unit value was \$0.73 in interim 1991.

There were no reported imports of technical sulfanilic acid from China during the period of investigation. Five importers reported importing refined sulfanilic acid from China during 1990 and interim 1991.<sup>63</sup> The firms reported importing \*\*\* pounds in 1990 and \*\*\* pounds in January-September 1991, an increase of \*\*\* percent from the corresponding period in 1990. The value of such imports was \*\*\* in 1990, \*\*\* in January-September 1990, and \*\*\* in January-September 1991. \*\*\* importers reported importing sodium sulfanilate during the period of investigation.<sup>64</sup> Such imports \*\*\* from \*\*\* pounds in 1988 to \*\*\* pounds in 1990, or by \*\*\* percent. Imports \*\*\* by \*\*\* percent in interim 1991. The value of the imports \*\*\* by \*\*\* percent during 1988-90 and \*\*\* by \*\*\* percent in January-September 1991. Reported imports of sulfanilic acid from other countries, by quantity, \*\*\* by \*\*\* percent during 1988-90. Imports from other sources decreased by 28 percent in interim 1991. Imports of technical sulfanilic acid from other countries were reported by three firms; \*\*\* reported importing \*\*\* pounds from \*\*\* in 1989; \*\*\* reported importing \*\*\* pounds from \*\*\* in interim 1991; and \*\*\* reported importing technical sulfanilic acid from \*\*\* throughout the period of investigation. Five firms reported importing refined sulfanilic acid from Japan.<sup>65</sup> Such imports \*\*\* from \*\*\* pounds in 1988 to \*\*\* pounds in 1990, or by \*\*\* percent. Imports from Japan decreased by \*\*\* percent in January-September 1991. The Japanese producer apparently suffered some technical problems late in 1990

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<sup>62</sup> TR, pp. 115-116.

<sup>63</sup> Three firms reported imports of refined sulfanilic acid in 1990; five reported such imports in January-September 1991.

<sup>64</sup> \*\*\*.

<sup>65</sup> \*\*\*.

Table 11

Sulfanilic acid: U.S. imports, by sources, 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	January-September--	
				1990	1991
Quantity (1,000 pounds)					
China . . . . .	***	***	447	392	2,396
Other sources . . . . .	***	***	2,987	2,228	1,611
Total . . . . .	2,615	2,775	3,434	2,620	4,007
Value <sup>1</sup> (1,000 dollars)					
China . . . . .	***	***	329	288	1,754
Other sources . . . . .	***	***	2,478	1,842	1,769
Total . . . . .	2,166	2,406	2,807	2,130	3,523
Unit value (per pound)					
China . . . . .	\$***	\$***	\$0.74	\$0.74	\$0.73
Other sources . . . . .	***	***	.83	.83	1.10
Average . . . . .	.83	.87	.82	.81	.88

<sup>1</sup> Landed, duty-paid at the U.S. port of entry, including ocean freight and insurance costs, brokerage charges, and import duties.

Note.--Unit values are calculated from the unrounded figures.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

that caused it to decrease its exports.<sup>66</sup> The Japanese exported refined sulfanilic acid and when Japan cut back on its exports of the product to the United States, China rapidly increased its exports of refined sulfanilic acid to the United States. The value of the refined imports from Japan \*\*\* from \*\*\* in 1988 to \*\*\* in 1990, or by \*\*\* percent. The value of the imports decreased by \*\*\* percent in interim 1991.

Sulfanilic acid is produced in Hungary, India, Japan, the United Kingdom, Germany, and Brazil. At the conference, petitioner characterized the world market for sulfanilic acid as chaotic. Foreign sources of sulfanilic acid change from year to year, and therefore, the supply of sulfanilic acid is unstable. Currently, there are two producers of technical sulfanilic acid that can meet world market standards: R-M and ICI (a producer in France).<sup>67</sup> <sup>68</sup>

<sup>66</sup> The Japanese firm's production of sulfanilic acid was a byproduct of its production of sulfa drugs; TR, pp. 91 and 95-97.

<sup>67</sup> TR, pp. 61-62.

<sup>68</sup> ICI produces a material that can be used directly by some end users or with minor refining it can be used to produce the end product; TR, pp. 66-67.

Petitioner testified that a multinational company in the United Kingdom is most similar to itself, in that it produces sodium sulfanilate with a special continuous-type centrifuge.<sup>69</sup> Respondents testified that there is an adequate supply of sulfanilic acid in the world market today from a multitude of sources: Hungary, China, and India have increased their production capacity for sulfanilic acid, and India is increasingly interested in exporting to the U.S. market.<sup>70</sup>

#### Market Penetration by the Alleged LTFV Imports

Table 12 details the degree of market penetration in terms of the percentage of total apparent consumption of sulfanilic acid accounted for by U.S. producers, by imports from China, and by imports from all other sources. Over the 3-year period, U.S. producers' share of the quantity of total apparent consumption \*\*\* from \*\*\* percent to \*\*\* percent. This share \*\*\* from \*\*\* percent in January-September 1990 to \*\*\* percent in the corresponding period of 1991.<sup>71</sup> In terms of value, U.S. producers' share of apparent consumption \*\*\* from \*\*\* percent in 1988 to \*\*\* percent in 1990. U.S. producers' share \*\*\* from \*\*\* percent in January-September 1990 to \*\*\* percent in the corresponding period of 1991. It is interesting to note that the U.S. producers' share of the quantity of apparent consumption was \*\*\* its share of the value of apparent consumption; whereas the Chinese share of the quantity of apparent consumption was \*\*\* than its share based on value, during all periods of the investigation.

China's share of the quantity of apparent consumption of sulfanilic acid \*\*\* from \*\*\* percent in 1988 to \*\*\* percent in 1989, and then \*\*\* to 7.8 percent in 1990. China's share of apparent consumption increased dramatically in the interim periods, from 9.4 percent in January-September 1990 to 36.5 percent in the corresponding period of 1991. In terms of value, China's share of consumption \*\*\* from \*\*\* percent in 1988 to \*\*\* percent in 1989, and then \*\*\* to 6.6 percent in 1990. China's share accounted for 8.3 percent in interim 1990 compared with 28.7 percent in interim 1991.

The share of apparent consumption of imports of sulfanilic acid from other sources (by quantity) \*\*\* from \*\*\* percent in 1988 to \*\*\* percent in 1990. The share of such imports \*\*\* in the interim periods, from \*\*\* percent in January-September 1990 to \*\*\* percent in the corresponding period of 1991. As mentioned earlier in the report, imports from Hungary and Japan began declining in late 1990 and early 1991 as both countries decreased exports to the U.S. market.

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<sup>69</sup> TR, p. 67.

<sup>70</sup> TR, p. 98.

<sup>71</sup> Petitioner testified at the conference that its market share is currently at about the same level as it was in mid-1990, before the Japanese withdrew from the market; TR, p. 51.

Table 12

Sulfanilic acid: Share of apparent U.S. consumption supplied by U.S. producers and importers from China and all other countries, 1988-90, January-September 1990, and January-September 1991

(In percent)					
Item	1988	1989	1990	January-September--	
				1990	1991
<u>Share of the quantity of U.S. consumption</u>					
U.S. producers' shipments .	***	***	***	***	***
Importers' shipments:					
China . . . . .	***	***	7.8	9.4	36.5
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
<u>Share of the value of U.S. consumption</u>					
U.S. producers' shipments .	***	***	***	***	***
Importers' shipments:					
China . . . . .	***	***	6.6	8.3	28.7
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

### Prices

#### Market Characteristics

Sulfanilic acid is available in three different forms, and prices tend to vary among these forms. Technical sulfanilic acid tends to be the lowest priced of the three because it has impurities that are undesirable for many applications. Sodium sulfanilate has a higher value than the technical sulfanilic acid because it is treated to remove certain impurities. Finally, refined or pure sulfanilic acid generally has the highest price because it has the least impurities.<sup>72</sup>

There is disagreement over the substitutability between domestic and Chinese sulfanilic acid. R-M agreed that refined sulfanilic acid has a quality advantage over technical sulfanilic acid. However, R-M stated that consumers who use the refined product can use either sodium sulfanilate offered by R-M or the refined sulfanilic acid offered by the Chinese. On the other hand, at the conference, respondents argued that the Chinese and

<sup>72</sup> Although this material is often priced the highest, petitioner argued that the Chinese are selling refined sulfanilic acid at a price level consistent with that of petitioner's technical sulfanilic acid (TR, p. 16).

domestic products are not interchangeable, and customers that use refined sulfanilic acid from China cannot use domestic sulfanilic acid because of the level of impurities.<sup>73</sup> <sup>74</sup> In questionnaire responses, three importers stated that the Chinese sulfanilic acid they sell \*\*\*. Two of three firms that import sulfanilic acid for \*\*\* reported that \*\*\*. However, the third importer, \*\*\*, reported that \*\*\*.

Before sulfanilic acid is purchased by consumers it must often be qualified for use. According to the petitioner, qualification procedures are a major part of the purchasing decision.<sup>75</sup> R-M stated that some consumers, particularly those that use sulfanilic acid in brighteners, usually visit R-M's plant and analyze its ability to deliver the product and its overall manufacturing process. Purchasers also consider the environmental and worker safety conditions of the plant.<sup>76</sup>

Sulfanilic acid is sold on both a contract and spot basis. R-M reported that approximately \*\*\* percent of its total sales are made on a contract basis. Similarly, importers reported that \*\*\* of their sales are made using contracts that typically range in length from 3 months to 1 year.<sup>77</sup> Price and quantity are usually fixed for the duration of the contract and generally do not change during that time. R-M stated that its contracts are in the form of a letter of confirmation. R-M reported that the contract price is usually predicated upon a stable price of the raw materials used as inputs, primarily aniline. According to R-M, prices of aniline are often subject to fluctuations; therefore, its agreements to supply sulfanilic acid usually contain clauses that allow for price modifications corresponding to price changes for aniline.<sup>78</sup> Several suppliers of sulfanilic acid also reported that they charge price premiums for shipments below a single truckload; these premiums ranged from \*\*\*.

Technical and refined sulfanilic acid are priced on a dollar per pound basis, whereas sodium sulfanilate is sold on a dollar per pound of free acid basis. R-M reported that it issues price lists for its sulfanilic acid, but no importers reported using price list for their sales. R-M stated that \*\*\*.

The petitioner quotes prices of sulfanilic acid on an f.o.b. plant basis, whereas importers of the Chinese material reported that they quote and sell on a delivered basis. Transportation costs account for between 1 and 5

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<sup>73</sup> For a discussion of end users' comments on substitutability, see the section of this report entitled "Substitute Products."

<sup>74</sup> R-M manufactured refined sulfanilic acid early in the period of investigation, but stopped doing so in late 1989. There is currently no refined sulfanilic acid produced in the United States.

<sup>75</sup> TR, p. 73. In addition, purchasers indicated that they perform qualification procedures for both domestic and imported sulfanilic acid.

<sup>76</sup> R-M reported that it has also begun to look at its raw material suppliers for qualification programs and statistical proof that the materials are meeting certain standards (TR, p. 73).

<sup>77</sup> \*\*\*.

<sup>78</sup> TR, pp. 72-73.

percent of the overall product cost.<sup>79</sup> Producers and importers that sell the sulfanilic acid stated that they do not believe that transportation costs are an important consideration in their customers' purchasing decisions. \*\*\*.

Sulfanilic acid is packed in bags that are then placed on a pallet and shrink-wrapped with polyethylene film for protection. The typical package contains around 2,000 pounds of material in bags. The cost of the packaging is included in the price of the sulfanilic acid but is not a significant portion of the total cost of the product.<sup>80 81</sup>

### Price Trends

The Commission requested price and quantity data from U.S. producers and importers for their sales of sulfanilic acid during the period January 1988-September 1991. Prices were requested for the largest quarterly sale of technical sulfanilic acid, refined (or purified) sulfanilic acid, and sodium sulfanilate.<sup>82</sup> R-M provided data for technical sulfanilic acid and sodium sulfanilate for the entire period but only reported data for refined sulfanilic acid during the period January 1988-December 1989.<sup>83</sup> Usable pricing data were received from \*\*\* firms that imported sulfanilic acid from China and then resold the material; prices were reported for refined sulfanilic acid for 1990 and 1991. \*\*\* also reported prices for its sales of sodium sulfanilate imported from China but only for the period \*\*\*.<sup>84</sup> The products for which pricing data were received accounted for \*\*\* percent of U.S. producers' domestic shipments and \*\*\* percent of U.S. shipments of Chinese sulfanilic acid in 1990.

Delivered prices for domestic technical sulfanilic acid \*\*\* during the period \*\*\* (table 13).<sup>85 86</sup> Prices \*\*\* percent from the first quarter of 1988 to the second quarter of 1988 and \*\*\* through the first quarter of 1989. Prices for domestic technical sulfanilic acid then \*\*\* during the remainder of 1989, \*\*\* in 1990, and \*\*\* in 1991.<sup>87</sup> Overall, prices for domestic technical

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<sup>79</sup> This is the cost to transport dry sulfanilic acid; transportation of liquid sulfanilic acid is more expensive, TR, p. 68.

<sup>80</sup> R-M estimated that packaging costs are usually in the range of \*\*\* cents per pound.

<sup>81</sup> Packaging costs are included in the cost of both the domestic and imported products. Prices shown in tables 13 and 14 include packaging costs; staff has not adjusted these prices because the packaging costs are not significant and are included in both domestic and imported prices.

<sup>82</sup> Prices were requested for sodium sulfanilate sold in dry form.

<sup>83</sup> R-M ceased production of refined grade sulfanilic acid in late 1989.

<sup>84</sup> \*\*\*.

<sup>85</sup> Although R-M reported that it generally quotes prices on an f.o.b. basis, delivered prices are discussed in this section because importers were unable to provide accurate f.o.b. prices. R-M provided delivered pricing information based on its knowledge of the delivery costs actually paid by its customers.

<sup>86</sup> No importers reported prices for (or imports of) technical sulfanilic acid from China.

<sup>87</sup> \*\*\*.



Table 13

Delivered prices and total quantities sold of technical sulfanilic acid and sodium sulfanilate, by sources and by quarters, January 1988-September 1991

Period	Technical		Sodium sulfanilate			
	U.S.		U.S.		China	
	Price	Total quantity	Price	Total quantity	Price	Total quantity
	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

sulfanilic acid were \*\*\* in July-September 1991 than in January-March 1988.

Delivered prices for domestic sodium sulfanilate \*\*\* from January-March 1988 to the same quarter of 1990, \*\*\* percent during that time (table 13). Prices \*\*\* during 1990 but were \*\*\* at the end of the year than at the beginning. Prices in January-March 1991 were \*\*\* than at the end of 1990 and then \*\*\* for the next two quarters. Overall, prices were \*\*\* in July-September 1991 than in January-March 1988. \*\*\* reported prices for Chinese sodium sulfanilate but only for the period \*\*\*; these prices \*\*\* per pound during that time.<sup>88</sup>

Delivered prices for U.S.-produced refined sulfanilic acid were only reported for 1988 and 1989 because R-M stopped manufacturing it in 1989 (table 14). Prices for this product \*\*\* percent from January-March 1988 to October-December 1989. \*\*\*. Delivered prices for refined sulfanilic acid imported from China \*\*\* from October-December 1990 to July-September 1991, \*\*\* percent during that time.<sup>89</sup>

#### Price Comparisons

Direct price comparisons between identical domestic and Chinese products were very limited during the period of investigation. The vast majority of imports of sulfanilic acid from China is the refined material; however, refined sulfanilic acid was not imported until 1990. R-M, the only U.S. producer of sulfanilic acid, stopped producing and selling refined material in 1989. Therefore, there is no overlap between sales of domestic and Chinese refined sulfanilic acid and no comparisons are made.

<sup>88</sup> \*\*\*.

<sup>89</sup> Imports from China were not sold in the U.S. market prior to 1990.

Table 14

Delivered prices and total quantities sold of U.S.-produced refined sulfanilic acid and refined sulfanilic acid imported from China, by quarters, January 1988-September 1991

Period	U.S. price (\$/pound)	Total quantity (pounds)	Chinese price (\$/pound)	Total quantity (pounds)
	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

There were two other types of sulfanilic acid sold during the period of investigation--technical sulfanilic acid and sodium sulfanilate. There were no reported imports of technical sulfanilic acid; therefore no direct comparisons can be made. There were some imports of sodium sulfanilate from China during the period of investigation;<sup>90</sup> however, as stated earlier, \*\*\*. Prices for the Chinese product were \*\*\* than those for the domestic product.<sup>91</sup>

#### Lost Sales and Lost Revenues

The Commission received one allegation of lost revenues and three allegations of lost sales from \*\*\*. The lost revenue allegation totaled \*\*\* and involved \*\*\* pounds of sulfanilic acid sold during \*\*\*. The three lost sales allegations totaled \*\*\* and involved \*\*\* pounds of sulfanilic acid allegedly purchased from Chinese suppliers during \*\*\*. The staff contacted all three of the purchasers involved, and a summary of the information obtained follows.

\* \* \* \* \*

#### Exchange Rates

The value of the currency of the People's Republic of China is determined by the Government of China rather than by the free market. Therefore, an accurate description of the movements in the Chinese exchange rate cannot be presented.

<sup>90</sup> While there is some overlap between the end uses of sodium sulfanilate and refined grade sulfanilic acid, there appears to be distinct consumer preferences as to which type is used. For further information on consumer preferences, see the section entitled "Lost sales and lost revenues".

<sup>91</sup> Chinese prices for sodium sulfanilate shown in table 13 were \*\*\* percent \*\*\* than the domestic prices. If the adjustments that the \*\*\* were made, the Chinese product was still priced \*\*\* percent \*\*\* than the domestic product.

**APPENDIX A**

**FEDERAL REGISTER NOTICES OF THE U.S. INTERNATIONAL TRADE  
COMMISSION AND THE U.S. DEPARTMENT OF COMMERCE**



(Investigation No. 731-TA-538  
(Preliminary))

**Sulfanilic Acid From the People's  
Republic of China**

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

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

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-538 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of sulfanilic acid and sodium sulfanilate, provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by November 18, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and B (19 CFR part 207, as amended by 56 FR 11918, Mar. 21, 1991).

**EFFECTIVE DATE:** October 3, 1991.

**FOR FURTHER INFORMATION CONTACT:** Valerie Newkirk (202-205-3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**SUPPLEMENTARY INFORMATION:**

**Background**—This investigation is being instituted in response to a petition filed on October 3, 1991, by R-M Industries, Inc., Fort Mill, SC.

**Participation in the investigation and public service list**—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list**—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference**—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on October 24, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Valerie Newkirk (202-205-3190) not later than October 21, 1991, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written submissions**—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 29, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or

written testimony contain BPI, they must conform with the requirements of §§ 201.8, 207.3, and 207.7 of the Commission's rules.

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

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

Issued: October 4, 1991.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 91-24425 Filed 10-9-91; 8:45 am]

BILLING CODE 7530-02-01

**International Trade Administration****[A-570-015]****Initiation of Antidumping Duty Investigation: Sulfanilic Acid From the People's Republic of China****AGENCY:** Import Administration, International Trade Administration, Commerce.**EFFECTIVE DATE:** October 29, 1991.**FOR FURTHER INFORMATION CONTACT:** Mary Jenkins, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1756.**Initiation*****The Petition***

On October 3, 1991, R-M Industries, Inc., a private company incorporated in the State of North Carolina, filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States industry producing sulfanilic acid. In accordance with 19 CFR 353.12 of the Department's Regulations, the petitioner alleges that imports of sulfanilic acid from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioner states that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the U.S. industry producing sulfanilic acid. If any interested party, as described in 19 CFR 353.2(k) (3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

***United States Price and Foreign Market Value***

Petitioner based United States price (USP) on 1990 and 1991 price quotations for sulfanilic acid produced in the PRC, which were obtained from U.S. customers who purchase sulfanilic acid from petitioner and/or from the PRC. The price quotes petitioner obtained were delivered prices to U.S. customers. To obtain the ex-factory price, petitioner subtracted from U.S. price foreign inland freight, ocean freight, U.S. brokerage and handling charges, marine insurance, U.S. duty and U.S. inland freight based on quoted August 1991 rates from an international freight forwarder and U.S. commissions.

Petitioner, alleging that the PRC is a nonmarket economy (NME) country within the meaning of section 773(c) of the Act, based foreign market value (FMV) on its own factors of production and valued those factors in India. Where surrogate information was not reasonably available for activated carbon and fuel oil, petitioner used U.S. factors. Petitioner used its actual percentages for manufacturing overhead, the statutory minimum of 10 percent for general expenses, and eight percent for profit.

Pursuant to section 771(18), the PRC is presumed to be a NME and the Department has treated it as such (see Final Determination of Sales at Less than Fair Value: Chrome-Plated Lug Nuts from the People's Republic of China, 56 FR 46153 (September 10, 1991) and Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers)).

For purposes of this initiation we have accepted India as having a comparable economy and as being a significant producer, pursuant to section 773(c)(4) of the Act. Therefore, we have accepted petitioner's information for purposes of this initiation.

Based on the comparison of USP and FMV, petitioner alleges dumping margins ranging from 0 percent to 94.1 percent. However, after we recalculated the U.S. price inclusive of the U.S. commissions, in accordance with the Department's methodology, the dumping margins range from 0 percent to 85.2 percent.

Petitioner also alleges that "critical circumstances" exist, within the meaning of section 733(e) of the Act, with respect to imports of sulfanilic acid from the PRC.

***Initiation of Investigation***

Under 19 CFR 353.13(a), the

Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on sulfanilic acid from the PRC and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of sulfanilic acid from the PRC are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 533.14.

Pursuant to section 771(18) of the Act and based on prior investigations, the PRC is an NME. Parties will have the opportunity to comment on this issue and whether foreign market value should be based on prices or costs in the NME in the course of this investigation. The Department further presumes, based on the extent of central control in an NME, that a single antidumping duty margin is appropriate for all exporters. Only if NME exporters can demonstrate an absence of central government control with respect to the pricing of exports, both in law and in fact, will they be entitled to separate, company-specific margins. (See, Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) for a discussion of the information the Department considers in this regard).

In accordance with section 773(c), FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the PRC government has selected which factories produce for the United States, for purposes of the investigation we intend to base FMV only on those factories in the PRC which are known to produce sulfanilic acid for export to the United States.

#### *Scope of Investigation*

The products covered by this investigation are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt or

aminobenzenesulfonic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.24 of the Harmonized Tariff Schedule (HTS) contains 98 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials.

Refined sulfanilic acid, classifiable under the subheading 2921.42.24 of the HTS and contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt, classifiable under the HTS subheading 2921.42.70 is a granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheading are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### *Preliminary Determination by ITC*

The ITC will determine by November 18, 1991, whether there is a reasonable indication that imports of sulfanilic acid from the PRC are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before March 11, 1992, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: October 23, 1991.

Marjorie A. Chorlton,  
Acting Assistant Secretary for Import  
Administration.

[FR Doc. 91-28045 Filed 10-28-91; 8:45 am]

BILLING CODE 3510-06-0





**APPENDIX B**  
**CALENDAR OF PUBLIC CONFERENCE**



CALENDAR OF THE PUBLIC CONFERENCE

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

Subject: SULFANILIC ACID FROM THE PEOPLE'S REPUBLIC OF CHINA

Investigation No: 731-TA-538 (Preliminary)

Date and Time: October 24, 1991 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the United States International Trade Commission, 500 E Street, SW, Washington, DC.

In support of the Imposition of Antidumping Duties:

R-M Industries, Inc.  
Fort Mill, SC

John A. Dickson, President  
Mike McCraw

In Opposition to the Imposition of Antidumping Duties:

Klayman & Associates--Counsel  
Washington, DC  
on behalf of

China National Chemicals Import and Export Corporation ("Sinochem")  
Hebei Branch

Sinochem (U.S.A.), Inc.

Goodring International Inc.

Frederick Sujat )--OF COUNSEL

Nu-Tech Chemical Industries, Inc.  
West Paterson, NJ

Thomas Corrado, President

Sandoz Chemicals

Robert Beck, Purchasing Manager



**APPENDIX C**  
**TARIFF AND TRADE AGREEMENT TERMS**



## TARIFF AND TRADE AGREEMENT TERMS

The Harmonized Tariff Schedule of the United States (HTS) replaced the Tariff Schedules of the United States (TSUS) effective January 1, 1989. Chapters 1 through 97 are based upon the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description, with additional U.S. product subdivisions at the 8-digit level. Chapters 98 and 99 contain special U.S. classification provisions and temporary rate provisions, respectively.

Rates of duty in the general subcolumn of HTS column 1 are most-favored-nation (MFN) rates; for the most part, they represent the final concession rate from the Tokyo Round of Multilateral Trade Negotiations. Column 1-general duty rates are applicable to imported goods from all countries except those enumerated in general note 3(b) to the HTS, whose products are dutied at the rates set forth in column 2. Goods from the People's Republic of China, Czechoslovakia, Hungary, Poland, and Yugoslavia are among those eligible for MFN treatment. Among articles dutiable at column 1-general rates, particular products of enumerated countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the special subcolumn of HTS column 1.

The Generalized System of Preferences (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after January 1, 1976 and before July 4, 1993. Indicated by the symbol "A" or "A\*" in the special subcolumn of column 1, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 3(c)(ii) to the HTS.

The Caribbean Basin Economic Recovery Act (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984; this tariff preference program has no expiration date. Indicated by the symbol "E" or "E\*" in the special subcolumn of column 1, the CBERA provides duty-free entry to eligible articles the product of and imported directly from designated countries, as set forth in general note 3(c)(v) to the HTS.

Preferential rates of duty in the special subcolumn of column 1 followed by the symbol "IL" are applicable to products of Israel under the United States-Israel Free-Trade Area Implementation Act of 1985, as provided in general note 3(c)(vi) of the HTS. Where no rate of duty is provided for products of Israel in the special subcolumn for a particular provision, the rate of duty in the general subcolumn of column 1 applies.

Preferential rates of duty in the special duty rates subcolumn of column 1 followed by the symbol "CA" are applicable to eligible goods originating in the territory of Canada under the United States-Canada Free-Trade Agreement, as provided in general note 3(c)(vii) to the HTS.

Other special tariff treatment applies to particular products of insular possessions (general note 3(a)(iv)), goods covered by the Automotive Products Trade Act (general note 3(c)(iii) and the Agreement on Trade in Civil Aircraft (general note 3(c)(iv)), and articles imported from freely associated states (general note 3(c)(viii)).

The General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) is the multilateral agreement setting forth basic principles governing international trade among its more than 90 signatories. The GATT's main obligations relate to most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national (nondiscriminatory) treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, and other measures. Results of GATT-sponsored multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX.

Officially known as "The Arrangement Regarding International Trade in Textiles," the Multifiber Arrangement (MFA) provides a framework for the negotiation of bilateral agreements between importing and producing countries, or for unilateral action by importing countries in the absence of an agreement. These bilateral agreements establish quantitative limits on imports of textiles and apparel, of cotton and other vegetable fibers, wool, man-made fibers and silk blends, in order to prevent market disruption in the importing countries--restrictions that would otherwise be a departure from GATT provisions. The United States has bilateral agreements with more than 30 supplying countries, including the four largest suppliers: China, Hong Kong, the Republic of Korea, and Taiwan.





**APPENDIX D**

**TRADE AND FINANCIAL DATA, BY TYPES, 1988-90,  
JANUARY-SEPTEMBER 1990, AND JANUARY-SEPTEMBER 1991**



Table D-1

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate:  
End-of-period inventories of U.S. producers, 1988-90, January-September 1990,  
and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991

\* \* \* \* \*

Source: Compiled from data submitted in response to questionnaires of the  
U.S. International Trade Commission.

Table D-2

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate:  
U.S. producers' shipments, by types, 1988-90, January-September 1990, and  
January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991

\* \* \* \* \*

Source: Compiled from data submitted in response to questionnaires of the  
U.S. International Trade Commission.

Table D-3

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate:  
U.S. capacity, production, and capacity utilization, 1988-90, January-  
September 1990, and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991

\* \* \* \* \*

Source: Compiled from data submitted in response to questionnaires of the  
U.S. International Trade Commission.

Table D-4

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate:  
U.S. imports, by sources, 1988-90, January-September 1990, and January-  
September 1991

Item	1988	1989	1990	Jan.-Sept.- 1990	1991
Quantity (1,000 pounds)					
China:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Total . . . . .	***	***	447	392	2,396
Other sources:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Total . . . . .	***	***	2,987	2,228	1,611
All sources:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Total . . . . .	2,615	2,775	3,434	2,620	4,007
Value (1,000 dollars) <sup>1</sup>					
China:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Total . . . . .	***	***	329	288	1,754
Other sources:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Total . . . . .	***	***	2,478	1,842	1,769
All sources:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Total . . . . .	2,166	2,406	2,807	2,130	3,523

See footnotes at end of table.

Table D-4--Continued

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate:  
U.S. imports by sources, 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991
	Unit value (per pound)				
China:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Average . . . . .	***	***	.74	.74	.73
Other sources:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Average . . . . .	***	***	.83	.83	1.10
All sources:					
Technical sulfanilic acid . . . . .	***	***	***	***	***
Refined sulfanilic acid . . . . .	***	***	***	***	***
Sodium sulfanilate . . . . .	***	***	***	***	***
Average . . . . .	.83	.87	.82	.81	.88

<sup>1</sup> Landed, duty-paid at the U.S. port of entry, including ocean freight and insurance costs, brokerage charges, and import duties.

Note.--Because of rounding, figures may not add to the totals shown. Unit values are calculated from the unrounded figures.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table D-5

Income-and-loss experience of R-M Industries on its operations producing technical sulfanilic acid, calendar years 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991
	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table D-6

Income-and-loss experience of R-M Industries on its operations producing sodium sulfanilate, calendar years 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991
	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table D-7

Income-and-loss experience of R-M Industries on its operations producing refined sulfanilic acid, calendar years 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991
	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table D-8

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate: U.S. producers' and importers' U.S. shipments<sup>1</sup> and apparent U.S. consumption, 1988-90, January-September 1990, and January-September 1991

Item	1988	1989	1990	Jan.-Sept.--	
				1990	1991
	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

**APPENDIX E**

**COMMENTS RECEIVED FROM U.S. PRODUCERS  
ON THE IMPACT OF IMPORTS OF SULFANILIC ACID  
FROM THE PEOPLE'S REPUBLIC OF CHINA  
ON THEIR GROWTH, INVESTMENT, ABILITY  
TO RAISE CAPITAL, AND DEVELOPMENT  
AND PRODUCTION EFFORTS**





COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS OF SULFANILIC ACID FROM THE PEOPLE'S REPUBLIC OF CHINA ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND DEVELOPMENT AND PRODUCTION EFFORTS

The Commission requested the U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of sulfanilic acid from the People's Republic of China on their growth, investment, ability to raise capital, and development and production efforts (including efforts to develop a derivative or improved version of its product).

\* \* \* \* \*





