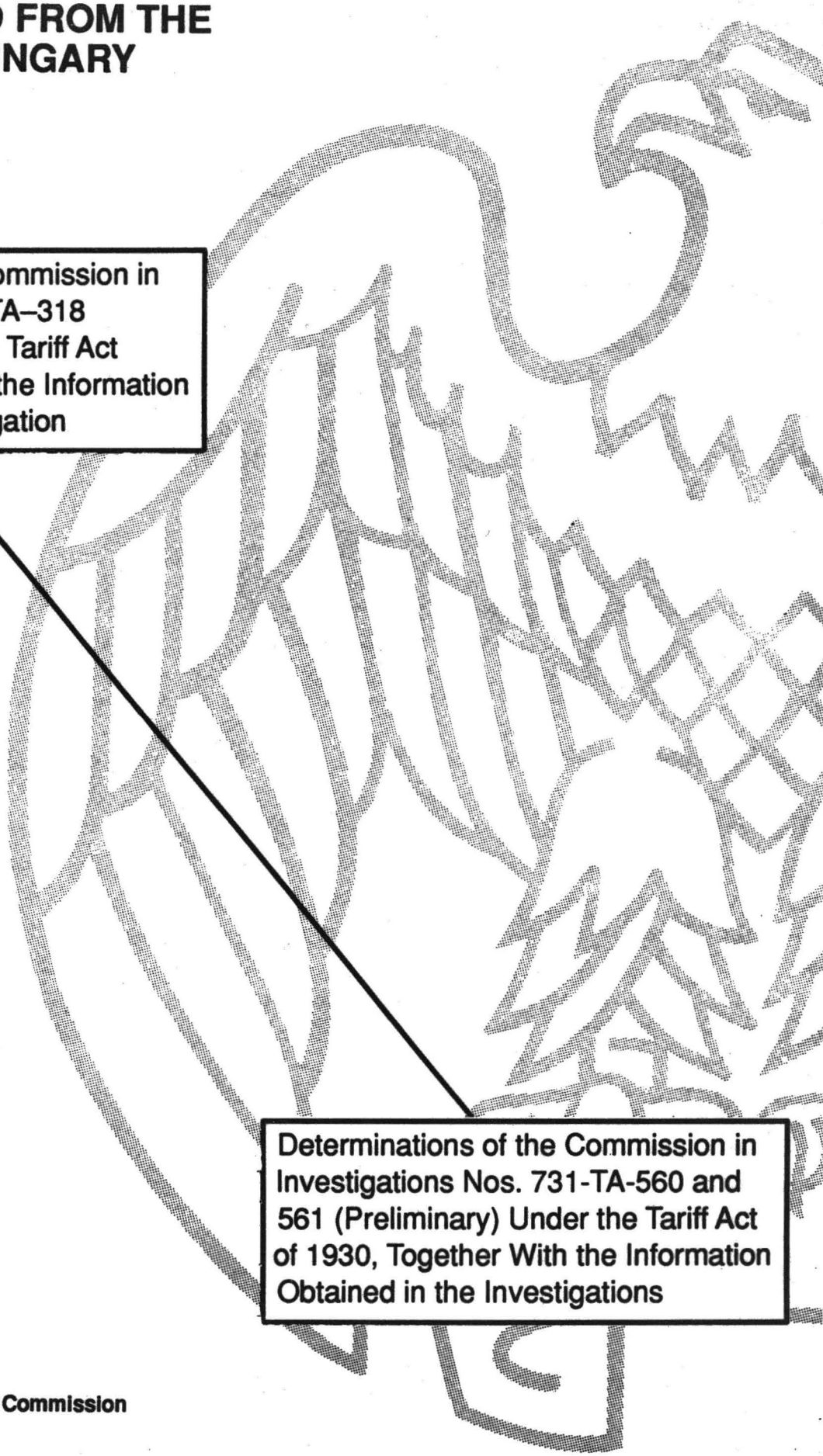
731-TA-560-561 (preliminary)

SULFANILIC ACID FROM THE REPUBLIC OF HUNGARY AND INDIA

Determination of the Commission in Investigation No. 701–TA–318 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



Determinations of the Commission in Investigations Nos. 731-TA-560 and 561 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations

USITC PUBLICATION 2526

JUNE 1992

United States International Trade Commission
Washington, DC 20436

SULFANILIC ACID FROM THE REPUBLIC OF HUNGARY AND INDIA

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Don E. Newquist, Chairman
Peter S. Watson, Vice Chairman
David B. Rohr
Anne E. Brunsdale
Carol T. Crawford
Janet A. Nuzum

Robert A. Rogowsky,
Director of Operations

Staff assigned:

Lori Hylton, Investigator
Edward Matusik, Industry Analyst
Catherine DeFilippo, Economist
James Stewart, Accountant
Anjali Singh, Attorney

Robert Carpenter, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

C O N T E N T S

CONTENTS

CONTENTS

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

DETERMINATIONS AND VIEWS OF THE COMMISSION

VIEWS OF CHAIRMAN NEWQUIST, VICE CHAIRMAN WATSON, COMMISSIONER ROHR AND COMMISSIONER NUZUM

On the basis of the information obtained in these preliminary investigations, we determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly less-than-fair-value (LTFV) imports of sulfanilic acid from the Republic of Hungary (Hungary) and India and by reason of allegedly subsidized imports from India.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping and countervailing duty investigations 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 or threat thereof to a domestic industry by reason of the imports subject to investigation.[1] In these investigations, the Commission considered whether "(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 any contrary evidence will arise in a final investigation."[2] The U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."[3]

II. LIKE PRODUCT AND DOMESTIC INDUSTRY

In determining whether there is a reasonable indication of material

---

[1] 19 U.S.C. §§ 1671b(a) and 1673b(a). See also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986)("American Lamb"); Calabrian Corp. v. United States Int'l Trade Comm'n, slip op. 92-69 at 6 (Ct. Int'l Trade May 13, 1992). Whether the establishment of an industry in the United States is materially retarded is not an issue in these investigations.

[2] American Lamb, supra, at 1001.

[3] Id. at 1004.

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 proportion of the total domestic production of that product . . . ."[4] "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 . . . ."[5]

The Commission's decision regarding the appropriate like product 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.[6] The Commission disregards minor variations between the articles subject to an investigation and generally looks for "clear dividing lines among possible like products."[7]

The imported articles subject to these investigations, as defined by the Department of Commerce (Commerce), are:

> [A]ll grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and refined sodium salt of

---

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(10).

[6] Asociacion Colombiana de Exportadores de Flores, et al. v. United States, 12 Ct. Int'l Trade 634, 693 F. Supp. 1165 (1988)("Asocoflores"). Factors the Commission considers in defining the like product include: (1) physical characteristics and uses, (2) interchangeability of the products, (3) channels of distribution, (4) customer and producer perceptions of the products, (5) the use of common manufacturing facilities and production employees and, where appropriate, (6) price. No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation.

[7] S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

sulfanilic acid (sodium sulfanilate).[8]

The petitioner, R-M Industries, Inc., currently produces only technical grade sulfanilic acid and sodium sulfanilate.[9] During the period of investigation imports from Hungary have been only of refined grade sulfanilic acid, and only technical grade sulfanilic acid has been imported from India.[10]

In the Commission's previous preliminary determination involving sulfanilic acid from the People's Republic of China (China),[11] the like product was defined as all forms of sulfanilic acid -- technical grade sulfanilic acid, sodium sulfanilate and refined grade sulfanilic acid (collectively referred to herein as "sulfanilic acid").[12] The evidence on the record in these investigations, consistent with our previous finding of one like product, shows that the three forms of sulfanilic acid have similar physical characteristics,[13] end uses,[14] channels of distribution,[15] manufacturing processes and production employees.[16]

In addition, there is sufficient interchangeability between the different forms of sulfanilic acid to support finding one like product. In general, technical grade sulfanilic acid is further purified to form both

---

[8] 57 Fed. Reg. 9410 (March 18, 1992).
[9] Report at I-18-19.
[10] However, refined grade sulfanilic acid from India is reported to have been imported in May 1992. Report at I-21.
[11] Sulfanilic Acid from the People's Republic of China, Inv. No. 731-TA-538 (Preliminary), USITC Pub. 2457 (Nov. 1991). Vice Chairman Watson and Commissioner Nuzum did not participate in the preliminary investigation involving sulfanilic acid from China as they were not members of the Commission at that time.
[12] See id. at 3-10. None of the parties in these investigations challenges the Commission's previous definition of one like product.
[13] Report at I-4-5.
[14] See Report at I-7-9.
[15] Report at I-22.
[16] Report at I-5-7.

sodium sulfanilate and refined grade sulfanilic acid.[17] It also has some limited end use applications in the production of concrete additives and specialty dyes. Sodium sulfanilate and refined grade sulfanilic acid also can be used to produce concrete additives, but the prices of these two forms are higher than the price of the technical grade; therefore, it is not economical to substitute sodium sulfanilate or refined grade sulfanilic acid for technical grade sulfanilic acid. Both sodium sulfanilate and refined grade sulfanilic acid can be used to produce optical brighteners and food and specialty dyes. We recognize that many customers have indicated a preference for either sodium sulfanilate or refined grade sulfanilic acid depending upon their particular production process.[18] Such customer preferences, however, are not inconsistent with our view that sodium sulfanilate and refined grade sulfanilic acid may be, and have been, used interchangeably sufficient to consider them both one like product.[19]

We consequently define the like product as all forms of sulfanilic acid, and define the domestic industry as the only current U.S. producer of

---

[17] The synthesis of sulfanilic acid is accomplished by first combining aniline with sulfuric acid resulting in the formation of aniline hydrogen sulfate which is then baked to form technical sulfanilic acid. The technical sulfanilic acid is then neutralized with an inorganic base to form sodium sulfanilate. The aqueous sodium sulfanilate can then be filtered and purified or made into acid with additional sulfuric acid to precipitate a purified form of sulfanilic acid. Report at I-5.

[18] See Report at I-9-12.

[19] See, e.g., New Steel Rails from Japan, Luxembourg, and United Kingdom, Inv. Nos. 731-TA-563 and 564 (Preliminary), USITC Pub. 2524 (June 1992) at 6; High-Information Content Flat Panel Displays and Subassemblies Thereof from Japan, Inv. No. 731-TA-469 (Final), USITC Pub. 2413 (Aug. 1991) at 10 n.26; 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, R-M Industries, Inc.[20]

III. CONDITION OF THE INDUSTRY

In a preliminary investigation, the Commission assesses whether there is a reasonable indication of material injury to a domestic industry, or threat thereof, by reason of allegedly LTFV or subsidized imports.[21] In making this determination, the Commission considers "all relevant economic factors which have a bearing on the state of the industry in the United States . . . ."[22] These factors include: U.S. consumption, production, shipments, capacity utilization, employment, wages, financial performance, inventories, capital investment, and research and development expenses.[23] No single factor is determinative, and the Commission considers these factors within the context of the business cycle and conditions of competition distinctive to the affected industry.[24]

There are several conditions of competition distinctive to the domestic sulfanilic acid industry worth noting. First, there has been a shift toward increased consumption of the refined forms of sulfanilic acid (both sodium sulfanilate and refined grade sulfanilic acid) relative to technical grade sulfanilic acid.[25] This trend is the result of several factors, including

---

[20] The Hilton Davis company was the only other domestic producer of sulfanilic acid (technical grade) during the period of investigation. Hilton Davis mainly produced sulfanilic acid for its own consumption, but has discontinued production of sulfanilic acid because it is more economical to purchase for its requirements instead. Report at I-19.

[21] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[22] 19 U.S.C. § 1677(7)(C)(iii).

[23] 19 U.S.C. § 1677(7)(C)(iii). Because the domestic industry consists of only one producer, certain factors regarding the condition of the industry must be discussed in general terms in order to avoid disclosing business proprietary information.

[24] 19 U.S.C. § 1677(7)(C)(iii). No parties have raised any issues regarding a business cycle distinctive to the sulfanilic acid industry.

[25] Report at D-3.

more stringent limits imposed by the Food and Drug Administration on impurities in food dyes; these more stringent limits effectively preclude the use of technical grade sulfanilic acid as an input.[26] In addition, at least one major producer of optical brighteners has moved away from use of the technical grade sulfanilic acid to either the refined grade sulfanilic acid or sodium sulfanilate due to customer preferences for higher quality.[27]

Another condition of competition affecting this industry is the increased cost of compliance with stricter environmental regulations. The Environmental Protection Agency has imposed stricter requirements on the disposal of wastewater contaminants which are created when technical grade sulfanilic acid is purified into the refined grade sulfanilic acid.[28] We note that petitioner discontinued production of the refined grade sulfanilic acid in 1989, allegedly due to the higher costs associated with purification of the wastewater.[29]

Against the backdrop of these conditions of competition, we next examine the various indicators of the domestic industry's performance. Between 1989 and 1991, apparent U.S. consumption in terms of quantity increased by 47.6 percent, then decreased by 20.0 percent in the first three months of 1992 (interim 1992) as compared to the comparable interim period in 1991.[30] In terms of value, apparent U.S. consumption increased by 30.1 percent in 1990 and by 21.3 percent in 1991, then decreased by 16.9 percent in interim 1992 as compared to interim 1991.[31]

---

[26] Transcript of the preliminary conference (hereinafter "Tr.") at 87.
[27] Tr. at 103.
[28] Tr. at 34-35.
[29] Report at I-18. The refined grade sulfanilic acid is the only form of sulfanilic acid that creates a wastewater stream. Report at I-18 n.55.
[30] Report at I-16.
[31] Report at I-16.

U.S. production of sulfanilic acid decreased from 1989 to 1990, then increased significantly from 1990 to 1991, with a smaller additional increase in interim 1992 compared to interim 1991.[32] U.S. shipments, in terms of both quantity and value, increased from 1989 to 1991, but remained stable in interim 1992 as compared to interim 1991.[33] We note, however, that the increase in production and shipments between 1989 and 1991 did not keep pace with the overall increase in consumption during that same period. Further, the unit value of U.S. shipments increased from 1989 to 1991, but remained stable in interim 1992.[34] U.S. capacity to produce sulfanilic acid was unchanged between 1989 and 1990, increased significantly between 1990 to 1991, but then decreased somewhat in interim 1992 as compared to interim 1991.[35] Capacity utilization decreased from 1989 to 1990, but then increased significantly in 1991 as well as in interim 1992.[36]

U.S. employment levels remained stable throughout the period of investigation, but decreased slightly in interim 1992.[37] Hours worked decreased from 1989 to 1991, as well as in interim 1992 as compared to interim 1991.[38] Hourly wages decreased from 1989 to 1990, then increased in 1991, and increased in interim 1992 as compared to interim 1991.[39] U.S. productivity decreased from 1989 to 1990, but then increased significantly in 1991 and in

---

[32] Report at I-24.
[33] Report at I-24.
[34] Report at I-24. The domestic industry's export shipments decreased from 1989 to 1990, but then increased significantly in 1991 and in interim 1992. Report at I-25. The unit value of export shipments increased in 1990 and 1991, but then decreased slightly in interim 1992. Report at I-25.
[35] Report at I-23.
[36] Report at I-24 (Table 2).
[37] Report at I-26.
[38] Report at I-26.
[39] Report at I-26.

interim 1992.[40] U.S. producers' end-of-period inventories of sulfanilic acid decreased from 1989 to 1991 and in interim 1992 as compared to interim 1991.[41]

The financial data on petitioner's sulfanilic acid operations show that the value of net sales of sulfanilic acid was relatively stable in 1989 and 1990, increased in 1991, and was stable between the interim periods.[42] The quantity of net sales increased significantly in 1991 as compared to 1989 and 1990, and increased as well in interim 1992 as compared to interim 1991.[43] The average unit sales value increased from 1989 to 1991 but then remained stable in interim 1992.[44] Petitioner reported significant operating losses in 1989 and 1990, and a positive operating income in 1991 and in interim 1992.[45] The operating margin as a percentage of sales improved from 1989 to 1991, as well as in interim 1992 as compared to interim 1991.[46] Capital expenditures on petitioner's overall establishment decreased from 1989 to 1991, and then increased in interim 1992 compared to interim 1991.[47] Investment in the productive facilities of petitioner's sulfanilic acid operations increased from 1989 to 1991; no data were provided by the petitioner for the interim periods.[48] There are no available data regarding research and development

---

[40] Report at I-26 (Table 5).
[41] Report at I-25.
[42] Report at I-28. R-M Industries' financial data may not be entirely reliable for reasons that cannot be disclosed without revealing business proprietary information. Report at I-27, I-28 n.104.
[43] Report at I-28.
[44] Report at I-28.
[45] Report at I-27.
[46] Report at I-28 (Table 7).
[47] Report at I-29 (Table 9).
[48] Report at I-29 (Table 10).

expenses.[49] [50] [51]

We note that, while the improvement in operating income margins is impressive, the improvement in actual operating profits is not particularly large, in either absolute terms or in relation to the capital intensive nature of the production process. Further, shifts in U.S. consumption toward the refined forms of sulfanilic acid, coupled with the increased cost of producing refined grade sulfanilic acid and declines in some indicators in interim 1992, indicate that the improved performance achieved in 1991 may not reflect long or even moderate term trends.

For purposes of these preliminary investigations, we believe that, among other factors, the apparent interchangeability of sodium sulfanilate and refined grade sulfanilic acid, in combination with the increased costs to produce refined grade sulfanilic acid domestically, render the domestic industry vulnerable to the effects of the subject imports, which primarily consist of refined grade sulfanilic acid.

IV. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGED LTFV AND SUBSIDIZED IMPORTS[52]

A. Cumulation

In analyzing whether allegedly unfair imports threaten to cause material injury to a domestic industry, the Commission is not required, but has the

---

[49] Report at I-29.

[50] Chairman Newquist and Commissioner Rohr determine, based on an analysis of the above factors, that the domestic industry is not currently experiencing material injury.

[51] Vice Chairman Watson and Commissioner Nuzum do not reach a separate conclusion of material injury based solely upon the condition of the industry. Based, however, upon their further review of the record evidence in light of the statutory factors enumerated in 19 U.S.C. § 1677(7), they do, for purposes of these preliminary investigations, find that the domestic industry is not currently experiencing material injury by reason of the subject imports.

[52] See Additional Views of David B. Rohr.

discretion, to cumulate the price and volume effects of imports from each subject country if such imports compete with each other and with the like product of the domestic industry in the United States market.[53]

Petitioner has argued that imports from China, Hungary, and India should be cumulated in any threat analysis.[54] Respondents disagree and, in addition, argue that imports from India are negligible.

1. The Competition Requirement

To determine whether the competition requirement has been met for purposes of cumulation, the Commission generally has considered four factors:

> (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
>
> (2) the presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product;
>
> (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
>
> (4) whether the imports are simultaneously present in the market.[55]

No single factor is determinative and the list of factors is not

---

[53] 19 U.S.C. § 1677(7)(F)(iv); Asocoflores, 704 F. Supp. 1068, 1070 (Ct. Int'l Trade 1988); Asocoflores, 693 F. Supp. 1165, 1171, 1172 (Ct. Int'l Trade 1988).

[54] Since sulfanilic acid from China is the subject of an ongoing final investigation, these imports are eligible for cumulation if the statutory requirements are otherwise met. Sulfanilic Acid from the People's Republic of China, Inv. No. 731-TA-538 (Preliminary), USITC Pub. 2457 (Nov. 1991); 19 U.S.C. § 1677(7)(F)(C)(iv).

[55] See, e.g., Sulfur Dyes from the People's Republic of China, Hong Kong, India and the United Kingdom, 731-TA-548 through 551 (Preliminary), USITC Pub. 2514 (May 1992) at 20-21. Both the Court of International Trade and the Federal Circuit upheld the Commission's use of these four factors in Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

exclusive; these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.[56] Only a "reasonable overlap" of competition is required.[57]

The record reveals that there is some degree of fungibility among the different forms of sulfanilic acid; however, the information we obtained from purchasers and importers varied regarding the ease of substituting refined grade sulfanilic acid with sodium sulfanilate. Nonetheless, we note that in practice several of the large purchasers use both forms or have switched from one form to another.[58] In times of shortages of refined grade sulfanilic acid, purchasers have resorted to sodium sulfanilate.[59] In some cases, purchasers of optical brighteners and dyes have even been able to use technical grade sulfanilic acid in their processes.[60] Thus, for purposes of these preliminary investigations, we find a sufficient degree of fungibility among the subject imports, and between the subject imports and the domestic like product, to warrant cumulation.

The record also shows that the imports and domestic products are sold in the same geographic markets and, in some cases, to the same customers.[61]

---

[56] Granges Metallverken AB v. United States, 716 F. Supp. 17, 22 (Ct. Int'l Trade 1989).

[57] See Weiland Werke, AG v. United States, 718 F. Supp. 50, 52 (Ct. Int'l Trade 1989); Granges Metallverken AB v. United States, 716 F. Supp. 17, 21, 22 (Ct. Int'l Trade 1989).

[58] Report at I-10-12, I-20.

[59] During the shortage of sulfanilic acid that occurred when Japan and Hungary discontinued exporting the product to the United States, petitioner stated that purchasers were readily accepting "whatever product we had available, which in most cases was technical, or the sodium sulfanilate powder." Tr. at 64.

[60] Tr. at 110; Respondents' Post-Conference Brief at 23.

[61] Both U.S. producers and importers reported that the market is generally concentrated in the Northeast, Southeast and Midwest where the largest purchasers are located. Report at I-42.

Furthermore, there are common or similar channels of distribution for imports and the domestic like product.[62] Finally, the record shows that imports from Hungary, India and China have been available simultaneously in the market during the latter portion of the period of investigation.

In determining whether to exercise its discretion to cumulate in the context of a threat of material injury determination, the Commission has considered certain additional factors. For example, the Commission has considered whether there were similar trends among the imports from the various subject countries.[63] Although the specific individual rates of volume and market penetration of the Indian, Chinese and Hungarian imports vary, they all show a pattern of increasing volume and market penetration during the period of investigation.[64] Also, the limited price information in these investigations indicates that subject imports from each country have been sold at prices below those offered for the domestic like product.[65]

For these reasons, we have determined that it is appropriate to assess cumulatively the volume and price effects of imports from China, Hungary and India.[66]

---

[62] See Report at I-22.

[63] See, e.g., Asocoflores, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988); Sulfur Dyes from the People's Republic of China, Hong Kong, India and the United Kingdom, 731-TA-548 through 551 (Preliminary), USITC Pub. 2514 (May 1992) at 24; Coated Groundwood Paper from Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Sweden, and the United Kingdom, Inv. Nos. 731-TA-486 through 494 (Preliminary), USITC Pub. 2359 (Feb. 1991) at 43. See also Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 55 n.20 (Views of Commissioner Newquist).

[64] See Report at I-37 (Table 14), I-40 (Table 15). Imports from both Hungary and India, however, decreased in interim 1992. Id.

[65] For price trends, see Report at I-42-46.

[66] Chairman Newquist determines that there is a reasonable indication of threat of material injury by reason of the subject imports, regardless of whether their volume and price effects are assessed cumulatively.

2. The Negligible Imports Exception

Under the statutory cumulation provision, the Commission is not required to cumulate imports from a particular country in any case in which the Commission determines that "imports of the merchandise subject to investigation are negligible and have no discernible adverse impact on the domestic industry."[67] In determining whether the imports are negligible, the Commission considers all relevant economic factors, including whether:

> (I) the volume and market share of the imports are negligible,
>
> (II) sales transactions involving the imports are isolated and sporadic, and
>
> (III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.[68]

Respondents have argued that imports from India should not be subject to cumulation pursuant to the negligible imports exception. We disagree. Although the volume and market share of imports from India have been small throughout the period of investigation, they did increase significantly from 1990 to 1991.[69] Furthermore, there is compelling evidence on the record that Indian producers intend to increase sharply their exports of sulfanilic acid to the United States.[70] If such imports continue to enter the United States at the same prices as during the period of investigation, we believe they will have a depressing or suppressing effect on domestic prices.

Sales transactions involving the imports do not appear to be isolated

---

[67] 19 U.S.C. § 1677(7)(C)(v).
[68] 19 U.S.C. § 1677(7)(C)(v).
[69] Report at I-36, I-37 (Table 14). In addition, "several firms mentioned that they had plans to purchase shipments from India but had cancelled them as a result of the current investigations." Report at I-21.
[70] Report at 34. In addition, notwithstanding India's relatively low volume of imports and market share, we are concerned with the rapid and dramatic increase in import levels between 1990 to 1991. See Report at I-36-37.

and sporadic. Importers of sulfanilic acid from India, China and Hungary reported in their questionnaires that virtually all of their sales are made based on contracts ranging from three months to a year, rather than on a spot basis.[71] We also believe there is sufficient evidence in the record to find that the domestic market for sulfanilic acid is price sensitive, so that even a relatively small quantity of imports from India may result in price suppression or depression.[72] We cannot say that there is clear and convincing evidence that imports from India are negligible and have no discernible adverse impact on the domestic industry. We note that Congress intended the negligible imports exception to be applied "only when the facts clearly justify its application."[73] For these reasons, we have exercised our discretion to cumulate imports from Hungary, India and China for purposes of our threat determination in these preliminary investigations.

B. Analysis of Threat of Material Injury By Reason of Unfair Imports

Section 771(7)(F) of the Tariff Act of 1930 directs the Commission to determine whether a reasonable indication exists that a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."[74] The statute identifies specific factors to be considered; we

---

[71] Report at I-41. Respondents, however, argue that there have only been sporadic sales which were sold on a spot basis. Respondents' Post-Conference Brief at 36. We shall further investigate this discrepancy in any final investigations.

[72] We have obtained at least one confirmed instance in which petitioner experienced price suppression caused by lower priced imports of Indian technical grade sulfanilic acid. Report at I-48.

[73] H.R. Rep. No. 40, Part I, 100th Cong., 1st Sess. 131 (1987).

[74] 19 U.S.C. § 1677(7)(F)(ii). While an analysis of the statutory threat factors necessarily involves projection of future events, our determination is not made based on supposition, speculation or conjecture, but on the statutory directive of real and imminent injury. See, e.g., S. Rep. No. 249, 96th

(continued...)

have considered all the factors relevant to the particular facts of these investigations.[75] [76] To avoid disclosing business proprietary information, we will discuss only general trends regarding foreign producer data.

We have limited information regarding the nature of the alleged subsidies.[77] Petitioner alleges that the Indian government has been providing subsidies to the Indian producers of sulfanilic acid (including preferential export loans, preferential post-shipment financing, and income tax deductions for exporters) and that these subsidies will increase the incentive of Indian producers to export additional quantities of sulfanilic acid to the United States.[78]

Also, we note that there has been a significant increase in capacity to produce sulfanilic acid in China, Hungary and India.[79] Further, there has been a rapid increase in market penetration during the period of investigation by the subject imports in terms of both quantity and value.[80] The market

---

[74](...continued)
Cong., 1st Sess. 88-89 (1979); Hannibal Industries Inc. v. United States, 712 F. Supp. 332, 338 (Ct. Int'l Trade 1989).

[75] 19 U.S.C. § 1677(7)(F)(i)(I)-(X). 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. Id. at § 1677(7)(F)(iii)(I). We have no evidence that there are any dumping findings or remedies in any other country.

[76] Two of the statutory factors are not relevant to the facts of these investigations: factor VIII, regarding potential product-shifting from other products covered by antidumping orders to sulfanilic acid; and factor IX, regarding raw and processed agricultural products.

[77] 19 U.S.C. § 1677(7)(F)(i)(I).

[78] Antidumping and Countervailing Duty Petition of R-M Industries at 39-44; Report at I-15-16.

[79] See 19 U.S.C. § 1677(7)(F)(i)(II); Report at I-32-35.

[80] 19 U.S.C. § 1677(7)(F)(i)(III); Report at I-39-40. Although the market penetration and total volume of imports from China and India decreased in interim 1992, we have evidence that this was due, at least in part, to the preliminary affirmative antidumping duty determination against China and to the institution of the antidumping and countervailing duty investigations

(continued...)

penetration of cumulated imports on the basis of quantity climbed from 14 percent in 1989 to 46.2 percent in 1991.[81] In terms of value, the cumulated market penetration rate climbed from 12.5 percent in 1989 to 40.1 percent in 1991.[82] The total volume of subject imports increased by 59 percent from 1989 to 1990 and by 231 percent in 1991.[83]

Based on the limited data available on price comparisons and trends, we conclude that there is a "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 . . . ."[84] The information available shows that in 1991 prices of technical grade sulfanilic acid from India were lower than U.S. prices for technical grade sulfanilic acid.[85] In addition, petitioner has presented price quotes from the Indian State Trading Company that reveal offers for Indian products at prices substantially lower than U.S. prices for all three forms of sulfanilic acid.[86]

Reported prices of refined grade sulfanilic acid from Hungary were also below the prices of domestic refined grade sulfanilic acid for three quarters of 1989; beginning in 1990, there were no domestic prices reported for this grade since petitioner discontinued the production of refined grade sulfanilic acid.[87] We find it particularly noteworthy, however, that the data reveal

---

[80](...continued)
involving India. See Report at I-21, I-35 n.112. Therefore, we have not placed much weight on the interim 1992 data. We will evaluate the actual extent of the effect of the preliminary antidumping and countervailing duty determinations on the 1992 data in any final investigations.

[81] Report at I-40 (Table 15).

[82] Report at I-40 (Table 15).

[83] Report at I-36.

[84] 19 U.S.C. § 1677(7)(F)(i)(IV).

[85] Report at I-43 (Table 16).

[86] Tr. at 189; Antidumping and Countervailing Duty Petition of R-M Industries, Attachment G.

[87] Report at I-44 (Table 18).

that throughout the period of investigation the prices of imported refined grade sulfanilic acid from Hungary and China were consistently lower than the prices of petitioner's sodium sulfanilate (both in liquid and powder form), despite the value added in producing refined grade sulfanilic acid from sodium sulfanilate.[88]

With regard to inventories, most U.S. importers of sulfanilic acid from China, Hungary and India generally do not maintain inventories.[89] With regard to "the presence of underutilized capacity for producing the merchandise in the exporting countr[ies]," [90] the data indicate that capacity utilization levels were high for Hungary and somewhat less for China and India (although they are projected to increase for India).[91] On a cumulated basis, the unused capacity in the three countries would likely have a negative impact if utilized and directed to the U.S. market.

With regard to the actual and potential negative effects on the existing development and production efforts of the domestic industry, we note that although petitioner currently has all of the equipment to make refined grade sulfanilic acid, it faces substantial investment or increased costs to comply with the Clean Water Act if it is to begin producing refined grade sulfanilic acid.[92]

In addition, we have taken into account other demonstrable adverse trends that indicate the probability that importation of the merchandise will

---

[88] Cf. Tables 17 and 18, Report at I-44.
[89] See 19 U.S.C. § 1677(7)(F)(i)(V); Report at I-32.
[90] 19 U.S.C. § 1677(7)(F)(i)(VI).
[91] Report at I-33-35.
[92] See 19 U.S.C. § 1677(7)(F)(i)(X). Petitioner also contends that it has been forced to delay or cancel investments associated with its current production activities. Tr. at 10, 18-19.

be a cause of actual injury.[93] As noted earlier, the costs of producing refined grade sulfanilic acid domestically increased over the period of investigation.[94] Consequently, if imports of refined grade sulfanilic acid continue to enter the United States at allegedly unfair prices, we believe it is likely that the domestic industry may be precluded from producing and selling its own refined grade sulfanilic acid at prices that can compete with the subject imports. Hence the domestic industry would be effectively excluded from that segment of the market that has indicated a preference for this form of sulfanilic acid.

CONCLUSION

For the purposes of these preliminary investigations, we find that the record as a whole does not contain clear and convincing evidence that there is no threat of material injury by reason of the subject imports. We therefore determine that there is a reasonable indication that the domestic industry producing sulfanilic acid is threatened with material injury by reason of imports from Hungary and India.

---

[93] 19 U.S.C. § 1677(7)(F)(i)(VII).
[94] See, supra, at 10.

Additional Views of Commissioner David B. Rohr on Threat of Material Injury by Reason of Allegedly Unfair Hungarian and Indian Imports

I concur with my colleagues Chairman Newquist, Vice Chairman Watson, and Commissioner Nuzum that there is a reasonable indication the domestic sulfanilic acid industry is threatened with material injury by reason of the allegedly unfair imports from Hungary and India. However, I disagree with their use of a formal cumulated analysis in reaching this conclusion. I have therefore prepared these additional views in order to set forth my individual findings as to the reasonable indications of the individual threats posed to the domestic industry by the allegedly unfair Hungarian and Indian imports.

Vulnerability of the Industry

For purposes of my analysis of the vulnerability of the sulfanilic acid industry, I incorporate the discussion contained in the Condition of the Industry section of the views of the Commission majority.[1] In making my determination, I relied on no single indicator. I 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. I also conclude that it is somewhat vulnerable to injury.

Cumulation

I have expressed my concerns in the past over the use of formal cumulated analysis in Commission threat opinions. As I have explained, a threat analysis involves the assessment by the Commission of the capabilities and intentions of foreign producers with regard to the domestic market and domestic industry. Formal cumulation, by ignoring differences in the trends in the various threat indicators, raises the possibility that the capabilities or intentions of one set of foreign producers will be "assigned" to another set of foreign producers.

---

[1] *See* Views of Chairman Newquist, Vice Chairman Watson, and Commissioners Rohr and Nuzum, *supra*, at 6-10.

For example, some foreign producers may have demonstrated an intention to take actions in the domestic market that will be injurious to the domestic industry, such as aggressively seeking market share by underselling. This set of producers may not have the capability to accomplish that intent, because they cannot expand their production. With a cumulated analysis, however, they may be found to threaten the domestic industry because producers in another country, who may not have been expanding market share or underselling, have additional available capacity to expand their production.

I have also been mindful of the fact that imports from different sources may have a collective impact on a domestic industry. This is what I believe the Court of International Trade had in mind when it stated that "cumulation" *may* be appropriate in certain circumstances in the context of threat analysis. I have reconciled these difficulties by undertaking what I term "informal" cumulation in my threat determinations. In performing this "informal" cumulation, I provide individual analysis of the threat posed by imports from a particular country but take into account the presence of other unfairly traded imports in my consideration of "other demonstrable adverse trends." By so doing, I can consider the collective impact of imports in the context of individual threat indicators while avoiding the unfair assigning of the consequences of the capabilities or intentions of one country to others.

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.[2]

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. [3]

Initially, I note that items (VIII) and (IX) are not legally relevant to my determination in these investigations. These investigations involve a single, non-agricultural product. They involve dumping of the Hungarian product and both dumping and subsidization of the Indian product. Further, there is no indication that Hungarian or Indian exports of sulfanilic acid have been the subject of antidumping determinations in third countries. I therefore focus my analysis on the remaining factors.

---

[2] 19 U.S.C. § 1677(7)(F)(i), as amended by 1988 Act sections 1326(b), 1329.

[3] See 19 U.S.C. § 1677(7)(F)(iii), as amended by 1988 Act, section 1329.

Hungarian Imports

I begin my noting that the present investigation involves only allegations of dumping of the Hungarian product. Therefore, factor I, the nature of the subsidies, is not legally relevant to my evaluation of the threat posed by Hungarian product.

Factors II and VI involve an assessment of the capacity situation of the foreign industry. The Hungarian industry has operated at very high capacity utilization rates over the period of this investigation. Capacity has expanded recently, however, by a rather significant amount.

The record is unclear at this time as to whether the capacity situation in the Hungarian industry will permit an increase in exports to the United States. The U.S. market has accounted for an increasing percentage of Hungarian exports over the period investigation, particularly in 1991 and in interim 1992. The Hungarian producer claims, however that the increase in capacity was intended for and at the request of its traditional European customers. I cannot say at this stage of the investigation that there is clear and convincing evidence that the increased capacity would not be used to increase exports to the United States.

With respect to factor III, I note that Hungarian exports to the United States have increased over the period of investigation, particularly in 1991 and in interim 1992. Hungarian market share has also increased steadily, with a large jump in interim 1992.

Factor IV requires the Commission to consider the potential price effects of the allegedly dumped Hungarian imports. I note that during the period in which the United States industry sold refined sulfanilic acid, the Hungarian product consistently undersold the domestic product. I note, as well, that throughout the period, Hungarian refined sulfanilic acid sold at prices less than that of the domestic intermediate product, sodium sulfanilate. Hungarian prices for the refined product were only somewhat above the price for the domestic technical grade sulfanilic acid. The information currently available to the Commission thus provides a reasonable indication that the Hungarian product will enter the United States at prices that will suppress or depress the price of the domestic product.

Factor V relates to inventories. I note that Hungarian inventories have increased

somewhat, particularly in 1991, but do not appear to be of particularly significant quantities. There is no information on the record with regard to the existence of any U.S. inventories of the Hungarian product.

Factor VII refers to other demonstrable adverse trends affecting the industry. As I have previously indicated, I consider the presence of other unfairly traded imports such a factor. I note that I have already made the affirmative preliminary determination that allegedly dumped imports from China threaten the domestic industry and that, in this investigation, allegations are made that dumped and subsidized imports from India injure or threaten injury to the domestic industry. I imports from all three countries have increased, particularly in 1991. Imports from all three sources appear to undersell the domestic product. The record seems to indicate that some of the interest by U.S. customers for the Hungarian and Indian product may be related to the imposition of provision duties on the Chinese product. I conclude there is a reasonable indication that the adverse potential volume and price effects of the Hungarian imports are being reinforced by the other unfairly traded imports.

Finally, with respect to factor X, I note that the domestic industry has begun efforts to resume production of refined sulfanilic acid. These efforts are complicated by stringent environmental restrictions on the disposal of the wastewater stream which results from the refining process. There is a reasonable indication that the low prices prevailing in the domestic market for the refined sulfanilic acid are increasing the difficulty of the domestic industry in obtaining the returns necessary to justify the additional expenses necessary for the proper disposal of the wastewater. The imports appear to be having negative effects on the industry's ability to return to production of this product.

While the evidence on the record regarding the potential future effects of the Hungarian imports is mixed, I cannot determine that the evidence is clear and convincing that the imports do not pose a real and imminent threat of injury to the industry. I therefore make an affirmative determination that such imports threaten material injury to the domestic industry.

Indian Imports

With regard to factor I, little information is available with regard the subsidy allegations made against the Indian producers. The allegations include both domestic and export subsidies.

With respect to capacity, factors II and VI, while capacity utilization has been increasing, there remains substantial unused capacity. Further, capacity has increased steadily over the period of investigation and is projected to increase still further. With regard to whether this increased and unused capacity will be used to increase exports to the United States, I note that the United States has only recently become a market for the Indian product, but that large shipments are projected for 1992 and 1993.

The volume of Indian exports to the United States is currently very small. However, there is also information of record that until the initiation of this investigation a large shipment that would account for a significant share of projected 1992 use of sulfanilic acid was planned from Indian sources.

With respect to Indian prices, factor IV, little information is available because of the limited shipments that have been made. There appears to be some underselling, which is supported by anecdotal lost revenue information.

With respect to factor V, domestic inventories of the Indian product are insignificant. The same appears true of inventories maintained by the Indian producers themselves.

With respect to other demonstrable adverse trends, I have considered the presence of the allegedly unfair Hungarian and Chinese imports. I restate my conclusions, set forth above with respect to Hungarian imports, that the presence of the other unfair imports appears to reinforce the negative effects of the Indian imports.

With respect to factor X, the Indian imports have been almost exclusively of technical grade sulfanilic acid and therefore would seem to have less effect on the domestic industry's plans with regard to refined grade sulfanilic acid. However, there is also information on the record suggesting that future imports may be of the refined grade, which may therefore raise the same concerns as the Hungarian imports do about the efforts of the domestic industry to

return to production of this material.

I conclude that there is a reasonable indication that Indian imports pose a real and imminent threat of material injury to the domestic industry.

Additional Views of Commissioner Anne E. Brunsdale
Sulfanilic Acid from the Republic of Hungary and India
Inv. Nos. 701-TA-318 and 731-TA-560 and 561 (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 Republic of Hungary (Hungary).[1] I do not, however, find a reasonable indication that the industry is materially injured or threatened with material injury by reason of allegedly dumped and subsidized imports from India. 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, but focus on those issues where I disagree.

Cumulation

In November 1991, the Commission made an affirmative preliminary determination in a related case involving sulfanilic acid from the People's Republic of China (China). The statute instructs us to cumulate imports from all countries subject to investigation if they compete with each other and the domestic like product. Therefore, although we make no explicit decision about Chinese sulfanilic acid at this time, information about the effect of the dumped Chinese imports is crucial to these

[1] Material retardation of the establishment of a domestic industry is not an issue in this investigation.

investigations.

Three types of sulfanilic acid are included in the scope of these investigations. Technical grade sulfanilic acid is used primarily as a concrete additive. Both refined sulfanilic acid and salt (sodium sulfanilate) are used in the production of optical brighteners and food coloring. The domestic producer sells only technical and salt. Both the Hungarian and Chinese producers export refined to the United States, while the Chinese producer exports salt as well. The Indian producer exported only salt during the period of investigation, but numerous witnesses at the conference reported that the Indians have begun to export refined. Cumulation of Chinese and Hungarian imports is mandatory because all the imports compete to some degree with the domestic like product and imports from China and Hungary compete with each other.

However, the Commission is not required to cumulate imports that are "negligible and have no discernable adverse impact on the domestic industry."[2] In deciding if imports are negligible, the Commission is instructed to consider (1) the volume and market share of imports (2) whether sales have been isolated or sporadic, and (3) whether a small quantity of imports can result in price suppression or depression because of the price sensitivity of the product.

I find imports of sulfanilic acid from India to be negligible. While the exact market share is confidential, at no

---

[2] See 19 U.S.C.1677(7)(C)(v).

point during the period of investigation did Indian imports account for even 1 percent of the market in terms of quantity or value. Sales have not been made in every period of the investigation, nor in all the most recent periods, and the Indian product is sold only on a spot basis or in batches for trial.[3]

Only in extraordinary circumstances could I find the strikingly low levels of import penetration of Indian respondents to result in price suppression or depression because of price sensitivity in the domestic market. Such circumstances do not exist in this case because Indian imports did not compete at all with petitioner's salt and petitioner itself testified that the Indian technical grade is of lower quality than the domestic technical grade.[4] In addition, a representative of one of the largest customers for sulfanilic acid claimed that India is a difficult place to do business (even compared to China).[5] This may account for the fact that, despite substantially lower prices, the Indians never captured even 2 percent of the sub-market for technical acid and the record indicates that they may stop selling it in the U.S. altogether.[6]

Moreover, although the unit value of "fairly traded" imports

---

[3] I do not, however, rely on sporadic sales in finding imports from India to be negligible.

[4] See Conference Transcript at 66-67. Salt accounts for a substantial part of petitioner's sales.

[5] See Conference Transcript, p. 139.

[6] See Conference Transcript, pp. 140-143. Because of the small number of sales of the Indian product price comparisons are not completely reliable.

of technical increased both in absolute terms and relative to the price of the domestic like product from 1990 to 1991, sales of fairly traded imports and their market share increased that year. While such correlations are often spurious, there is simply no hard evidence that imports accounting for less than 1 percent of the market could suppress or depress prices of sulfanilic acid. Therefore, while I cumulate imports from China and Hungary, I will consider Indian imports separately.

I note that, because of the China case, the Commission has much more information than we normally do in a preliminary investigation. While that has generally been helpful, discrepancies have developed in the record. In the China preliminary, petitioner left the clear impression that it had not produced refined in the U.S. since 1989 because of high manufacturing costs and environmental hazards, and that it was unlikely to resume production in the future. At no time during that investigation did petitioner mention subject imports as the reason for leaving the market.[7] I, therefore, I noted in my preliminary views that although I supported a finding of one like product, it was questionable whether refined could actually be considered a domestic like product.

In contrast, petitioner now claims that it left the refined business because of low import prices and that it could quickly

---

[7] See Memo EC-P-032 from International Economist to Commissioner Brunsdale, June 17, 1992, at 2. I would appreciate it if petitioner would point to any references in that case that might have been overlooked.

reenter the refined business if it could raise prices sufficiently. In a final investigation, I would like to examine that discrepancy and determine the exact circumstances under which petitioner would reenter the refined market.[8]

Finally, I note that the discussion on condition of the industry is important in deciding whether any injury resulting from the dumped imports is material. I do not reach a separate legal conclusion on material injury based on the health of the industry, but even if I did, I would not conclude that the industry trends show it to be vulnerable. It appears that petitioner had some serious management problems in the early years of the period of investigation that affected its profitability and tarnished its image as a high quality producer. While the industry is now showing some very positive trends particularly regarding productivity improvements, shipments, unit value of sales, and operating income, that alone does not persuade me that it has not been materially injured by reason of dumped imports. Even an extremely healthy industry can still be injured by dumped imports, if its volume of sales and/or prices would have been significantly higher absent the dumped imports.

---

[8] I wonder why it did not reenter the refined business during the shortage, when purchasers claimed that they were forced to buy their second choice product, salt.

Reasonable Indication of Material Injury by Reason of Allegedly Dumped Imports from Hungary

The statute requires me to find a reasonable indication that material injury to the domestic industry is "by reason of" the allegedly dumped imports if I am to make an affirmative determination. 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.

In assessing whether material injury is by reason of dumped imports, we must 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.[9]

Imports of sulfanilic acid from China and Hungary accounted for roughly 40 percent of the market in 1991. Their market share increased substantially over the period of investigation. On the other hand, the market share of fairly traded imports, while high at the beginning of the period declined throughout.[10] Therefore, the market share of the domestic producers remained fairly stable during the period of investigation accounting for about 40

---

[9] See 19 U.S.C. 1677(7)(B).

[10] Report at I-28, Table 12.

percent of the market.[11]

In considering the impact of the dumped imports on the prices in the United States of the like product and on domestic producers, it is important to consider the alleged dumping margins. 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 increase in unfair imports. In a preliminary investigation, the only information on the dumping margin is contained in the allegations of petitioner. In this case, petitioner alleges dumping margins from Hungary of 59 percent.[12]

There appear to be no close substitutes for sulfanilic acid and its sodium salt and there is no other indication that demand for sulfanilic acid is price sensitive. Nor is there any indication that petitioner is capacity constrained. Therefore, the most important issue in this case is the substitutability of the domestic and imported products.

If the domestic like product and the subject imports are quite different, as respondents and certain end users contend, then it is less likely that consumers of the domestic like product would switch to the import, given a small reduction in the imports' price. If they are close substitutes, as petitioner contends, one would expect consumers to switch quite readily.

---

[11] In the interim period, domestic share increased significantly.

[12] In the case against China the preliminary dumping margin was determined by the Commerce Department to be 85 percent. Report at I-20.

While it is clear that all large customers have used both the imported refined and the domestic salt, many stated a strong preference for one or the other. In addition, two large customers reported a strong preference for having salt delivered in liquid rather than powder form. Only petitioner can supply the liquid. It is unclear at this time how costly it is for a customer to use its "second-choice" product.

The evidence and testimony provided by customers that it is costly to switch from refined to salt is quite convincing. Yet with preliminary dumping margins as large as they are in this case, it is important to determine the actual threshold for switching products. In addition, it is not clear why customers with a preference for refined bought salt during the shortage rather than paying the price at which the petitioner claims it could have sold refined.

Finally, the role of "fairly traded" imports is still unclear. While Japanese producers appear to be reducing output, they are still present in the market. I would like to explore the role of those imports in the final investigation.

In conclusion, based on the relatively high market share, and the dumping margin alleged in this case, and the large preliminary dumping margin of the Chinese product, there is a reasonable indication that the domestic industry producing sulfanilic acid is materially injured by reason of dumped imports from Hungary.

Reasonable Indication of Material Injury or Threat thereof by Reason of Allegedly Dumped Imports from India

Because I have determined that imports from India are negligible and therefore did not cumulate them with imports from China and Hungary, I examine separately whether there is a reasonable indication that those imports are materially injuring or threatening to materially injure the domestic industry.

In my analysis of cumulation I discussed the low volume of Indian imports and why they did not suppress or depress U.S. prices. Even if I made the extreme assumption that no imports from India would have been sold in the U.S. market absent the dumping, I would still not conclude that the those imports are materially injuring the U.S. industry.

Nor do I believe there is a reasonable indication that imports from India threaten the domestic industry with material injury. In most instances where imports are negligible, threat can be dismissed almost out of hand. This case is different though because of evidence presented that exports from India will increase substantially in 1992 and 1993 and testimony that exports will be almost exclusively of refined sulfanilic acid.

Producers in India projected that exports to the United States in 1992 would be many times greater than they were in 1991 and would continue to grow in 1993. While this evidence was submitted against interest, it seems extremely optimistic.

There was general agreement at the conference that India would begin to export only refined. There was also much

testimony that the quality of some of the product from India was not likely to pass the stringent requirements of the U.S. market, and that various producers were capacity constrained.[13] And, the projection for 1992 seems particularly unrealistic since, in the first quarter, there were no sales of Indian imports and the Commission has only heard indirectly of sporadic sales in the past few months.[14]

In addition, in April 1992, the President suspended the duty-free entry afforded under GSP to certain articles imported from India including sulfanilic acid. The increased duty will be equivalent to 20 percent ad valorem and will, of course, reduce the Indian's ability to compete with the domestic like product.

Finally, even in the unlikely event that imports from India increase by their predicted amount, I do not believe there is a reasonable indication that they would, in and of themselves, materially injure the domestic industry. Their market share would continue to be relatively small, and their ability to depress prices would be limited. The statute requires the threat of material injury to be real and actual injury to the domestic industry be imminent.

Therefore, after examining all the required statutory factors, I conclude that Indian imports of sulfanilic acid do not threaten to injure the domestic industry materially.

---

[13] See Conference transcript at 142-143.

[14] I can only assume that the projected increase in Indian sales is based on predictions of an affirmative determination in the cases against China and Hungary.

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION[1]

Preliminary Investigations on Hungary and India

On May 8, 1992, a petition was filed with the U.S. International Trade Commission and the Department of 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 Hungary and India of sulfanilic acid and sodium sulfanilate that are alleged to be subsidized by the Government of India and to be sold in the United States at less than fair value (LTFV).

Accordingly, effective May 8, 1992, the Commission instituted countervailing duty investigation No. 701-TA-318 (Preliminary) and antidumping investigations Nos. 731-TA-560 and 561 (Preliminary), under sections 703(a) and 733(a) of the Tariff Act of 1930, 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 June 22, 1992. Notice of the institution of these investigations 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 May 14, 1992 (57 F.R. 20711).[2] Commerce published its notice of institution in the Federal Register of June 3, 1992 (57 F.R. 23378). The Commission's conference was held on May 29, 1992,[3] and its vote took place on June 18, 1992.

Final Investigation on China

Following a preliminary determination by Commerce that imports of sulfanilic acid and sodium sulfanilate[4] from China are being, or are likely to

---

[1] In addition to serving as the staff report for investigations Nos. 701-TA-318 and 731-TA-560 and 561 (Preliminary), Sulfanilic Acid from the Republic of Hungary (Hungary) and India, this report contains information concerning ongoing investigation No. 731-TA-538 (Final), Sulfanilic Acid from the People's Republic of China (China). A summary of data collected in the investigations is presented as an attachment to this report.

[2] Copies of cited Federal Register notices are presented in app. A.

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

[4] The products covered by the investigation on China and the investigations on Hungary and India are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid (sodium sulfanilate). Sulfanilic acid and sodium sulfanilate are provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States (HTS).

be, sold in the United States at LTFV (57 F.R. 9409, March 18, 1992), the Commission, effective March 18, 1992, instituted investigation No. 731-TA-538 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register on April 15, 1992 (57 F.R. 13118). The hearing will be held in Washington, DC, on June 30, 1992.

This investigation results from a petition filed by R-M on October 3, 1991, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of sulfanilic acid and sodium sulfanilate from China. In response to that petition the Commission instituted investigation No. 731-TA-538 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C § 1673b(a)) and, on November 18, 1991, determined that there was a reasonable indication of such material injury or threat of material injury.[5] Because the timeframe of this investigation corresponds with that of the preliminary investigations on Hungary and India, imports from all three countries are considered subject merchandise and are discussed in this report.

Commerce's final LTFV determination is due to be made on June 26, 1992. The applicable statute directs that the Commission make its final injury determination within 45 days after the final determination by Commerce.

THE PRODUCT

Product Description

Sulfanilic acid and sodium sulfanilate[6] 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 Hungary, India, and China are the subject of these investigations. Sulfanilic acid is assigned the Chemical Abstracts Service (CAS) registry number CAS 121-57-3, while the sodium salt is assigned the number CAS 515-74-2. According to R-M, sulfanilic

---

[5] Acting Chairman Brunsdale and Commissioner Lodwick found a reasonable indication of material injury, and Commissioners Rohr and Newquist found a reasonable indication of threat of material injury. (Commissioner Lodwick left the Commission in December 1991.)

[6] These products are often collectively referred to in the industry and in this report as "sulfanilic acid."

acid is produced in two grades, namely, technical (or crude) 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 similar for all U.S., Chinese, and Indian producers and is commonly called the "baking process" (see figure 1).[7] The synthesis of sulfanilic acid is accomplished by first combining aniline with sulfuric acid in equimolar quantities.[8] 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. 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 ***. These controlled reaction conditions yield a technical grade of sulfanilic acid containing approximately 0.5 percent residual aniline and 0.5 percent alkali insoluble matter. ***.

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.[9] The aqueous solution is then either loaded into tank trucks

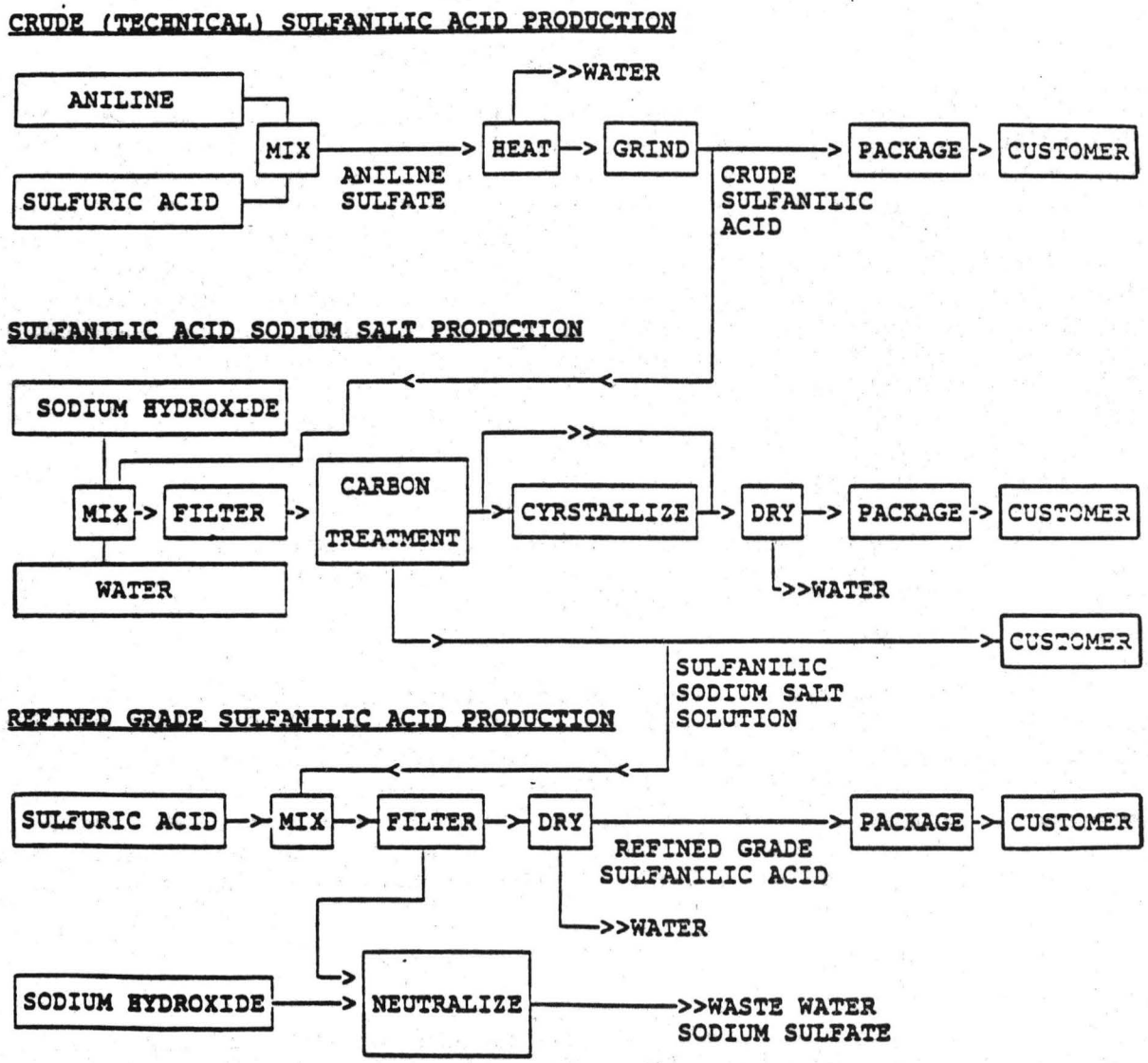
---

[7] H.E. Fierz-David and L. Blangey, Fundamental Processes of Dye Chemistry, (New York: Interscience Publishers, Inc., 1949), pp. 126-128. The Hungarians have reportedly patented a different production process that does not involve baking. (Transcript of the conference on Hungary and India (Conference transcript II), pp. 114-115).

[8] 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.

[9] 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



Source: Petition on China, Attachment A.

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.

The petitioner suggests that the Indian and Chinese producers use the more traditional process of mixing the two reactants (aniline and sulfuric acid) together in an open vessel, then pouring the paste into metal pans that are transferred to an oven.[10] After heating, the solid sulfanilic acid chunks are broken into smaller pieces using manual labor, and then pulverized into a powder form. Because of the ***. The imported 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. ***.

The following is a description of the production process used in Hungary for the manufacture of sulfanilic acid: "The aniline and sulfuric acid are reacted by a solvent agent under pressure. After having formed the arised sulphanylic acid to a salt which is readily soluble in water it will be made free of solvents and aniline and then cleaned by active carbon clarification. The sulphanylic acid will be precipitated by mineral acid, it will be centrifuged, dried and packed."[11]

Uses

Sulfanilic acid is used in the production of optical brighteners, synthetic organic dyes (including Food, Drug and Cosmetic (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 most 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 certain specialty synthetic organic dyes and a chemical used for special concretes.

Sulfanilic acid provides a unique portion of the molecular structure of FD&C Yellows Nos. 5 and 6, certain optical brighteners, and specialty azo dyes and, therefore, has no chemical substitutes. The singular molecular identity

---

[10] Fundamental Process of Dye Chemistry, pp. 126-128. The Chinese respondents agreed that this is an adequate description of their process. The Indian producers have not commented.

[11] Petition on Hungary and India, Attachment F, p. 3 (quote from a May 24, 1990, petition filed by the Embassy of the Republic of Hungary with the Office of the United States Trade Representative, General System of Preferences (GSP) Subcommittee, requesting GSP treatment for refined grade sulfanilic acid).

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 these investigations responded that there were no other chemical substitutes for sulfanilic acid for their respective end-use applications.

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.[12] Optical brighteners are also used to enhance the whiteness of plastics and paints, and as detergent additives. The largest producers of optical brighteners are Ciba-Geigy Corp., Sandoz Chemicals Corp., and Miles, Inc. (formerly Mobay Corp.). Commission records indicate that there were a total of four domestic producers of FWAs in 1990.[13]

Food Colorants

Approximately one-fourth to one-third 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).[14] Commission records show that there was one producer of FD&C Yellow No. 5, and three producers of FD&C Yellow No. 6, in 1990.[15] FD&C Yellow No. 5 was manufactured by Warner-Jenkinson Company. FD&C Yellow No. 6 was produced by the Crompton and Knowles Corp., ***, and Warner-Jenkinson. Of the firms producing these two colorants, only ***.

FD&C Yellows Nos. 5 and 6 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.[16] FD&C Yellow No. 5 is approved for ingested use only,[17] whereas FD&C Yellow No. 6 has no use restrictions.[18]

---

[12] Encyclopedia of Chemical Technology, vol. 4, 1978.

[13] Synthetic Organic Chemicals, United States Production and Sales, 1990, USITC publication 2470, Dec. 1991.

[14] Daniel M. Marmion, Handbook of U.S. Colorants for Food, Drugs and Cosmetics, (New York: John Wiley and Sons, Inc., 1979), pp. 56-57.

[15] Synthetic Organic Chemicals, United States Production and Sales, 1990.

[16] Kirk-Othmer, Encyclopedia of Chemical Technology, 3d ed., vol. 6, 1978, (New York: John Wiley and Sons, 1978).

[17] FD&C Yellow No. 5 cannot be used in drugs requiring topical application or injection. In the Federal Register of Feb. 4, 1977, the Food and Drug

(continued...)

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.[19] These dyes are adaptable to a wider variety of applications than any other dye group, including uses with all natural and synthetic fibers.[20]

Concrete Additives

Crude or 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.

Interchangeability Among the Three Grades of Sulfanilic Acid

The Commission has received mixed views on the issue of interchangeability among technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. Most agree that the technical grade has limited applications;[21] its high level of impurities makes it impractical to use in the production of food colors, optical brighteners, or most specialty dyes.[22]

---

[17] (...continued)
Administration (FDA) 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.

[18] 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.

[19] K. Venkataraman, Synthetic Dyes, vol. I, (New York: Academic Press, Inc., 1982), p. 409.

[20] Synthetic Dyes, p. 410.

[21] The technical grade is primarily used as a concrete additive. The refined grade sulfanilic acid can be substituted for the technical, but cost generally precludes this option.

[22] There are some exceptions to this, however. Sandoz distinguishes sulfanilic acid between the free acid (which includes both technical and refined grades) and the salt (which includes just the sodium sulfanilate). Sandoz prefers to use the free acid in its production process and usually looks for the refined grade. However, a high quality of the technical grade (such as that produced by ICI in France) can sometimes be used. Further, Warner-Jenkinson formerly used large quantities of the technical grade for

(continued...)

Although *** has the equipment to further refine this grade and then use it in its downstream products, most companies do not have this capability. The larger question is the interchangeability between the refined grade and the sodium salt, both of which have been purified beyond the technical grade. The petitioner has testified that, although R-M does not manufacture refined grade sulfanilic acid, the company's sodium salt is a purified product and should be acceptable to any customer who uses refined acid.[23] R-M also notes that the primary use for sulfanilic acid is in the production of optical brighteners, and this reaction process almost always begins with a salt.[24] On the other hand, the production of food colors requires an acid for the first stage of the reaction process, but this does not preclude the use of the sodium salt; all that is required is a pH adjustment to neutralize the sodium sulfanilate.[25] The petitioner states that, regardless of the downstream product, it is no hardship for companies to switch between the sodium sulfanilate and the refined grade sulfanilic acid, especially when one considers that all the manufacturers are well-versed in the use of these chemicals.[26] On the issue of purity, R-M has testified that domestically produced sodium sulfanilate meets the specification requirements of all U.S. purchasers of sulfanilic acid.[27]

Several domestic purchasers of sulfanilic acid agree with the petitioner. ***.[28] Spokesmen for *** stated that their firm also considers the refined acid and its sodium salt as interchangeable raw materials.[29] ***.[30]

On the other side of the argument, some purchasers contend that the different grades of sulfanilic acid are not interchangeable, and that the refined grade is the product of choice. Warner-Jenkinson, one of the largest

---

[22] (...continued)
food color production, but had to severely curtail such use in 1989 in response to the new FDA regulations that required lower levels of impurities. The company is sometimes able to use a high quality, "hand-picked" batch of technical, but this is rare. Recently it attempted to use some ***. (Conference transcript II, pp. 87, 127, and 154-157; field visit to Warner-Jenkinson, May 6, 1992.)

[23] However, R-M did acknowledge that different consumers usually prefer one grade over another. (Conference transcript II, pp. 9 and 26.)

[24] Manufacturers of optical brighteners can also use the refined grade, but the petitioner suggests that the acid must be converted to a salt before the reaction process can begin.

[25] The pH can be adjusted through the addition of sulfuric acid or hydrochloric acid. Sulfuric acid is a component in the manufacturing of food dyes anyway, so companies have the product on hand. ***.

[26] For additional information on the question of interchangeability from the petitioner's standpoint, see R-M's postconference brief (investigation on China), pp. 14-16 and 22-24.

[27] Purchasers specify maximum acceptable levels of impurities, such as ***.

[28] ***.

[29] ***.

[30] ***.

domestic manufacturers of food colors, testified that sodium sulfanilate is not an acceptable raw material in its production process for four basic reasons: (1) the stringent regulations of the Food & Drug Administration (FDA) concerning permissible levels of impurities essentially mandates the use of the most pure grade of sulfanilic acid available;[31] (2) the volume added to the tank by the addition of sulfuric acid reduces the batch size by approximately 10 to 15 percent and decreases overall efficiency in production;[32] (3) the use of salt generates sodium sulfates, which is an unnecessary waste product; and (4) the presence of additional salt in the production process requires increased purification time. Another purchaser, Sandoz, also states that the different grades of sulfanilic acid are not interchangeable. Sandoz is a large producer of optical brighteners, but the company's purchasing manager testified that its manufacturing reaction process does not begin with a salt. Although the purity level of the sodium sulfanilate is marginally acceptable, the facilities at the Sandoz plant are not set up to use the product.[33] A production specialist for Sandoz testified that the use of sodium salt makes the chemicals react at a faster pace and makes the final product inconsistent and unstable.[34] Two importers, Gallard-Schlesinger and Nu-Tech Chemical Industries, stated that their customers prefer the refined grade and have suggested to them that the products are not interchangeable.

The information provided by the industry representatives shows that the refined acid and its monosodium salt have, to a significant degree, been used interchangeably by the domestic industry. Although a particular consumer may

---

[31] Prior to the late 1980s, the levels of aniline/amines that could be present in food dyes were not highly monitored. In 1985 and 1986 the FDA changed its regulations on FD&C Yellows Nos. 5 and 6, respectively. Permissible levels of aniline were reduced in these dyes to 100 and 250 parts per billion, respectively. Although the sodium salt can meet these requirements, Warner-Jenkinson complained that the purity level of the salt fluctuates too much and has caused batches of food color to be rejected. A spot sample must be sent to the FDA for every batch of dye Warner-Jenkinson manufactures. (Conference transcript II, pp. 86-89 and field visit to Warner-Jenkinson, May 6, 1992.)

[32] Conference transcript II, p. 89. Warner-Jenkinson admitted that the ***. (Field visit to Warner-Jenkinson, May 6, 1992.)

[33] Don Voigt, purchasing manager for Sandoz, pointed out that a time factor had to be considered when looking at the company's use of different grades of sulfanilic acid. Although sodium salt has been used in the past to manufacture optical brighteners, the company has been able to produce a higher quality product when using the refined grade, and now customers expect that. Secondly, the machinery at the Sandoz plant in Fairlawn, NJ, is able to accommodate the sodium salt, ***. All production of optical brighteners will be transferred to the plant in South Carolina where sodium salt has never been used and could not be accommodated by the equipment there. Mr. Voigt also stated that if his firm could use the sodium sulfanilate it would do so instead of paying more (i.e., $*** per pound) for the refined grade. (Conference transcript II, pp. 103-105 and 130-131.)

[34] Conference transcript II, pp. 104-105 and 159-161.

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. However, there remain differing views concerning the ability of production lines to efficiently accommodate different products, and the ability of the sodium salt to consistently meet growing quality requirements.

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[35] and are all used in the production of optical brighteners, food colors, specialty dyes, and concrete additives;[36] 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.[37] Counsel for the Chinese respondents argued in the preliminary investigation that the technical sulfanilic acid and sodium sulfanilate that R-M produces are not "like" the imported refined sulfanilic acid. Counsel argued that the products are not interchangeable 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.[38]

Insofar as the "domestic industry" is concerned, petitioner states that because technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate constitute the like product, the domestic industry consists of the producers of the same. Counsel for the Chinese respondents in the preliminary investigation argued 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.[39]

In the preliminary investigation on China, the Commission determined that all forms of the domestically produced sulfanilic acid constitute a single like product. Counsel for the respondents in the preliminary investigations on Hungary and India did not challenge this determination.

---

[35] They all provide the same molecular entity in the synthesis of the downstream products.

[36] All of R-M's major customers have used all forms of sulfanilic acid for a given application. (Petitioner's postconference brief (investigation on China), pp. 3-4.) These customers are ***.

[37] For a more detailed discussion of "like product" see pp. 8-19 of the petition on China, pp. 8-15 of the transcript of the conference on China (Conference transcript I), Petitioner's postconference brief (investigation on China), pp. 3-5, and pp. 12-22 of the petition on Hungary and India.

[38] Conference transcript I, pp. 83-94.

[39] Conference transcript I, p. 82, and postconference brief (investigation on China), pp. 5-7 and 10-18.

U.S. Tariff Treatment

During part of the period covered by these investigations, subject merchandise from both Hungary[40] and India[41] had duty-free entry under the Generalized System of Preferences (GSP). 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 (as of February 1980). (See appendix C for an explanation of tariff and trade agreement terms).

With the implementation of the Harmonized Tariff System (HTS) in 1989, all forms of sulfanilic 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 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 (20 percent ad valorem equivalent in 1991). Imports of sulfanilic acid 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 1992 Canada Free-Trade Agreement (FTA) rate is 0.4 cent per kilogram plus 3.7 percent ad valorem. Where eligibility for special tariff rates is not claimed and established, goods are dutiable at general rates.

Sodium sulfanilate is classified in HTS subheading 2921.42.70, with other aniline derivatives and their salts. The column 1-general rate of duty is the same as that for HTS subheading 2921.42.24. However, imports classified in this subheading are not eligible for duty-free entry under the GSP; 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.

---

[40] On May 24, 1990, the Embassy of the Republic of Hungary submitted a petition requesting duty-free entry of Hungarian sulfanilic acid to the Office of the U.S. Trade Representative (USTR), GSP Subcommittee. Hungary received GSP status for the importation of refined sulfanilic acid on July 1, 1991. On Mar. 27, 1992, R-M Industries filed a petition with the same USTR subcommittee requesting that there be an immediate review of GSP status for sulfanilic acid. The petition stated that GSP eligibility for sulfanilic acid was resulting in a loss of business to the domestic industry. In addition, Congressman Spratt of South Carolina introduced a bill (H.R. 4219) in February 1992 which would add sulfanilic acid to the list of import-sensitive articles that may not be designated as articles eligible for duty-free entry.

[41] On Apr. 29, 1992, the President suspended the duty-free entry afforded under GSP to certain articles imported from India (57 F.R. 19067). Included in the suspension list was HTS subheading 2921.42.24, covering sulfanilic acid.

NATURE AND EXTENT OF THE ALLEGED SALES AT LTFV AND ALLEGED SUBSIDIES

Alleged Sales at LTFV

Hungary

The petitioner alleges dumping margins of 58.6 percent for sales of refined grade sulfanilic acid from Hungary. These LTFV sales were calculated through comparisons of the United States price and the foreign market value (FMV). The ex-factory United States price is based on U.S. Customs statistics for imports from Hungary minus the calculated customs clearance fees, ocean freight, and overland U.S. and European freight charges.[42] Because Hungary is a nonmarket economy, the FMV is based on constructed value using the cost of the factors of production for sulfanilic acid in the surrogate country of Malaysia, whose economy is considered to be market driven. The petitioner assumes factors of production and the production process to be similar to his own experiences.[43]

The petitioner also alleges that there have been massive imports of sulfanilic acid from Hungary, and that the importers knew or should have known that Hungary 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 Hungarian sulfanilic acid to a date 90 days prior to Commerce's preliminary determination of sales at LTFV.

India

The petitioner alleges the following dumping margins for sales of Indian sulfanilic acid: technical grade--114.8 percent; refined grade--60.6 percent; and sodium sulfanilate--94.0 percent. These sales at LTFV were calculated by comparing the United States price to the FMV. The ex-factory United States price is based on actual price quotes by the State Trading Corporation of India, Ltd.;[44] adjustments were made, where appropriate, for overland freight charges (in both India and the United States), ocean freight charges, freight-forwarding brokerage, marine insurance, sales commissions, and Customs clearance in the United States. These adjustments were based on information provided to the petitioner by Fracht FWO, Inc., and Fanwood Chemical, Inc.[45] The FMV is based on Indian domestic prices for the three grades of sulfanilic acid.[46]

---

[42] Transportation charges were calculated based on estimates provided by Fracht FWO, Inc., International Freight Forwarders located in Georgia. (Petition on Hungary and India, Attachment J.)

[43] Petition on Hungary and India, Attachments M, N, O, Q, and R.

[44] Ibid., Attachment G.

[45] Ibid., Attachments K and L.

[46] Ibid., Attachments P and U.

China

On March 18, 1992, Commerce published notice in the Federal Register (57 F.R. 9409) of its preliminary determination of sales at LTFV. Having determined that sulfanilic acid from China is being, or is likely to be, sold in the United States at LTFV, Commerce directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise. Commerce found dumping margins of 85.29 percent for all exporters.

Commerce's investigation involved China National Chemicals Import & Export Corporation (Sinochem), Hebei Branch. During the period May 1, 1991, through October 31, 1991, Commerce compared the U.S. price of sulfanilic acid to the FMV of the Chinese product. Because China continues to be classified as a state-controlled economy under section 773(a) of the act, Commerce determined FMV by valuing the factors of production for the subject merchandise in the surrogate, market-driven economy countries of India and Pakistan.

Commerce made a negative determination on the petitioner's alleged critical circumstances. After examining the volume of Sinochem's sulfanilic acid shipments, Commerce did not find the "massive" imports required for critical circumstances.

Alleged Subsidies

India

The petitioner alleges that producers and/or exporters of sulfanilic acid in India receive benefits that constitute subsidies within the meaning of the countervailing duty law. The following programs were cited by the petitioner and recommended for investigation:

--Preferential Export Loans
--Preferential Post-Shipment Financing
--Income Tax Deduction for Exporters
--Import Duty Exemptions Available Through Advance Licenses
--Sale of Import Replenishment Licenses
--Excess Drawback of Import Duties
--Grants Under the Market Development Assistance (MDA) Program
--Diesel Oil Subsidies
--Sales of Additional Licenses
--Grants Under the Central Investment Subsidy Scheme (CISS)
--Transportation Subsidies
--Extension of Free Trade Zones
--Import Duty Exemptions Available to 100% Export Oriented Units
--Preferential Waste Disposal Rates

The petitioner developed this list of alleged countervailable subsidies based on a recent Commerce determination, Preliminary Affirmative

Countervailing Duty Determination: Bulk Ibuprofen From India,[47] and a 1991 report on sulfanilic acid production in India which was prepared by ***.[48] The petitioner suggests that the Ibuprofen determination is comparable to the current case since both products are organic chemicals requiring similar manufacturing facilities and chemical synthesis steps. A net subsidy of 43.71 percent ad valorem was found by Commerce in the Ibuprofen investigation, but the petitioner admits he does not have the resources necessary to quantify the extent of alleged subsidies for sulfanilic acid.

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 of U.S. producers and importers (see appendix table D-1 for U.S. consumption by grade).

Total reported apparent U.S. consumption of sulfanilic acid, by quantity, increased by 47.6 percent between 1989 and 1991, then decreased by 20.0 percent between first quarter 1991 and first quarter 1992. Consumption of each of the grades increased over the period of investigation, but the figures for the refined grade fell in 1991, as the decrease in imports from a large source of this product, Japan,[49] overshadowed the rise in imports from China. Basic GNP expansion was the reason cited most frequently by purchasers for the overall increase in demand for this product.[50] Two purchasers, Warner-Jenkinson and ***, suggested that demand in their own firms would be growing in upcoming months.[51] In terms of value, total reported apparent U.S. consumption increased by 30.1 percent in 1990 and by 21.3 percent in 1991, then decreased by 16.9 percent in interim 1992.

---

[47] The first four alleged subsidies in this list are those taken from the Ibuprofen case. (56 F.R. 66423.)

[48] Petition on Hungary and India, Attachment V.

[49] Japan began withdrawing from the market in late 1990 as a result of changing trends in the market for sulfa drugs (Japanese sulfanilic acid is a byproduct of the manufacture of sulfa drugs).

[50] The use of technical sulfanilic acid in concrete additives has been growing (technical 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). However, both Sandoz and R-M Industries testified that this application for the product is much more popular in Europe than in the United States.

[51] Warner-Jenkinson testified that it had plans to purchase several non-U.S. companies involved in dye production and would move the manufacturing side of the businesses to St. Louis, MO. This is expected to increase the company's demand for the refined grade of sulfanilic acid. (Conference transcript II, pp. 132-133.) ***.

Table 1
Sulfanilic acid: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption,[1] 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan.-Mar. -- 1991	Jan.-Mar. -- 1992
	Quantity (1,000 pounds[2])				
Producers' U.S. shipments	***	***	***	***	***
Importers' U.S. shipments:					
China	***	548	2,881	578	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Subtotal	749	1,185	3,644	677	467
Other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	5,350	7,108	7,895	2,063	1,651
	Value[3] (1,000 dollars)				
Producers' U.S. shipments	***	***	***	***	***
Importers' U.S. shipments:					
China	***	437	2,355	456	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Subtotal	611	1,036	3,093	548	414
Other sources	***	***	***	***	***
Total	***	***	***	***	***
Apparent consumption	4,890	6,364	7,719	1,976	1,643

[1] Nonsubject import shipments are believed to be understated for 1989; consequently, U.S. consumption for 1989 may be understated by as much as 10 to 15 percent.
[2] Weights expressed in this report are in pounds of free acid.
[3] F.o.b. U.S. shipping point.

Note.--Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures.

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

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;[52] it accounted for *** percent of the sulfanilic acid manufactured in the United States in 1991. 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.[53] 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.[54]

R-M produced refined sulfanilic acid between 1986 and 1989 but then reported it was discontinuing the product in 1989 because of high manufacturing costs and because the production process generated large amounts of contaminated waste water.[55] In the recent petition involving Hungary and India, R-M stated that production of the refined grade was stopped as a result of the LTFV imports entering the United States.[56] During the period of the investigation, R-M has offered sodium sulfanilate to consumers who previously purchased refined sulfanilic acid.[57] Recently, however, the company has

---

[52] Everlight Chemical Industrial Corp., Taipei, Taiwan, has a 33-percent ownership in R-M.

[53] 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. (Conference transcript I, pp. 47-48.)

[54] Conference transcript I, pp. 60-61. ***.

[55] More than 3 pounds of waste water is generated for every pound of refined sulfanilic acid produced. The yield from crude sulfanilic acid to refined is only 77 percent, meaning that the remainder is lost to the environment (petition on China, pp. 17-18). R-M's environmental concerns were further affected by the Clean Water Act which went into effect in April 1992. Prior to the Act, R-M was able to recycle all of its water on the premises; now, however, the company must ship almost all of its waste water by truck to Tennessee for decontamination. This has added great expense to the company's production costs, but it does not affect the manufacture of sulfanilic acid since the refined grade (the only grade that generated a waste water stream) has been discontinued. (Conference transcript II, pp. 39-41.)

[56] Petition on Hungary and India, pp. 22-23.

[57] The Commission asked R-M to list previous customers of refined grade sulfanilic acid and to report whether or not these purchasers switched in 1989 to R-M's sodium sulfanilate or to imports of the refined grade. R-M reported that ***.

announced that it will begin production of the refined grade again if consumers are willing to pay a fair price.[58] Because of costs associated with the new environmental requirements, the price for the refined grade is estimated to be $1.75 per pound ($0.25 higher than when the company stopped selling the product).[59]

Sulfanilic acid accounts for slightly over half of R-M's business. R-M also produces a pre-emergent herbicide and violet pigment on a contract basis and is the only U.S. producer of these materials.[60]

Hilton Davis Co.[61]

Hilton Davis Co., which accounted for *** percent of U.S. sulfanilic acid production in 1991, has produced small quantities of technical sulfanilic acid mainly for internal consumption at its plant in Cincinnati, OH.[62] The company sold between *** and *** percent of its production of technical sulfanilic acid in 1990 and 1991 to an unrelated end user. Hilton Davis also ***.[63] In January 1992 ***.[64]

U.S. Purchasers[65]

There are approximately 12 significant purchasers of sulfanilic acid in the United States;[66] the petitioner notes that *** of these purchasers, ***,

---

[58] Prior to announcing the company's willingness to resume production of the refined sulfanilic acid, R-M attempted to produce an "intermediate refined grade;" the manufacturing process for this product did not create a waste water stream, and R-M hoped to sell it at a price comparable to that of the sodium salt. While the company was successful in creating a product with very low levels of aniline, it had difficulty removing some of the color-imparting impurities. R-M sent samples of the product to Warner-Jenkinson and Sandoz, both of which said the impurity level was too high for their production requirements. (Conference transcript II, pp. 63-64 and 98-99.)

[59] R-M's president testified that if enough U.S. purchasers would buy the refined grade from his company the price would eventually go down. Although the waste water would currently have to be shipped to Tennessee, stable business would ultimately allow the company to build its own decontamination facilities on site and would lower the cost of production considerably. (For a complete discussion of R-M's ability to begin production of the refined grade, see Conference transcript II, pp. 37-43.)

[60] Conference transcript I, pp. 57-58. ***.

[61] ***.

[62] ***.

[63] ***.

[64] ***.

[65] For additional information on purchasers, see the section entitled "Purchaser Responses."

[66] ***.

account for over two-thirds of total U.S. demand.[67] *** and *** also make significant purchases.[68] From 1989 to 1991 each of the *** companies listed above purchased substantial quantities of at least two of the three grades of sulfanilic acid. The tabulation below shows purchases (in thousands of pounds) by the top three purchasers:[69]

* * * * * * *

The petitioner suggests that this pattern of purchasing different grades for a particular end use demonstrates the interchangeability of the grades. Some purchasers agree with this assessment, while others point to questions of availability as the reason for the fluctuations. Sandoz is the ***.[70] *** Warner-Jenkinson has suggested that the refined grade is the company's product of choice, this was ***. The company testified that the shortage that occurred in late 1990 and early 1991 (when Japan and then Hungary largely withdrew from the market) caused it to purchase whatever grade was available in order to keep the plant operating.[71] Both Sandoz and Warner-Jenkinson have expressed interest in maintaining several sources of supply, and they cite this as another reason for purchasing different grades.[72] ***.[73]

U.S. Importers

The petitions in these investigations list one importer of the Hungarian product, six importers and/or trading agencies for the Indian product, and four Chinese agencies and non-Chinese agents and trading companies that the petitioner believes are responsible for the majority of imports of sulfanilic acid from the subject countries. However, a review of Customs documents disclosed over 50 U.S. firms importing under the HTS items listed in the

---

[67] Petition on Hungary and India, p. 54.

[68] ***.

[69] All three purchasers buy from R-M. In addition, ***.

[70] The sodium sulfanilate was for use in the New Jersey plant exclusively.

[71] ***. Ken Goldacker, purchasing manager, testified that Hungary's temporary exit from the market during Feb.-July 1991 forced the company to buy whatever grade was available to keep the plant in operation. ***.

[72] Sandoz has also said it made a commitment to purchase some of R-M's technical grade, but when this product proved unacceptable the company felt obligated to purchase sodium salt instead of simply cancelling the agreement. The purchasing manager for Sandoz explained that his company is able to use the technical grade which is manufactured in France and had thought it might be able to use R-M's technical as well. (Conference transcript II, pp. 127-128.)

[73] ***.

petitions.[74] The Commission sent questionnaires to 43 importers, including the firms listed in the two petitions.[75]

Of the 43 firms who received questionnaires, the Commission received responses from 41 companies. Twenty-four of those firms indicated that they did not import the merchandise subject to these investigations.[76] Seventeen firms provided usable data on imports of sulfanilic acid.[77] Two of these firms, Gallard-Schlesinger Industries and ***, reported imports of refined grade sulfanilic acid from Hungary during 1991;[78] Sandoz reported some imports from Hungary in 1989. Two firms, ***, reported imports of *** from India during 1991.[79] Eight firms reported importing sulfanilic acid from China during the period of investigation:[80] Sandoz Chemicals, Sinochem (U.S.A.), Goodring International, Nu-Tech Chemical Industries, and *** imported refined sulfanilic acid; ***;[81] and ***.[82] The remaining firms reported imports of sulfanilic acid from Japan, France, and the United Kingdom. ***.

In its questionnaire, the Commission asked firms to report future contracts for importing sulfanilic acid from subject countries after March 31, 1992. ***.[83] Several firms mentioned that they had plans to purchase shipments from India but had canceled them as a result of the current investigations.[84]

The Commission also asked if there had been any changes in the character of the operations relating to the importation of sulfanilic acid. ***. Other purchasers reported that R-M had been unable to meet quantity demands and quality expectations at various times over the past three years, especially during a change in the company's management in 1990. Finally, several cited

---

[74] The HTS items listed in the petitions 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.

[75] Most of the firms reporting imports of sulfanilic acid are concentrated in the northeast.

[76] Many firms reported that although they were not the importer of record, they did purchase and use imported sulfanilic acid.

[77] These firms are ***.

[78] Gallard-Schlesinger was responsible for over *** percent of total imports from Hungary; ***.

[79] *** brought in *** percent of total imports from India, while *** was responsible for the remaining *** percent.

[80] Almost all of the reported imports from China occurred in 1990 and 1991.

[81] In 1991, ***.

[82] There were no imports of the technical grade from China. The only reported imports of crude sulfanilic acid were from the United Kingdom and India.

[83] One container load is equivalent to 35,000 to 40,000 pounds of merchandise. The method of packing the container generally accounts for the variance in overall weight; a container of loosely shipped bags can hold more volume than a container of palletized bags. ***.

[84] ***.

R-M's failure to supply the refined grade since 1989 as their reason for turning to the importation of sulfanilic acid.[85]

Many of the responding importers reported having an affiliation with foreign producers, usually through direct ownership. Most notably, ***. All of the imported product from all sources was reportedly either used to manufacture optical brighteners by the importer of record or resold to firms that produce optical brighteners, food colors, or dyes.

Channels of Distribution

Domestically produced sulfanilic acid is sold to both distributors and to end users, with the majority going directly to end users that manufacture optical brighteners, food colors, specialty dyes, and concrete additives. R-M sells *** percent of its production to end users located within 1,000 miles of its plant; a small portion of the technical grade is shipped to unrelated distributors. R-M reported in its questionnaire that *** percent of its sales of sodium sulfanilate were in a liquid form.[86]

Importers of sulfanilic acid from Hungary, India, and China reported that *** percent of their shipments went to unrelated end users. The only difference in the manner in which the U.S. consumer receives merchandise from the U.S. producer and the Hungarian, Indian, and Chinese producers is that the U.S. product is shipped by domestic trailer, and the subject imports are shipped by ocean container and then delivered by truck or in container to the customer. All Indian and Chinese merchandise is packed in 50- to 80-pound plastic or paper bags. The Hungarian product varies slightly from other imports and from the domestic product in its packaging; instead of 50- to 80-pound bags, some of the Hungarian product is packaged in "supersacks" of up to 1,000 pounds.[87]

---

[85] Conference transcript II, pp. 92-94 and 158-159.

[86] Shipments in liquid form usually occur within a ***-mile radius of the plant because shipping costs are almost 3 times greater for the liquid versus the dry product. The two largest purchasers of the sodium sulfanilate in aqueous solution are ***. The petitioner testified that customers located close enough to make transportation costs practical actually prefer the solution form over the powder form of sodium sulfanilate for three reasons: (1) it saves the customer the time and trouble of adding liquid to the powder; (2) it is easier and more efficient to measure out appropriate quantities of the salt in solution form; and (3) it is more convenient for workers to handle. (R-M questionnaire response and transcript II, pp. 58-59). ***.

[87] Warner-Jenkinson reported that this method of packaging facilitates the use of sulfanilic acid for two reasons: first, the large bags require less manpower when being added to a batch and, second, there is less room for human error in counting out the number of bags necessary for the batch process. (Conference transcript II, p. 162 and field visit to Warner-Jenkinson, May 6, 1992.) The option of supplying the product in supersacks is available to all manufacturers; ***.

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 the two firms that represented 100 percent of U.S. production of sulfanilic acid during the period of investigation.

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

Data on U.S. capacity, production, and capacity utilization are summarized in table 2 (see appendix table D-2 for capacity and production by grade).[88] Capacity to produce sulfanilic acid *** by *** from 1989 to 1991, *** total production capabilities to *** in 1991.[89] The ***.

While uncertainty in the market place has prevented R-M from making further changes in capacity, the company's president testified that technical capacity could be easily increased to 7.5 million pounds per year with the addition of two new ball mills in what is currently used as warehouse space. Capacity for the sodium sulfanilate could also be increased by adapting the company's production process to employ some of the equipment which was formerly used for production of the refined grade.[90]

---

[88] To avoid double counting R-M's capacity and production of sulfanilic acid when technical sulfanilic acid is further processed into sodium sulfanilate and refined sulfanilic acid, the staff used R-M's reported capacity and production of technical sulfanilic acid. R-M noted in its questionnaire response that it takes *** pounds of technical sulfanilic acid to make 1.0 pound of sodium sulfanilate and *** pounds of sodium sulfanilate (free acid basis) to make 1.0 pound of refined grade sulfanilic acid. Hilton Davis produced ***.

[89] R-M noted that it had insufficient capacity to meet customers' demands in the second half of 1990 when orders for sulfanilic acid increased following Japan's withdrawal from the market. The company was forced to make partial shipments to some customers, including Warner-Jenkinson and Sandoz. Don Voigt (Director of Purchasing, Sandoz) also testified that R-M had insufficient capacity to meet his company's needs for refined grade sulfanilic acid when R-M was producing this product in 1986-89. (Conference transcript II, pp. 158-159.)

[90] The president of R-M testified that a ball mill could be installed within 6 months (or in 3 months on a rush schedule). (Conference transcript II, p. 28.) ***. This capacity expansion for the sodium salt would not be possible or necessary, however, if R-M decides to re-start its production of refined sulfanilic acid.

Table 2
Sulfanilic acid: U.S. capacity, production, and capacity utilization, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

U.S. production *** by almost *** from 1989 to 1990, but *** by nearly *** between 1990 and 1991.[91] An approximate *** in production occurred in the interim period. Capacity utilization *** between 1989 and 1990, but has been *** since then; utilization figures *** between 1990 and 1991, and by *** in the interim period.

U.S. Producers' U.S. Shipments[92] and Export Shipments

U.S. producers' U.S. and export shipments of sulfanilic acid are presented in table 3 (see appendix table D-3 for shipments by grade).

U.S. Shipments

Domestic producers' total U.S. shipments (domestic shipments and company transfers) of sulfanilic acid *** from 1989 to 1990 and by *** from 1990 to 1991. Shipments *** in the comparison of the first quarters of 1991 and 1992. The value of U.S. shipments followed the same pattern, *** percent in 1990 and by *** percent in 1991. The unit value of U.S. shipments of sulfanilic acid ***. Unit value was *** in January-March 1992. Broken out by grade, shipments of technical sulfanilic acid (excluding company transfers) *** over the period of investigation, while shipments of sodium salt ***.

Table 3
Sulfanilic acid: Shipments by U.S. producers, by types, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

---

[91] 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.

[92] R-M produces refined sulfanilic acid and sodium sulfanilate from its technical sulfanilic acid. Such consumption of the technical grade occurs as part of a continuous process and 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, ***.

Export Shipments

R-M *** that exports sulfanilic acid. The company reported exports of ***. Although export shipments *** percent between 1989 and 1990, *** are visible in subsequent periods. Exports in 1991 were *** of 1990, and they *** percent in the interim periods. R-M explains *** in exports as the direct result of company efforts to maintain sales despite increasing imports from Hungary, India, and China.[93] The unit value of export shipments *** in 1990 and 1991 by ***, respectively, but *** in interim 1992.

Total Shipments

Total U.S. producers' shipments of domestically produced sulfanilic acid (by quantity) *** by *** percent between 1989 and 1991 and by *** percent in the interim periods. The value of total shipments followed the same trend, *** percent between 1989 and 1991 and by *** percent in the interim periods.

U.S. Producers' Inventories

Information on U.S. producers' end-of-period inventories is presented in table 4 (see appendix table D-4 for inventories by grade). U.S. producers' end-of-period inventories of sulfanilic acid *** by *** between 1989 and 1991, and by *** percent between the first quarter of 1991 and the first quarter of 1992. The ratio of inventories to total shipments *** in 1989 to *** percent in 1991 and to *** percent in the first quarter of 1992. The ratio of inventories to production followed a similar trend.

Table 4
Sulfanilic acid: End-of-period inventories of U.S. producers, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

[93] The petitioner explains that exports were actively solicited when domestic sales appeared to be in jeopardy. The majority of the 1991 exports (70 percent) took place in the latter half of the year. (Petition on Hungary and India, p. 49.) ***.

U.S. Employment, Wages, and Productivity

Data on employment, wages, 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. Hilton Davis' workers are represented by the International Chemical Workers Union; R-M's workers are not unionized.

The number of production and related workers was *** throughout the period of investigation, though a *** is evident in the comparison of interim 1991 and 1992. Hours worked *** by approximately *** percent between 1989 and 1991. Total compensation paid to such workers *** between 1989 and 1990 but *** in 1991 and by *** percent in interim 1992.

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 1989-March 1992, 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 two workers *** and *** laid off an additional two workers ***.[94] In addition, R-M reduced the salaried administrative staff by five employees ***.[95] ***.[96]

Table 5
Average number of U.S. production and related workers producing sulfanilic acid, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Financial Experience of U.S. Producers

R-M Industries, representing *** percent of U.S. sulfanilic acid production in 1991, submitted financial data on the establishment[97] in which sulfanilic acid is produced and on its sulfanilic acid operations. ***. Hilton Davis provided *** income-and-loss data on sulfanilic acid operations.[98]

---

[94] ***.

[95] Those laid off included the sales manager for sulfanilic acid and the company controller. (Petition on Hungary and India, p. 50 and ***.)

[96] ***.

[97] ***.

[98] ***.

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 *** percent from $*** in 1989 to $*** in 1990, and *** percent to $*** in 1991.[99] The operating *** was $*** in 1989, $*** in 1990, and $*** in 1991. The operating *** as a share of sales was *** percent in 1989, *** percent in 1990, and *** percent in 1991. Net sales of $*** for the 3-month period ended March 31, 1992, were *** percent *** than the net sales of $*** for the 3-month period ended March 31, 1991. The operating *** was $*** in the 1992 interim period compared to an operating *** of $*** in interim 1991. The operating *** margin as a share of sales was *** percent in interim 1991 and *** percent in interim 1992.

R-M's overall establishment data for 1989 may not be reliable.[100] ***:

* * * * * * *[101]

Table 6
Income-and-loss experience of R-M Industries on its overall establishment operations in which sulfanilic acid is produced, calendar years 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Financial Condition of R-M Industries

R-M's condensed balance sheets as of December 31, 1990, and December 31, 1991, are shown in the following tabulation (in thousands of dollars):

* * * * * * *

R-M's current ratio (current assets divided by current liabilities) was *** in 1990 and *** in 1991. This ratio is a rough indicator of a firm's ability to service its current obligations. Generally, the higher the current

---

[99] ***.

[100] Normally, audited financial statements are considered reliable. A succeeding auditor and/or management may find corrections to the financial statements for prior periods, but it is unusual that they would be of the magnitude as described in this report.

[101] Telephone conversation, Oct. 21, 1991.

ratio, the greater the "cushion" between current obligations and a firm's ability to pay them. ***.[102]

Subsequent to 1991, R-M has ***.[103]

Operations On Sulfanilic Acid

Income-and-loss data for R-M on sulfanilic acid operations[104] are shown in table 7. Net sales of sulfanilic acid were *** for 1989 and 1990 and *** to *** in 1991. The operating *** was $*** in 1989, $*** in 1990, and $*** in 1991. Operating *** margins were *** percent in 1989, *** percent in 1990, and *** percent in 1991. Net sales for the 3-month interim periods were ***. The operating *** was $*** in the 1992 interim period compared to an operating *** of $*** in interim 1991. The operating *** margin as a share of sales was *** percent in interim 1991 and *** percent in interim 1992.

Table 7
Income-and-loss experience of R-M Industries on its operations producing sulfanilic acid, calendar years 1989-91, January-March 1991, and January-March 1992

* * * * * * *

The average unit sales value (on a per-pound basis), as shown in table 8, for R-M's sulfanilic acid operations was $*** in 1991 compared to $*** in 1989 and 1990. The quantity sold (***) in 1991 was *** than the *** sold in both 1989 and 1990. ***. The quantities sold and unit values were similar for the two interim periods. The operating *** on a per-pound basis for the interim periods was *** the operating *** for 1991.

---

[102] A footnote to the preliminary draft of the 1991 audited financial statements states:
"***."

[103] A footnote to the preliminary draft of the 1991 audited financial statements states:
"***."

[104] To the extent that overall establishment data are unreliable, data for sulfanilic acid may also be unreliable.

Table 8
Income-and-loss experience (on a per-pound basis) of R-M Industries on its operations producing sulfanilic acid, calendar years 1989-91, January-March 1991, and January-March 1992

* * * * * * *

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

* * * * * * *

Capital Expenditures

Capital expenditures of R-M for its establishment in which sulfanilic acid is produced are shown in table 9. R-M stated in the questionnaire response that capital expenditures for sulfanilic acid were not available.

Table 9
Capital expenditures by R-M Industries on its overall establishment operations, calendar years 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Investment In Productive Facilities

The investment in productive facilities and the annual return on total assets for R-M are presented in table 10 for operations on its overall establishment and sulfanilic acid.

Table 10
Value of assets and return on assets of R-M Industries for its overall establishment and sulfanilic acid operations, calendar years 1989-91

* * * * * * *

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 Hungary, India, and/or China on their growth, development and production efforts, investment, and ability to raise capital (including efforts to develop a derivative or improved version of their 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 the merchandise, the Commission shall consider, among other relevant economic factors[105]--
>
> > (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,

---

[105] 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."

> (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 701 or 731 or to final orders under section 706 or 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.[106]

Agricultural products (item (IX)) are not an issue in these investigations; information on subsidies (item (I)) is presented in the section entitled "Nature and Extent of the Alleged Sales at LTFV and Alleged Subsidies;" 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

---

[106] 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."

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, most U.S. importers of sulfanilic acid from Hungary, India, and China typically do not maintain inventories of the product. Imported sulfanilic acid is either purchased on consignment for the end user or is imported directly by the end user for consumption in producing another product. ***.

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

The Commission requested that counsel representing Hungary and China in these investigations provide information on the production of sulfanilic acid in the subject countries. The information requested consisted of the production, inventories, capacity, home-market shipments, and exports to the United States, Europe, Asia, Latin America, and all other countries for the period of the investigation and projections for 1992-93. Although no counsel came forward to represent India, counsel representing the importer Gallard-Schlesinger Industries, Inc., was able to provide some of the requested data on this country. Telegrams were also sent to the U.S. Embassies in the countries under investigation seeking information regarding the respective foreign industries. No applicable information from the Embassies was received.

Hungary

Counsel representing the Hungarian producer and exporter of sulfanilic acid, Nitrokemia and Nitrochem & Co. Ltd., provided information on the country's production and export trends. The respondents are responsible for 100 percent of Hungarian production and exports of sulfanilic acid.

Hungary's reported capacity to produce sulfanilic acid was unchanged from 1989 to 1990 and rose by *** percent from 1990 to 1991 (table 11). This increase was the result of improvements to the factory's existing production line and was made at the request of one of Nitrokemia's largest European customers. Capacity was down in the first quarter of 1991 while the factory was closed for improvements to existing equipment. No future expansions are

Table 11
Sulfanilic acid: Hungarian capacity, production, inventories, capacity utilization, and shipments, 1989-91, January-March 1991, January-March 1992, and projected 1992-93

* * * * * * *

planned.[107] Capacity utilization has been consistently high since 1989, ranging from *** to *** percent, as production ***.

The Hungarian producer testified that his facility's production process for sulfanilic acid is considerably different from that of the domestic producers and of other manufacturers. Referring to the "baking" technology as outdated, the Hungarian producer explained that his patented, one-stage process does not go through the intermediate production steps of creating either the technical grade or the sodium sulfanilate; by going immediately to the refined grade, the Hungarians have apparently figured out how to create a stable and consistent product, with very low levels of aniline and impurities.[108] Further, the Hungarian producer explained that his company's process uses less energy and creates far less waste water than that of other manufacturers of the product.

Hungarian exports to the United States *** by *** percent in 1990, then *** by *** percent in 1991. Although the level of exports *** in the comparison of the interim periods, this is primarily due to the ***. The Hungarian producer testified that Nitrokemia's exports to the United States are not projected to increase; the improvement of production facilities in early 1991 was intended to permit increased sales to Nitrokemia's large and traditional European customers.[109] Exports to the United States have consistently accounted for *** percent of total exports. European countries comprise Nitrokemia's largest market, accounting for *** percent of total

---

[107] The managing director of Nitrochem, Laszlo Karpati, testified that his company expanded its capacity at the request of Ciba-Geigy in Switzerland; Mr. Karpati reported that increased production resulting from this expansion will be used to supply traditional European customers. No further expansions are planned, as this would require the installation of an entirely new production line. (Conference transcript II, pp. 115-119.)

[108] Conference transcript II, pp. 113-115.

[109] Nitrokemia's representative stated that his company had been approached by Gallard-Schlesinger (a U.S. importer) and asked to supply additional sulfanilic acid. In spite of this obvious demand, the Hungarian official explained that his company's priority continues to be traditional European customers with whom sales commitments of 3-5 years are typically made. He testified that Nitrokemia will maintain the business of Warner-Jenkinson for the prestige it brings to the Hungarian factory; requests for additional U.S. customers will be turned down. (Conference transcript II, pp. 115-119.)

exports. When production was *** in the first quarter of 1991 and exports to the United States ***, sales to Europe were ***. *** and *** have been the only other markets for the Hungarian product during the past three years, ***.

The Hungarian producer testified that small inventories of the product (equivalent to less than 5 percent of yearly production) are maintained in case of an unexpected factory shutdown.

India

Counsel representing Gallard-Schlesinger Industries, Inc., an importer of sulfanilic acid from ***, provided information on the known Indian producers of sulfanilic acid, ***.

As shown in table 12, India's reported capacity to produce sulfanilic acid *** from 1989 to 1991 and is projected to ***. Similarly, production *** from 1989 to 1991 and is expected to *** in 1992 and 1993. Capacity utilization *** from *** percent in 1989 to *** percent in 1991 and is projected to *** to *** percent in 1993.

India's shipments to its home market as well as to all major export markets *** during 1989-91. Exports to the United States *** from *** in 1989 and 1990 to *** pounds in 1991 and are projected to *** to *** pounds in 1992 and *** pounds in 1993. As a share of total shipments, home-market sales *** from *** percent in 1989 to *** percent in 1991 and are projected to *** in 1992 and 1993. Exports to the United States are expected to *** from *** during 1989-91 to approximately *** of total shipments in 1992 and 1993. Exports to third countries *** from more than *** of total shipments in 1989 to more than *** in 1991 but are projected to *** to less than *** in 1992 and 1993.

Table 12
Sulfanilic acid: Indian capacity, production, inventories, capacity utilization, and shipments, 1989-91 and projected 1992-93

* * * * * * *

China

The counsel representing China National Chemicals Import & Export Corp., Hebei Branch, a Chinese exporter,[110] provided information on the Chinese producers of sulfanilic acid. The data provided include information for the following plants: ***.[111] Sinochem Hebei is only an exporter and does not manufacture sulfanilic acid.

China's reported capacity to produce sulfanilic acid *** during most of the period of investigation, *** by *** percent between 1989 and 1990 and by *** percent between 1990 and 1991 (table 13). The interim period, however, shows a *** of *** percent. These *** in capacity are explained by the ***; the ***, however, is the result of ***.[112] Capacity utilization has fluctuated, *** percentage points in 1990, *** percentage points in 1991, then *** percentage points in the comparison of interim periods.

Table 13
Sulfanilic acid: Chinese capacity, production, inventories, capacity utilization, and shipments, 1989-91, January-March 1991, January-March 1992, and projected 1992-93

* * * * * * *

Because China National Chemicals is an exporter, it is not responsible for sales of sulfanilic acid in the home market.[113] Exports of sulfanilic acid to the United States have been *** during most of the period of investigation; shipments were *** over the previous year by *** percent in 1990 and by *** percent in 1991. A ***-percent *** in exports to the United States was reported in the first quarter of 1992. Projections for calendar years 1992 and 1993 are *** percent from calendar year 1991.[114] China's exports to Europe *** by *** percent in 1991, but were *** by *** percent in the comparison of the first quarters of 1991 and 1992. Exports to Asia *** in 1990 *** but *** considerably in 1991 and *** in the first quarter of 1992.[115] China began exporting to *** in 1991, and this was the only export market that showed *** in the interim 1992 period. Total Chinese exports of sulfanilic acid *** in 1990 and 1991 (by *** and *** percent, respectively) but *** by *** percent in the comparison of first quarter 1991 to first quarter 1992.

---

[110] The Chinese respondent, Sinochem Hebei, accounts for approximately *** percent of total Chinese exports of sulfanilic acid. The respondent exports only the refined grade of sulfanilic acid; another trading company, ***.

[111] ***.

[112] ***.

[113] ***.

[114] The counsel for Sinochem Hebei explains this projected *** as the result of: ***.

[115] ***.

Respondents testified that China produced sodium sulfanilate in substantial quantities prior to 1989 and that China has a growing internal use for the product as an additive in the dye, detergent, textile, and paper and optical brightener industries.[116]

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

U.S. Imports

Table 14 presents data received from the 17 responding importers of sulfanilic acid, which are believed to account for almost all imports of sulfanilic acid (see appendix table D-5 for imports by grade). Imports of sulfanilic acid from the subject countries increased over most of the period of investigation, climbing by 59 percent in 1990 and by 231 percent in 1991; however, a decrease of 54 percent was reported in the interim period. Imports from China climbed by *** percent in 1990 and by 474 percent in 1991; a comparison of first quarter 1991 to first quarter 1992, however, showed a *** in imports of *** percent. Only imports from Hungary witnessed *** in every period of investigation; shipments of the product *** by *** percent in 1990, by *** percent in 1991, and by *** percent in interim 1992.[117] Imports from India *** in 1990 and *** by *** percent in 1991; there were ***, however, in January-March 1992.

The value of imports from the subject countries climbed by 67 percent in 1990 and by 224 percent in 1991; the value of imports was down by 50 percent, however, in interim 1992. The unit value of subject imports decreased over the period of investigation in all cases except for ***. The unit value (per pound) for the Chinese sulfanilic acid started at $*** in 1989; it *** by $*** in 1990, then *** by $*** between 1990 and the first quarter of 1992. The Hungarian product *** from a unit value of $*** in 1989 to $*** in January-March 1992; it reached its ***, however, of $*** per pound in 1991. India's unit value started off at $*** in 1990, but *** to $*** in 1991.

There were *** imports of technical sulfanilic acid from China between 1989 and 1992. Imports of Chinese refined sulfanilic acid *** than the

---

[116] Conference transcript I, pp. 115-116.

[117] *** the Hungarian factory that produces the subject merchandise was shut down in the early part of 1991; from February 1991 to June/July 1991 there were essentially no imports from Hungary.

Table 14
Sulfanilic acid: U.S. imports, by sources, 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan.-Mar.-- 1991	1992
	Quantity (1,000 pounds)				
China[1]	***	548	3,143	578	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Subtotal	749	1,192	3,941	686	317
Other sources[2]	***	***	***	***	***
Total	***	***	***	***	***
	Value[3] (1,000 dollars)				
China[1]	***	416	2,221	413	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Subtotal	535	896	2,906	488	242
Other sources[2]	***	***	***	***	***
Total	***	***	***	***	***
	Unit value (per pound)				
China	***	$0.76	$0.71	$0.71	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Average	$0.71	.75	.74	.71	$0.76
Other sources	***	***	***	***	***
Average	***	***	***	***	***
	Share of total quantity (percent)				
China	***	***	***	***	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Subtotal	***	***	***	***	***
Other sources[2]	***	***	***	***	***
Total	***	***	***	***	***

[1] Includes *** pounds of Chinese material valued at $*** that were transhipped through Hong Kong in 1991.
[2] Nonsubject imports are believed to be understated for 1989.
[3] Landed, duty-paid at the U.S. port of entry, including ocean freight and insurance costs, brokerage charges, and import duties.
[4] Not applicable.

Note.--Because of rounding, figures may not add to the totals shown. Unit values are calculated from the unrounded figures, using data of firms supplying both quantity and value information.

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

imports of sodium sulfanilate; 1991 imports of the Chinese refined grade were *** of 1989 imports, *** imports of Chinese sodium sulfanilate had ***. Imports from Hungary are only of the refined grade, and reported imports from India were ***.[118]

Reported imports of sulfanilic acid by quantity from all nonsubject countries *** in 1990 by *** percent, then *** in 1991 and interim 1992 by *** percent and *** percent, respectively. The main overall source of nonsubject imports was Japan, which principally manufactured sulfanilic acid as a byproduct in the production of sulfa drugs;[119] *** firms reported importing the refined grade of the subject merchandise from this country over the period of investigation. In mid-1990 the Japanese essentially withdrew from the U.S. market as a result of changes in the market conditions relating to sulfa drugs. Imports from Japan fell from *** pounds in 1990 to *** pounds in 1991, a drop of *** percent. A decline of imports from Japan by *** percent in the comparison of interim 1991 to interim 1992 shows the country's continued withdrawal from the U.S. market. It was the disappearance of this source of refined grade sulfanilic acid in 1991 that opened the door for increased imports from *** that same year. The only other nonsubject imports have been shipments of *** grade sulfanilic acid from the ***.

Sulfanilic acid is produced in Hungary, India, Japan, the United Kingdom, Germany, France, and Brazil. At the conference on China, the 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.[120] Respondents to these investigations testified that there is an adequate supply of sulfanilic acid in the world market today from a multitude of sources, namely China, Hungary, and India.[121] However, both purchasers and importers admitted the need to maintain several sources of supply, given the periodic instability of the product's availability. Some purchasers testified that an apparent shortage has been created as a result of the preliminary affirmative LTFV determination on China, and that their companies are not always able to purchase the grade of choice of sulfanilic acid.[122] Warner-Jenkinson would like to purchase more of the refined grade (available only through imports) but said importers have been unwilling to bring in the Chinese material. Sandoz attempted to purchase the refined grade from Hungary, but the Hungarian producer testified that it only had the capacity to supply one U.S. source.[123] Two importers, Gallard-

---

[118] Hungarian manufacturers of sulfanilic acid do not produce anything but the refined grade. India produces all three grades, ***.

[119] Petition on Hungary and India, p. 46.

[120] Conference transcript I, pp. 61-62.

[121] Conference transcript I, p. 98.

[122] Conversations with ***. The preliminary LTFV determination on China was effective on Mar. 18, 1992. (See 57 F.R. 9409, presented in app. A.)

[123] Although the Hungarian manufacturer, Nitrokemia, shut down production during February-June 1991 to "intensify" its production capabilities, the firm testified that increased production had been promised to one of its largest customers, Ciba-Geigy in Switzerland. The primary U.S. company supplied by

(continued...)

Schlesinger and Nu-Tech Chemicals, testified that they had attempted to bring in more of the refined grade from India, but that producers there were also limited by capacity.[124]

Market Penetration by the Alleged LTFV and Subsidized Imports

Table 15 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 the subject countries of Hungary, India, and China, and by imports from all other sources (see appendix table D-6 for shares of consumption by grade). Over the period of investigation, the U.S. producers' share of the quantity of total apparent consumption ***; starting at *** percent in 1989, the U.S. producers' share *** by approximately *** percentage points in 1990. A slight *** was reported in 1991, and the first quarter of 1992 showed a *** to *** percent of consumption. In terms of value, the U.S. producers' share *** from *** percent in 1989 to *** percent in 1990; from this point on, the U.S. producers' share *** steadily, reaching *** percent in the first quarter of 1992.

The share of consumption accounted for by imports from subject countries grew by 32.2 percentage points during 1989-91, reaching 46.2 percent in 1991. By the first quarter of 1992, however, the share had decreased to 28.3 percent of total U.S. consumption. The share of value held by imports from subject countries shows a similar trend, increasing by 27.6 percentage points between 1989 and 1991, then accounting for a lower share of value (25.2 percent) in January-March 1992. Examined country by country, China is the primary contributor to the above pattern of growth; imports from this country claimed *** percent of U.S. consumption in 1989 and 36.5 percent in 1991. *** does not follow the same pattern; the share of U.S. consumption retained by the *** product ***, during the period of investigation. ***'s share of U.S. consumption is ***, reaching *** percent in 1991. The share of consumption claimed by nonsubject imports *** by *** percentage points from 1989 to 1990, then *** considerably, from *** percent in 1990 to *** percent in 1991. As mentioned earlier in the report, imports from Japan and Hungary began declining in late 1990 and early 1991 as both countries decreased exports to the U.S. market; ***, while Hungary's exit accounts for its *** of consumption (*** percent) in interim 1991.

---

[123] (...continued)
the Hungarians is Warner-Jenkinson. Gallard-Schlesinger, U.S. importer of the Hungarian product, testified that it had requested additional imports from Nitrokemia but had been turned down by the company for reasons of inadequate supply. (Conference transcript II, p. 142.)

[124] Conference transcript II, pp. 140-144.

Table 15
Sulfanilic acid: Shares of apparent U.S. consumption supplied by U.S. producers and U.S. importers of product from China, Hungary, India, and all other sources,[1] 1989-91, January-March 1991, and January-March 1992

Item	1989	1990	1991	Jan.-Mar. 1991	Jan.-Mar. 1992
	Share of the quantity of U.S. consumption (percent)				
Producers' U.S. shipments	***	***	***	***	***
Importers' U.S. shipments:					
China	***	7.7	36.5	28.0	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Subtotal	14.0	16.7	46.2	32.8	28.3
Other sources	***	***	***	***	***
Total	***	***	***	***	***
	Share of the value of U.S. consumption[3] (percent)				
Producers' U.S. shipments	***	***	***	***	***
Importers' U.S. shipments:					
China	***	6.9	30.5	23.1	***
Hungary	***	***	***	***	***
India	***	***	***	***	***
Subtotal	12.5	16.3	40.1	27.7	25.2
Other sources	***	***	***	***	***
Total	***	***	***	***	***

[1] Nonsubject import shipments are believed to be understated for 1989; consequently, U.S. consumption for 1989 may be understated by as much as 10-15 percent.
[2] Less than 0.05 percent.
[3] Based on f.o.b. U.S. shipping point values.

Note.--Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures.

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

Prices

Marketing Characteristics

Sulfanilic acid is available in three different forms, and prices tend to vary among these forms. Technical sulfanilic acid is the lowest-priced of the three because its production costs are lower and it has impurities that are undesirable for many applications. Sodium sulfanilate has a higher value

and price than the technical sulfanilic acid because it is treated to remove certain impurities in additional production processes.[125] Finally, refined or pure sulfanilic acid generally has the highest price because it has higher production costs and the least impurities.[126]

Before sulfanilic acid is purchased by consumers it must be qualified for use. According to the petitioner, qualification procedures are a major part of the purchasing decision.[127] R-M stated that consumers usually visit R-M's plant and analyze its ability to deliver the product and its overall manufacturing process.[128] Purchasers also consider the environmental and worker safety conditions of the plant. ***.[129] This process can take anywhere from a few days to several months.[130]

Sulfanilic acid is sold on both a contract and spot basis. R-M reported that approximately *** percent of its total sales in 1991 were 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.[131] Price and quantity are usually negotiated at the end of each year and are fixed for the duration of the contract. Negotiations for different customers are usually held simultaneously; therefore, ***. R-M stated that its contracts are in the form of a written letter confirming the deal. Prices are generally determined by the supplier's cost and the availability and price of competitors' products. R-M stated that its 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.[132] Contracts often contain standard quantity requirements; several suppliers of sulfanilic acid also reported that they charge price premiums for shipments below a single truckload; these premiums ranged from *** to *** percent.

Technical and refined sulfanilic acid are priced on a dollar-per-pound basis, whereas the 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,

---

[125] The price of sodium sulfanilate solution is based on the amount of free acid that is present. The sodium sulfanilate solution sold by the petitioner is *** percent salt and *** percent water.

[126] Although this material is often priced the highest, petitioner argued that the Chinese are selling refined sulfanilic acid at a price consistent with that of petitioner's technical sulfanilic acid (Conference transcript I, p. 16).

[127] Conference transcript I, p. 73.

[128] 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 (Conference transcript I, p. 73).

[129] ***.

[130] ***.

[131] ***.

[132] Conference transcript II, pp. 72-73.

but no importers reported using price lists for their sales. R-M stated that ***.

The petitioner and the importer of the Hungarian product quote prices of sulfanilic acid on an f.o.b. basis, whereas importers of the Chinese and Indian product reported that they quote and sell on a delivered basis.[133] Transportation costs account for between 1 and 8 percent of the overall product cost.[134] R-M and the importers that sell the sulfanilic acid stated that they do not believe that transportation costs are an important consideration in their customers' purchasing decisions. However, all purchasers reported that transportation costs are an important factor in their purchasing decisions.

Both U.S. producers and importers reported that they can ship to the entire United States, but the market is generally concentrated in the Northeast, Southeast, and Midwest, where the large consumers are located. 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.[135] [136]

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 1989-March 1992. Prices were requested for the largest quarterly sale of technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate.[137] 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 1989-December 1989.[138] Usable pricing data were received from

---

[133] Because of these differences, f.o.b. prices are shown for the domestic and the Hungarian products, and delivered prices are shown for the Chinese and Indian products. These prices are indexed to display price trends. R-M and the importers of the Chinese and Indian product estimated delivered and f.o.b. prices, respectively. Therefore, prices are compared both on an f.o.b. basis and a delivered basis for China and India. In the case of Hungary, prices are only compared on an f.o.b. basis.

[134] Sodium sulfanilate in solution form is more costly to transport; R-M reported that transportation costs of the solution average about *** percent, while those for the powders average only *** percent. ***.

[135] ***.

[136] Packaging costs are included in the cost of both the domestic and imported products. Price tables include packaging costs; staff has not adjusted these because the packaging costs are not significant and are included in both domestic and imported prices.

[137] Prices were requested for sodium sulfanilate sold both in dry and solution form.

[138] R-M ceased production of refined grade sulfanilic acid in late 1989.

*** firms that imported sulfanilic acid from China and then resold the material; *** reported usable data for sales of Indian product and *** for Hungarian product.[139] Prices were reported for refined sulfanilic acid for 1990 and 1991. *** reported prices for its sales of sodium sulfanilate imported from China but only for the period ***. The products for which pricing data were received accounted for *** percent of U.S. producers' domestic shipments, *** percent of domestic shipments of Chinese material, *** percent of Hungarian, and *** percent of Indian sulfanilic acid in 1991.

Sales of technical grade sulfanilic acid

Prices for domestic technical sulfanilic acid *** during the period *** (table 16).[140] [141] Prices *** percent from the first to the fourth quarter of 1989. These prices fluctuated throughout the remainder of the period and were *** in January-March 1992 than they were in the same quarter of 1989.[142]

Only *** reported prices for technical sulfanilic acid imported from India and *** during the period for which data were requested. The Indian product was sold for ***.

Table 16
Technical grade sulfanilic acid: Net f.o.b. prices, delivered prices, price indexes, and total quantities of U.S.-produced and Indian product, by quarters, January 1989-March 1992

* * * * * * *

Sales of sodium sulfanilate

Prices for domestic sodium sulfanilate powder *** from January-March 1989 to the same quarter of 1991, *** percent during that time (table 17). These prices ***. Prices *** in the first quarter of 1992; overall, these domestic prices were *** percent *** in January-March 1992 than in the same quarter of 1989.

---

[139] ***.

[140] As stated earlier, R-M and the importer of Hungarian material reported that they quote prices and sell product on an f.o.b. basis, while the other importers sell on a delivered basis. In addition to the actual f.o.b. and delivered prices, price indexes are also discussed to gauge changes in both the imported and domestic prices. R-M did provide delivered pricing information based on its knowledge of the delivery costs actually paid by its customers; these prices are used for comparison purposes.

[141] No importers reported prices for technical sulfanilic acid imported from China or Hungary.

[142] ***.

Table 17
Sodium sulfanilate: Net f.o.b. prices, delivered prices, price indexes, and total quantities of U.S.-produced and imported product in solution and powder form, by quarters, January 1989-March 1992

* * * * * * *

*** reported prices for Chinese sodium sulfanilate but only for the period ***; these prices *** percent during that time.[143] No prices were reported for Hungarian or Indian sodium sulfanilate.

R-M was the only supplier to report prices for sodium sulfanilate sold in solution form. Prices for this product *** from April-June 1989 to July-September 1990, *** percent during that time. These prices *** in the fourth quarter of 1990 before *** percent in the first quarter of 1991. Prices *** in 1991 before *** percent in the first quarter of 1992. Overall, R-M's prices for sodium sulfanilate solution were *** percent *** in January-March 1992 than in April-June 1989.

Sales of refined grade sulfanilic acid

Prices for U.S.-produced refined sulfanilic acid were only reported for 1989 because R-M stopped manufacturing it at the end of 1989 (table 18). Prices for this product *** from January 1989 to December 1989. ***.

Table 18
Refined grade sulfanilic acid: Net f.o.b. prices, delivered prices, price indexes, and total quantities of U.S.-produced and imported product, by quarters, January 1989-March 1992

* * * * * * *

Prices for Hungarian refined grade sulfanilic acid *** during 1989, *** percent in the first quarter of 1990, and *** for the remainder of 1990.[144] These prices then *** percent in the first quarter of 1991 but then *** percent in the first quarter of 1992. Overall, prices for Hungarian refined sulfanilic acid were *** in the first quarter of 1992 than in the same quarter of 1989.

---

[143] ***.

[144] These prices represent f.o.b. prices reported by ***. ***.

Delivered prices for Chinese refined sulfanilic acid were reported for the period October-December 1990 to January-March 1992. Prices for this Chinese product *** from the fourth quarter of 1990 to the first quarter of 1991. These delivered prices *** from January-March 1991 to July-September 1991 and *** through the first quarter of 1992. Overall, these prices were *** at the end of the period than at the beginning. No prices were reported for Indian refined grade product.

Price Comparisons

Price comparisons between domestic and imported sulfanilic acid were very limited during the period of investigation. The majority of imports of sulfanilic acid from China and Hungary are the refined material. Because there were some sales of technical grade from India and sodium sulfanilate from China, there are some comparisons.

There was only one instance where the domestic and imported technical grade sulfanilic acid could be compared (table 19). Regardless of whether one compares prices on a delivered price basis or an f.o.b. basis, the Indian product was lower-priced than the comparable domestic product.[145] Comparing f.o.b. prices, the Indian product was priced *** percent below the domestic product in ***; using delivered prices, the Indian product was priced *** percent below the domestic product during that quarter.

There were some imports of sodium sulfanilate from China during the period of investigation; however, as stated earlier, ***. Prices for the Chinese product were *** lower than those for the domestic product.[146]

Table 19
Margins of underselling for sales of technical grade sulfanilic acid, sodium sulfanilate, and refined grade sulfanilic acid, by quarters, January 1989-March 1992

* * * * * * *

In the refined grade market, sulfanilic acid was not imported from China until 1990. R-M, the only U.S. producer of refined sulfanilic acid, stopped producing and selling refined material in 1989. Therefore, there is no overlap between sales of domestic and Chinese refined sulfanilic acid. There were four quarters in which comparisons could be made between the domestic and

---

[145] As stated earlier, R-M and the importer of the Hungarian material sell their products on an f.o.b. basis, whereas the other importers sell on a delivered basis. R-M provided estimates of its delivered prices, and the importers of Chinese and Indian material estimated their f.o.b. prices; therefore, comparisons are made on both bases.

[146] ***.

Hungarian material. As table 19 indicates, the Hungarian product was priced below the domestic product in all four quarters for which comparisons were possible, with margins ranging from *** to *** percent.[147]

Purchaser Responses[148]

The Commission sent questionnaires to 17 firms believed to be purchasers of domestic and Chinese sulfanilic acid in the United States; 12 responses were received, with 10 providing usable data.[149] During January 1989-March 1992, these firms purchased all three grades of sulfanilic acid and used them in the production of dyes and brighteners. These firms accounted for 95.5 percent of U.S. shipments and 88.9 percent of shipments of Chinese sulfanilic acid during 1991.[150] Information obtained from these purchasers is summarized below.[151]

Because many of these firms require that a supplier's sulfanilic acid pass certain qualification procedures before it can be purchased, all purchasers reported that they are aware of the country of origin of the product. However, only about half of the purchasers reported that they always know the manufacturer of the sulfanilic acid that they are purchasing. These firms reported purchasing sulfanilic acid as frequently as monthly and as infrequently as annually. Although 4 of the 10 firms reported that they seldom change suppliers, 9 firms reported that they did change suppliers within the last three years. The most frequently mentioned reason for changing suppliers was the need to obtain high quality product; these firms reported that it was necessary to switch from R-M to other sources because R-M was no longer selling refined grade sulfanilic acid.[152] Two firms mentioned the lack of Japanese production as a reason for changing suppliers. In general, purchasers stated that they usually contact between two and four suppliers before making a purchase.

Purchasers were asked to discuss the importance of several factors in their firm's purchasing decisions for sulfanilic acid.[153] Virtually all of the responding purchasers reported that availability and product quality were very

---

[147] ***.

[148] Information on purchaser prices will be included in the final report for the investigation concerning China.

[149] Not all firms answered all questions; therefore, the number of responses to some questions is less than 10.

[150] These firms also purchased sulfanilic acid from other sources, such as Japan, Hungary, India, and the United Kingdom. Since the purchaser questionnaire was prepared in conjunction with the investigation concerning China, many of the responses deal specifically with imports from China.

[151] Of these firms, three (***) account for the majority of purchases of sulfanilic acid.

[152] ***.

[153] These factors were availability, credit terms, prearranged contract, price, product quality, range of supplier's product line, and traditional source of supply.

important.[154] These two factors were ranked as the first and second most important factors by all but one purchaser. Price was characterized as being important by five firms and very important by one firm; these firms ranked price as the third most important factor, behind quality and availability.[155] Purchasers were mixed as to the importance of credit terms; while one found it somewhat important, two found it important, and two others found it not important. The remaining factors, prearranged contracts, range of product line, and traditional source of supply, were reported to be not that important.

Purchasers were also asked to directly compare the U.S. and Chinese product with respect to nine different factors.[156] Four firms responded to this question, and at least three of the four reported that the two products were identical with respect to delivery terms and technical support. In the areas of delivery time, packaging, and reliability of supply, half of the purchasers found the two products to be equal.[157] The majority of purchasers reported that the Chinese product was superior in the areas of product consistency and quality. Finally, three firms stated that the domestic product was higher-priced than the Chinese product.

Five of seven firms reported that Chinese sulfanilic acid was available at a lower delivered price than the domestic product during 1991. Two firms stated that the quality of the Chinese product was superior to the domestic, two stated that they were similar, and one stated that it was inferior.[158] Four of these purchasers stated that they did purchase the domestic product even though a lower-priced product from China was available. Reasons for doing so included preference for a domestic source, the ongoing antidumping investigation involving China, desire for multiple sources, and erratic supply, poor packaging, and undesirable pricing policies of the Chinese. ***.

Purchasers reported that they buy the U.S. product on an f.o.b. basis, while the imported product is usually purchased on a delivered basis. Transportation costs account for less than 5 percent of the total cost of the sulfanilic acid; however, all purchasers reported that delivery costs are considered when choosing a supplier. None of the firms reported that U.S. producers or importers of the Chinese product equalize freight from the plant or warehouse.[159]

---

[154] Several firms reported that both of these factors were critically important to their business.

[155] ***.

[156] These factors are availability, delivery time, delivery terms, packaging, price, product consistency, product quality, reliability of supply, and technical support.

[157] In each of these areas, one purchaser found the domestic product to be superior and another found the Chinese product to be superior.

[158] The two remaining firms did not respond to this portion of the question.

[159] R-M reported that during a shortage period in January-April 1991, it had to ship sodium sulfanilate in solution form instead of in powder form. The cost of shipping solution is higher than that of powder; however, Mr. Dickson,

(continued...)

All purchasers stated that there are no substitutes for sulfanilic acid. There also appears to be limited substitution between the different grades of sulfanilic acid.[160] Four of five responding purchasers reported that refined sulfanilic acid and sodium sulfanilate cannot be used interchangeably in their production process. ***. Purchasers reported that switching from refined grade to sodium sulfanilate (or vice versa) is difficult because plants are designed to work with a particular grade of material. Therefore modification and/or new equipment would be needed to make the switch from refined sulfanilic acid to sodium sulfanilate (or vice versa). Several purchasers stated that the quality of their end products depends upon the use of the preferred grade of sulfanilic acid. Switching grades of sulfanilic acid also reportedly reduces the efficiency of the plant. These firms were also asked to estimate how much lower-priced one type of sulfanilic acid would have to be to induce a shift to that grade of input. Most of the purchasers reported that it is difficult to estimate because there are many additional costs involved in switching.[161] In addition, purchasers stated that switching from sodium sulfanilate solution to powder would also be very difficult. ***.

Lost Sales and Revenues Involving Hungary and India

The Commission received *** allegations of lost sales and *** allegations of lost revenues from ***, due to competition from Hungary.[162] The *** lost sales allegations totaled approximately $*** and involved *** pounds of sulfanilic acid, while the lost revenue allegations totaled $*** and involved *** pounds of the product. *** also alleged that it lost revenues of $*** on a sale of *** pounds of *** due to competition from Indian suppliers. Staff contacted both of the purchasers involved, and a summary of the information obtained follows.[163]

* * * * * * *[164]

---

[159] (...continued)
president of R-M, reported that R-M did not absorb any of the additional freight costs. According to Mr. Dickson, the customers that were affected were spot customers; if the customers had been regular contract customers, R-M would have absorbed some of the additional costs (Conference transcript II, pp. 57 and 74).

[160] R-M stated that it believed that all purchasers could use any grade of sulfanilic acid; purchasers disagreed with R-M's assertions.

[161] Additional costs include those for new machinery, modification of existing machinery, additional labor, further purification procedures, etc.

[162] *** lost sales allegations and the *** lost revenue allegations concerned imports from both Hungary and China.

[163] ***.

[164] ***.

Lost Sales and Revenues Involving China

Lost Sales and Revenues from the Final Investigation

*** submitted *** allegations of lost sales and *** allegations of lost revenues due to competition from Chinese product.[165] The *** lost sales allegations that specifically involved China totaled $*** and involved *** pounds of sulfanilic acid; the lost revenue allegations totaled $*** and involved *** pounds of product. Staff contacted one of the two purchasers involved, and a summary of the information obtained follows.[166]

* * * * * * *[167] [168]

Lost Sales and Revenues from the Preliminary Investigation

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

* * * * * * *[169] [170] [171]

---

[165] *** of these lost sales allegations and *** lost revenues concern competition from Chinese and Hungarian product; they are covered in the preceding section entitled "Lost Sales and Revenues Involving Hungary and India."

[166] ***.

[167] ***.

[168] ***.

[169] ***.

[170] ***.

[171] ***.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the currencies of two of the three countries subject to these investigations depreciated in relation to the U.S. dollar over the period from January-March 1989 through January-March 1992 (table 20).[172] [173] The nominal values of the Hungarian and Indian currencies depreciated by 30.9 percent and 41.0 percent, respectively. When adjusted for movements in producer price indexes in the United States and the specified countries, the real value of the Hungarian currency appreciated by 10.6 percent while the Indian currency depreciated by 21.9 percent relative to the dollar during the periods for which data were collected.

Table 20
Exchange rates:[1] Indexes of nominal and real exchange rates of selected currencies, and indexes of producer prices in those countries,[2] by quarters, January 1989-March 1992

Period	U.S. producer price index	Hungary			India		
		Producer price index	Nominal exchange rate index	Real exchange rate index	Producer price index	Nominal exchange rate index[3]	Real exchange rate index[3]
1989:							
Jan.-Mar.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr.-June.....	101.8	103.4	88.5	90.0	103.4	94.9	96.4
July-Sept.....	101.4	105.4	88.8	92.3	106.7	92.0	96.8
Oct.-Dec.....	101.8	105.4	89.3	92.5	107.9	90.4	95.8
1990:							
Jan.-Mar.....	103.3	118.7	84.4	97.0	108.6	89.7	94.4
Apr.-June.....	103.1	124.3	83.2	100.3	112.5	88.1	96.2
July-Sept.....	104.9	126.7	85.8	103.6	116.2	87.1	96.4
Oct.-Dec.....	108.1	135.0	88.6	110.6	119.3	84.5	93.3
1991:							
Jan.-Mar.....	105.9	(4)	76.9	(4)	123.5	81.2	94.8
Apr.-June.....	104.8	(4)	71.1	(4)	126.3	74.4	89.7
July-Sept.....	104.7	(4)	70.7	(4)	132.3	59.3	75.0
Oct.-Dec.....	104.8	(4)	70.7	(4)	136.2	59.1	76.7
1992:							
Jan.-Mar.....	104.6	(4)	69.1	(4)	138.5[5]	59.0	78.1[5]

[1] Exchange rates expressed in U.S. dollars per unit of foreign currency.
[2] Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.
[3] The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and the specified countries.
[4] Not available.
[5] Derived from Indian price data reported for January-February only.

Note.--January-March 1989 = 100. The real exchange rates, calculated from precise figures, cannot in all instances be derived accurately from previously rounded nominal exchange rate and price indexes.

Source: International Monetary Fund, International Financial Statistics, May 1992.

---

[172] International Financial Statistics, May 1992.

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

APPENDIX A

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

[A-570-815]

Preliminary Determination of Sales at Less Than Fair Value: Sulfanilic Acid From the People's Republic of China

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

EFFECTIVE DATE: March 18, 1992

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Brian Smith, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1756 and 377-1766, respectively.

Preliminary Determination

The Department of Commerce ("the Department") preliminarily determines that sulfanilic acid from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b). The estimated margin is shown in the "Suspension of Liquidation" section of this notice. Also, the Department preliminarily makes a negative finding of critical circumstances (see, the "Critical Circumstances" section of this notice).

Case History

On October 23, 1991, we initiated this investigation. On October 28, 1991, we sent a letter to the PRC embassy requesting a list of all known exporters of the subject merchandise. On October 28, 1991, we sent a letter to the PRC embassy and petitioner requesting that they address the issues of: (1) Whether we should continue to treat the PRC as a nonmarket economy country, or (2) whether available information would permit the Department to determine foreign market under section 773(a) of the Act. Since publication of the notice of initiation on October 29, 1991 (56 FR 55659), the following events have occurred. On October 29, 1991, counsel filed a letter of appearance for respondent, China National Chemicals Import & Export Corporation, Hebei Branch ("Sinochem Hebei"), and its related U.S. branches. On November 12, 1991, counsel for respondent claimed that the prices of material inputs used in producing sulfanilic acid in the PRC are market-driven and that for purposes of this investigation, the PRC should be treated as a market economy country for valuing those inputs.

On November 18, 1991, the International Trade Commission (ITC) made a preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of such merchandise that are allegedly sold at less than fair value in the United States. On November 13, 1991, the PRC embassy informed us that it would not be providing us with information we requested for conducting our investigation.

On November 27, 1991, we sent questionnaires to counsel for respondent and to the Chinese Chamber of Commerce for serving on all other known exporters of the subject merchandise during the POI.

On December 9, 1991, counsel for respondent requested a 30 day extension for responding to the questionnaire. On December 10, 1991, we granted Sinochem Hebei a partial extension.

On December 17, 1991, another counsel for respondent filed a letter of appearance with the Department and on January 24, 1992, original counsel withdrew from representation of Sinochem Hebei.

On December 23, 1991, counsel for respondent submitted its response to section A.

On December 26, 1991, counsel for respondent requested that Sinochem Hebei, be exempted from submitting factors of production for one of the four factories that provide them with sulfanilic acid for exports. On December 30, 1991, we denied respondent's request.

On January 3, 1992, counsel for Sinochem Hebei requested a one-day extension for submitting section C and part of section D and a two-day extension for submitting the rest of Section D and the remaining attachments to the questionnaire. On January 3, 1992, we granted respondent's request.

On January 6, 1992, respondent submitted its response to Section C and part of Section D. On January 7, 1992, respondent informed the Department that another entity, Sinochem Shandong, exported the subject merchandise to the United States and requested that it be exempt from reporting sales information of Sinochem Shandong to the Department.

On January 8, 1992, respondent submitted its response to the rest of Section D and the attachments.

On January 14, 1992, the Department sent a deficiency letter to respondent. On January 14, 1992, respondent submitted, on behalf of its four factory suppliers, costs for the raw material factor inputs.

On January 17, 1992, we sent a letter to respondent stating that we were requiring responses inclusive of Sinochem Shandong and if they did not report Sinochem Shandong's sales information and the Department determined that all branches of Sinochem should be treated as one entity, the Department would base its determination for all of Sinochem's sales on the best information available.

On January 29, 1992, respondent submitted its response to our deficiency letter.

On February 14, 1992, the Department sent a supplemental deficiency letter to respondent. On February 24, 1992, respondent submitted import statistics and requested a two day extension for responding to the remaining sections of the deficiency letter. On February 25, 1992, we granted respondent's request. On February 27, 1992, respondent submitted the remainder of its response to our supplemental deficiency letter.

In letters to the Department, petitioner has argued that (1) there are additional manufacturers in the PRC of sulfanilic acid which is exported to the United States; (2) the Department should issue questionnaires to these additional manufacturers, and to the exporters of those products; (3) the Department must consider whether the exporter (respondent) identified in this investigation accounts for 60 percent of U.S. sales, pursuant to 19 CFR 353.42(b); (4) the Department should issue respondent a country-wide rate, and (5) the Department should use surrogate

values for determining foreign market value and naot the PRC input prices submitted by respondent. (See *Foreign Market Value* Section).

Period of Investigation

The period of investigation ("POI") is May 1, 1991, through October 31, 1991.

PRC Exporters

In its December 30, 1991, submission, petitioner has argued that other PRC trading companies such as Quandong Chemicals and Shanghai Chemical exported the subject merchandise to the United States during the POI. Petitioner also maintains that respondent (Sinochem Hebei) does not account for over 60 percent of U.S. sales during the POI and that the Department should examine all exporters of the subject merchandise during the POI.

We issued a questionnaire to the Chinese Chamber of Commerce for Exporters & Importers of Metal & Mineral Products and Chemical Products to be transmitted to all branches of Sinochem except the Hebei Branch and to all other exporters of the subject merchandise.

We received a response from only Sinochem Hebei, which reported all its sales and shipments during the POI. Based on this and other information, the Department has determined that the total volume of Sinochem Hebei's sales and shipments during the POI accounted for more than 60 percent of the subject merchandise sold and shipped to the United States during the POI.

Sepcrate Rates

In its November 12, 1991, submission, section C response, and in subsequent filings with the Department, respondent has argued that a separate, company-specific rate should be calculated in this investigation. Respondent states that the only relationship between it and the other trading companies of Sinochem China is in the production of oil, a category one product which is under state control but not subject to this investigation. Therefore, respondent maintains that it is an independent entity regarding the production and sale of sulfanilic acid, a category three product which is not under government control.

In order to determine whether a company-specific dumping margin should be calculated in this investigation, we asked respondent to provide information on company ownership and relationships, sources of inputs, manufacturing processes, distribution channels, involvement of trading companies, controls on external trade, profit retention, and other facets of their production and sale of sulfanilic acid. As stated in the Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers"), we will issue separate rates if a respondent can demonstrate both a *de jure* and *de facto* absence of central control. Evidence supporting, though not requiring, a finding of *de jure* absence of central control would include: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments devolving central control of export trading companies. Evidence supporting a finding of *de facto* absence of central control with respect to exports would include: (1) Whether each exporter sets its own export prices independently of the government and other exporters; and (2) whether each exporter can keep the proceeds from its sales.

When we apply these four criteria, the evidence in the record submitted by respondent supports a finding that Sinochem Hebei is entitled to its own rate. Furthermore, we have no information that establishes that floor prices are being set by either the Ministry of Foreign Relations and Trade ("MOFERT") or any other governmental entity. Therefore, for purposes of the preliminary determination, we have calculated a company-specific margin for Sinochem Hebei. However, our final decision on the separate rate issue will depend upon successful verification of the factual assertions made by respondent and relied upon here. (For our analysis of the information in the record, see Concurrence Memorandum dated February 25, 1992.)

Since Sinochem Hebei was the only part to respond to our questionnaire we have no evidence that any of the other known exporters are independent from each other, or the government. Unless a respondent demonstrates entitlement to a separate, company-specific rate pursuant to the test enunciated in Sparklers, we presume that that they are related and subject to a single rate. See, *e.g.*, Preliminary Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China, 56 FR 66831 (December 26, 1991). In determining what rate to use as BIA, the department follows a two-tiered methodology, whereby the Department may assign lower rates for those respondents who cooperated in an investigation and rates based on more adverse assumptions for those respondents who did not cooperate in an investigation (See, *e.g.*, Final Determination of Sales at Less Than Fair Value: Apheric Ophthalmoscopy Lenses from Japan, 57 FR 6703, 6704 (February 27, 1992).

According to the Department's two-tiered BIA methodology outlined in the Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof form the Federal Republic of Germany, Italy, Japan, Romania, Sweden, Thailand, and the United Kingdom, 54 FR 18992, 19033 (May 3, 1989), when a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to that company the higher of (1) the margin alleged in the petition, or (2) the highest calculated rate of any respondent in the investigation. Therefore, as best information available, the dumping margin assigned to all other exporters who did not cooperate in this investigation is the highest calculated rate of the respondent in this investigation.

Scope of the 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 of sulfanilic acid (sodium sulfanilate).

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 material present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classified 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, classified under the HTS subheading 2921.42.20.0, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials. Sodium salt of sulfanilic acid, classified under the HTS subheading 2921.42.70, is a granular or crystalline material containing 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials

based on the equivalent sulfanilic acid content.

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

Fair Value Comparisons

To determine whether sales of sulfanilic acid from the PRC to the United States were made at less than fair value, we compared the United States price ("USP") to the foreign market value ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based United States price on purchase price where sales were made directly and indirectly to unrelated parties prior to the date of importation into the United States, in accordance with section 772(b) of the Act. We used purchase price as defined in section 772 of the Act, both because sulfanilic acid was sold to unrelated purchasers in the United States prior to importation into the United States, and because exporter's sales price ("ESP") methodology was not indicated by other circumstances.

We calculated purchase price based on packed, CIF port or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. inland freight, U.S. brokerage, U.S. port charges, and U.S. containerization fees.

Foreign Market Value

Section 773 (c)(1) of the Act provides that the Department shall determine FMV using a factors of production methodology if (1) the merchandise is exported from a nonmarket economy country (NME), and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value under section 773(a) of the Act.

In past cases *(e.g., 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) ("*Lug Nuts*") and *Sparklers*, and indeed in every case conducted by the Department involving the PRC, the PRC has been treated as an NME. In this case, neither party has suggested that the PRC is no longer an NME. However, the respondent claims that certain inputs in the production of sulfanilic acid are market-driven.

The Department has previously interpreted 773(c)(1)(B) of the Act to mean that foreign market value can be based on the NME exporter's prices or costs, despite the fact that the country may otherwise be considered an NME, if sufficient market forces are at work (see, Lug Nuts and Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China, 56 FR 55271 (October 25, 1991).

However, as stated in our recent notices of initiation for two countervailing duty investigations (see, Initiation of Countervailing Duty Investigation: Oscillating Fans and Ceiling Fans from the People's Republic of China, 56 FR 57616 (November 13, 1991) and Initiation of Countervailing Duty Investigation: Chrome-Plated Lug Nuts and Wheel Locks from the People's Republic of China, 57 FR 877 (January 9, 1992)), the Department determined that it must reconsider the appropriateness of the specific approach established in Lug Nuts and Fans.

As a result of this reconsideration, we have now developed the following criteria for determing whether a market-oriented industry exists in an economy which will otherwise be considered nonmarket:

- For merchandise under investigation, there must be virtually no government involvement in setting prices or amounts to be produced. For example, state-required production or allocation of production of the merchandise, whether for export or domestic consumption in the nonmarket economy country would be an almost insuperable barrier to finding a market-oriented industry.
- The industry producing the merchandise under investigation should be characterized by private or collective ownership. There may be state-owned enterprises in the industry but substantial state ownership would weigh heavily against finding a market-oriented industry.

Market-determined prices must be paid for all significant inputs, whether material or non-material, and for an all but insignificant proportion of all the inputs accounting for the total value of the merchandise under investigation. For example, an input price will not be considered market-determined if the producers of the merchandise under investigation pay a state-set price for the input or if the input is supplied to the producers at government direction. Moreover, if there is any state-required production in the industry producing the input, the share of state-required production must be insignificant.

If these conditions are not met, the producers of the merchandise under investigation will be treated as nonmarket economy producers, and the foreign market value will be calculated by using prices and costs from a surrogate country, in accordance with section 773(c) (3) & (4) of the Act.

Respondent maintains that the prices at which the factories purchase some of their inputs for sulfanilic acid are not subject to state-control and are market-driven. Therefore, respondent argues the Department should use these PRC input prices for valuing the factors of production. Respondent submitted costs for aniline, sulfuric acid, activated carbon, coal, and plastic bags, but not for electricity and labor.

Petitioner maintains that the sulfanilic acid industry is state-controlled and is not market-oriented. Petitioner argues that market forces are not at play in establishing any input prices for producing sulfanilic acid in the PRC.

As noted above, we continue to find that the PRC is an NME. Therefore, the presumption remains that the inputs used by the sulfanilic acid producers which are sourced in the PRC are not purchased at market prices. A respondent asserting that it purchases inputs at market-oriented prices must provide significant documentary evidence and also show that market prices are at work to overcome this presumption. An absence of government control alone is not sufficient to warrant a conclusion that prices for inputs are market-driven. We must also conclude by application of the criteria outlined above that market forces are at work in determining the prices in general within the PRC. Therefore, respondent's assertion, without sufficient documentary support, is not enough to establish market behavior with respect to input prices.

We have determined that for purposes of this preliminary determination, we do not have any information from the PRC government which could assist us in determining whether or not there is a lack of state-control or a presence of market forces with respect to the four factories' input costs and their respective supplier prices. We have requested information from the PRC government to determine whether there is any government control in the chemical sector, sulfanilic acid industry, or in inputs used to produce sulfanilic acid. The information submitted by the PRC government and respondent will be subject to verification, and will be taken into account in making our final decision on the PRC input prices issues.

Therefore, in accordance with section 773(c) of the Act, the Department is required to determine FMV on the basis of factors of production utilized in producing the subject merchandise, as valued in a surrogate country.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the factors of production, to the extent possible, in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country, and that are significant producers of comparable merchandise. The Department has determined that India and Pakistan are the most comparable to the PRC in terms of overall economic development, based on per capita gross national product (GNP), the national distribution of labor, and growth rate in per capita GNP. Because India fulfills both requirements outlined in the statute, India is the preferred surrogate country for purposes of calculating the factors of production used in producing the subject merchandise. Further, because Pakistan is not a producer of sulfanilic acid, we have only resorted to Pakistan for surrogate values if Indian values were not obtainable. We have used the values for the factors of production, as appropriate, from both countries. Date for valuing the factors of production was obtained from the U.S. Embassy in India and the U.S. consulate in Pakistan.

We calculated FMV based on factors of production reported by the factories which produced the subject merchandise for the respondent Sinochem Hebei. The factors used to produce sulfanilic acid include materials, labor, and energy. According to respondent, water usage cannot be valued as a factor of production because there is no cost for water incurred by the factories. Subject to verification, we have accepted respondent's argument.

To value aniline, one of six main inputs for producing sulfanilic acid, we used an imported price quote provided by the U.S. Embassy in India. We used the imported price rather than the domestic price of aniline because imported aniline is used by Indian producers in manufacturing sulfanilic acid for exportation. For sulfuric acid and activated carbon, we have used POI price quotes provided by the U.S. consulate in Pakistan because the U.S. Embassy in India could not obtain values for these inputs. We used unskilled and skilled labor rates, including benefits, obtained from the U.S. embassy in India. For coal, we used a POI price quote provided by the U.S. consulate in Pakistan because the U.S. embassy in India could not obtain surrogate values. For electricity, we used an electricity rate provided by the U.S. embassy in India. For purposes of the preliminary determination, we have considered the prices supplied by the U.S. Embassy in India and U.S. consulate in Pakistan as prices during the POI. However, since the Indian prices were obtained in January 1992, and the Pakistani prices were obtained in December 1991, we will confirm the effective dates of these prices prior to our final determination.

To calculate FMV, the reported factors of production were multiplied by the appropriate Indian and Pakistani values for the various components. We added an amount for the delivery of inputs to the factory to arrive at a delivered cost of materials. We used freight rates obtained from the U.S. Embassy in India. We have also used a percentage for factory overhead, based on Indian producers' experience, obtained from the U.S. Embassy in India. We then added an amount higher than the statutory ten percent minimum for selling, general and administrative expenses, and an amount higher than the statutory eight percent minimum for profit, based on Indian producers'experience, obtained from the U.S. embassy in India. We also added an amount for packing labor based on Indian wage rates, and an amount for packing materials based on Indian prices to arrive at a constructed FMV for one metric ton of sulfanilic acid.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of sulfanilic acid from the PRC. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or (ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of investigation at less than its fair value, and (B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(b) of the Act, we generally consider the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports. See, *e.g.*, Final Determination of Sales at Less Than Fair Value: Certain Internal-Combustion, Industrial Forklift Trucks from Japan, 53 FR 12552 (April 15, 1988). To determine whether imports have been massive, we normally compare the export volume for the base period, which is a period of not less than three months beginning with the month the petition was filed, with a previous period of the same length. Since the petition was filed on October 3, 1991, we compared shipments, for Sinochem Hebei, during the three-month period from the filing of the petition, October through December 1991, to shipments during the three month period prior to the month in which the petition was filed, July through September 1991.

Under 19 CFR 353.16(f)(2), unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider the imports "massive." Based on this analysis, we find that imports of the subject merchandise from the PRC during the period subsequent to receipt of the petition have not been massive.

Since we do not find that there have been massive imports, pursuant to section 733(e)(1) of the Act, we do not need to consider whether there is a history of dumping or whether there is a reason to believe or suspect that importers of this product knew or should have known that it was being sold at less than fair value.

Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of sulfanilic acid from the PRC.

Currency Conversion

When calculating foreign market value, we made currency conversions in accordance with 19 CFR 353.60(a).

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of sulfanilic acid from the PRC, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated margin amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
China National Chemicals Import & Export Corporation, Hebei Branch ("Sinochem Hebei")	85.29
All others	85.29

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments, must be submitted, in at least ten copies, to the Assistant Secretary for Import Administration no later than May 6, 1992, and rebuttal briefs no later than May 11, 1992. In addition, a public version and five copies should be submitted by the appropriate date if the submission contains business proprietary information. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held, if requested, at 10 a.m. on May 12, 1992, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington DC, 20230. Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099 within ten days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentation will be limited to arguments raised in the briefs.

This determination is published pursuant to section 773(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15.

Dated: March 11, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-6302 Filed 3-17-92; 8:45 am]

BILLING CODE 3510-DS-M

[Investigation No. 731-TA-538 (Final)]

Sulfanilic Acid the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-538 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether 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 (China) of sulfanilic acid and sodium sulfanilate,[1] provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: March 18, 1992.

FOR FURTHER INFORMATION CONTACT: Lori Hylton (202-205-3199), 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 as a result of an affirmative preliminary determination by the Department of Commerce that imports of sulfanilic acid from China are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on October 3, 1991, by R-M Industries, Inc., Fort Mill, SC.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) 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 final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) 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.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpulic record on June 15, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on June 30, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 19, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and

[1] 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 of sulfanilic acid (sodium sulfanilate). For a comprehensive description of the merchandise subject to this investigation, see International Trade Administration, Preliminary Determination of Sales at Less Than Fair Value: Sulfanilic Acid from the People's Republic of China (57 FR 9408, March 18, 1992).

nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 24, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commisssion's rules.

Written submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; and deadline for filing is June 25, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs in July 8, 1992; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 8, 1992. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 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 of 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 § 207.20 of the Commission's rules.

Issued: April 8, 1992

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-8705 Filed 4-14-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-318 and 731-TA-560 and 561 (Preliminary)]

Sulfanilic Acid From the Republic of Hungary and India

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary countervailing duty and antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-318 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(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 India or sulfanilic acid and sodium sulfanilate,[1] provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States (HTS), that are alleged to be subsidized by the Government of India.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-560 and 561 (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 Republic of Hungary and India of sulfanilic acid and sodium sulfanilate, provided for in HTS subheadings 2921.42.24 and 2921.42.70, that are alleged to be sold in the United States at less than fair value.

As provided in sections 703(a) and 733(a), the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by June 22, 1992.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: May 8, 1992.

FOR FURTHER INFORMATION CONTACT: Lori Hylton (202-205-3199), 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

These investigations are being instituted in response to a petition filed on May 8, 1992, by R-M Industries, Inc., Fort Mill, SC.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in these investigations 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, no 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 these investigations upon the expiration of the periods 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 these preliminary investigations available to authorized applicants under the APO issued in these investigations, 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 these investigations for 9:30 a.m. on May 29, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Lori Hylton (202-205-3199) not later than May 27, 1992, to arrange for their appearance. Parties in support of the imposition of countervailing or antidumping duties in

[1] The products covered by these investigations are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid (sodium sulfanilate).

these investigations 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 June 3, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigations. 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 §§ 201.6, 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 investigations must be served on all other parties to the investigations (as identified by either the public or PBI 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: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: May 11, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-11453 Filed 5-11-92; 4:41 pm]

BILLING CODE 7020-02-M

International Trade Adminstration

[C-533-807]

Initiation of Countervailing Duty Investigation: Sulfanilic Acid From India

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

EFFECTIVE DATE: June 3, 1992.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3530 or (202) 377-4162, respectively.

Initiation

The Petition

On May 8, 1992, the R-M Industries Corporation filed with the Department of Commerce (the Department) a countervailing duty petition on behalf of the United States industry producing sulfanilic acid. In accordance with 19 CFR 355.12, the petitioner alleges that producers and exporters of sulfanilic acid in India receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Allegation of Subsidies

Petitioner alleges that the following programs provide subsidies to producers of the subject merchandise in India:

1. Preferential Export Financing Through Export Packing Credits
2. Preferential Post-Shipment Financing
3. Income Tax Deduction for Exporters
4. Import Duty Exemptions Available Through Advance Licenses
5. Import Replenishment (REP) Licenses
6. Excess Drawback of Import Duties
7. Market Development Assistance (MDA) Grant
8. Diesel Oil Subsidies
9. Sales of Additional Licenses
10. Grants Under the Central Investment Subsidy Scheme (CISS)
11. Extension of Free Trade Zones

12. Import Duty Exemptions Available to 100 percent Export Oriented Units
13. Preferential Waste Disposal Rates

Because India is a "country under the Agreement" within the meaning of section 701(b) of the Act, title VII of the Act applies to this investigation. Accordingly, the U.S. International Trade Commission (ITC) must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, the U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party as defined in section 771(9)(c) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the products subject to this investigation. If any interested party, as described under paragraphs (C) (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential countervailing 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 355.14.

Initiation of Investigation

Under section 702(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which a countervailing duty may be imposed under section 701(a) 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 India and have found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702 of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of sulfanilic acid receive subsidies. In accordance with section 702(d) of the Act, we are also notifying the ITC of this action.

In this investigation, we are not investigating transportation subsidies alleged to be benefitting producers of the subject merchandise in India. Petitioner's allegation regarding transportation subsidies is based on the allegation made by a petitioner in a previous countervailing duty investigation involving India (see, Petition for the Imposition of Antidumping and Countervailing Duties regarding Ibuprofen from India, Case number C-533-804, filed on July 31, 1991), which maintained that a single company received preferential rates for transportation from a state-owned shipping company. Petitioner, in the instant case, however, failed to provide any information that this program is available to more than the single company alleged to receive the benefit in the ibuprofen investigation. Therefore, absent further information, we have no basis for investigation of this program.

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 refined sodium salt of sulfanilic acid (sodium sulfanilate).

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, classified under the subheading 2921.42.24.20 of the *Harmonized Tariff Schedule of the United States* (HTSUS), contains 98 percent minimum sulfanilic acid, 1.0 percent maximum aniline and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, classified under the HTSUS subheading 2921.42.24.20, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials. Refined sodium salt of sulfanilic acid (sodium sulfanilate), classified under the HTSUS subheading 2921.42.70, is a granular or crystalline material containing 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

ITC Notification

Section 702(d) of the Act requires us to notify the ITC of these actions and we have done so.

Preliminary Determination by the ITC

The ITC will determine, by June 22, 1992, whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from India of sulfanilic acid. If the ITC determination is negative, this investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to 702(c)(2) of the Act and 19 CFR 355.13(b).

Dated: May 27, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-12976 Filed 6-2-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-533-806, A-437-802]

Initiation of Antidumping Duty Investigations; Sulfanilic Acid From India and the Republic of Hungary

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

EFFECTIVE DATE: June 3, 1992.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Stefanie Amadeo, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-1756 or (202) 377-1174, respectively.

INITIATION OF INVESTIGATIONS:

The Petitions

On May 7, 1992, we received petitions filed in proper form by R-M Industries (petitioner). In accordance with 19 CFR 353.12, the petitioner alleges that sulfanilic acid from India and the Republic of Hungary (Hungary) is being, or is 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 has stated that it has standing to file the petitions because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petitions were filed on behalf of the U.S. industry producing the product subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, these petitions, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, 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 are contained in 19 CFR 353.14.

Scope of Investigations

The products covered by these investigations are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and refined sodium salt of sulfanilic acid (sodium sulfanilate).

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 material present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.24.20 of the Harmonized Tariff Schedule of the United States (HTSUS), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, classifiable under the HTSUS subheading 2921.42.24.20, contains 98

percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials. Refined sodium salt of sulfanilic acid (sodium sulfanilate), classifiable under the HTSUS subheading 2921.42.70, is a granular or crystalline material containing 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

United States Price and Foreign Market Value

India

Petitioner based its estimates of United States price (USP) on quoted prices for all three grades of sulfanilic acid, c&f U.S. port of entry. According to petitioner, the price quotations are for subject merchandise which was sold in the United States after importation, by or for the account of the exporter; therefore, petitioner calculated exporter's sales price (ESP) based on c&f U.S. port of entry price quotations. Petitioner reduced the quoted USPs for foreign inland freight, foreign handling, ocean freight, and U.S. brokerage and handling charges. Petitioner also reduced the quoted USPs for commissions incurred in the United States. No further adjustments were made to the quoted USPs.

Petitioner's estimate of foreign market value (FMV) is based on f.o.b. observed prices in India for all three grades of sulfanilic acid. No adjustments were made to the observed Indian prices.

The Republic of Hungary

Petitioner based on its estimate of USP on the f.a.s. import values of sulfanilic acid, as reflected in official import statistics. To arrive at the ex-factory USP, petitioner subtracted foreign handling and inland freight charges from the import values. No further adjustments were made to the estimated USP.

Petitioner contends that the FMV of Hungary-produced imports subject to this investigation must be determined in accordance with section 773(c), concerning non-market economy (NME) countries. Pursuant to § 771(18), Hungary is presumed to be a NME and the Department has treated it as such in previous investigations (see, Final Determination of Sales at Less Than Fair Value: Tapered-Roller Bearings and Parts Thereof, Finished or Unfinished, From the Hungarian People's Republic, 52 FR 17428, (May 8, 1987)). Parties will have the opportunity to raise this issue and provide relevant information and argument on it and on whether FMV 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 a NME, that a single antidumping margin, should there be one, is appropriate for all exporters. Only if individual 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 rates. (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 appropriate 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 Hungarian government has selected which factories produce for the United States, for purposes of this investigation we intend to base FMV only on those factories in Hungary which are known to produce sulfanilic acid for export to the United States.

Petitioner calculated FMV on the basis of the valuation of the factors of production. In valuing the factors of production, petitioner used Malaysia as a surrogate country. For purposes of this initiation, we have accepted Malaysia as having a comparable economy and being significant producer of comparable merchandise, pursuant to section 773(c)(4) of the Act.

Petitioner used its own factors for raw material inputs, electricity, and fuel oil for constructed value (CV). The raw material and energy factors for technical and sodium salt are based on petitioner's actual experience during 1991. The raw material and energy factors for refined grade sulfanilic acid are the same as petitioner actually experienced from 1986 through 1989 when this product was produced by petitioner. Overhead expenses are expressed as a percentage of labor, raw materials, electricity and fuel oil as experienced by petitioner. The labor factors for all three grades are based on petitioner's experience.

Petitioner based labor and electricity values on wage rates and energy rates in Malaysia. Since fuel oil is a world commodity, petitioner based fuel oil cost on the actual cost incurred by petitioner. Petitioner based the value of raw material costs for caustic soda, sulfuric acid, and aniline on Malaysian values. Petitioner based raw material costs for activated carbon on its own costs for 1991.

Pursuant to section 773(c), petitioner added the statutory minima of ten percent for general expenses and eight percent for profit to CV.

Petitioner alleges dumping margins ranging from 60.6% to 114.8% for sulfanilic acid from India, and 58.6% for Hungary. We recalculated the dumping margin for Hungary in order to correct a mathematical error by petitioner; the recalculated margin is 58.14%.

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

Initiation of Investigations

We have examined the petitions on sulfanilic acid from India and Hungary, and have found that the petitions meet the requirements of 19 CFR 353.13(a). Therefore, we are initiating antidumping duty investigations to determine whether imports of sulfanilic acid from the above-referenced countries are being, or are likely to be, sold in the United States to less than fair value.

ITC Notification

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of these actions and we have done so.

Preliminary Determinations by the International Trade Commission

The ITC will determine by June 22, 1992, whether there is a reasonable indication that imports of sulfanilic acid from India and/or Hungary are materially injuring, or threaten material injury to, a U.S. industry. Any ITC determination which is negative will result in the respective investigation being terminated; otherwise, the investigations will proceed to conclusion in accordance with the statutory and regulatory time limits.

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

Dated: May 28, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-12977 Filed 6-2-92; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

CALENDAR OF THE 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 REPUBLIC OF HUNGARY AND INDIA

Investigations Nos.: 701-TA-318 and 731-TA-560, 561 (Preliminary)

Date and Time: May 29, 1992 - 9:30 a.m.

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

In Support of the Imposition of Countervailing and Antidumping Duties:

R-M Industries, Inc.
Fort Mill, SC

John A. Dickson, President, R-M Industries
Daniel Cannistra, Lead Economist, Economic Consulting Services

In Opposition to the Imposition of Countervailing and Antidumping Duties:

Rogers & Wells--Counsel
Washington, DC
on behalf of--

Gallard-Schlesinger Industries, Inc.
Sheldon Silbiger, Vice President of Sales & Marketing
Laura Mandel, Manager of Product Development

William Silverman)
Carrie A. Simon) --OF COUNSEL

Don Voigt, Director of Purchasing, Sandoz Chemicals Corporation

Mark Graham, Production Management, Sandoz Products

Kenneth Goldacker, Manager of Purchasing, Warner-Jenkinson

Tom Corrado, President, Nu-Tech Chemical Industries, Inc.

In Opposition to the Imposition of Countervailing and Antidumping Duties:
--continued

Stroock & Stroock & Lavan--Counsel
Washington, DC
on behalf of--

Nitrochem Co. Ltd.
Nitrokemia Ipartelepek

Laszlo Karpati, Managing Director, Nitrochem

Matthew McCarthy --OF COUNSEL

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.

APPENDIX D

TRADE DATA, BY TYPES OF SULFANILIC ACID, 1989-91, JANUARY-MARCH 1991, AND JANUARY-MARCH 1992

Table D-1
Sulfanilic acid: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-2
Sulfanilic acid: U.S. capacity, production, and capacity utilization, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-3
Sulfanilic acid: Shipments by U.S. producers, by products and by types, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-4
Sulfanilic acid: End-of-period inventories of U.S. producers, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-5
Sulfanilic acid: U.S. imports, by products and by sources, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-6
Sulfanilic acid: U.S. producers' and importers' shares of apparent U.S. consumption, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-1
Sulfanilic acid: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-2
Sulfanilic acid: U.S. capacity, production, and capacity utilization, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-3
Sulfanilic acid: Shipments by U.S. producers, by products and by types, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-4
Sulfanilic acid: End-of-period inventories of U.S. producers, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-5
Sulfanilic acid: U.S. imports, by products and by sources, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

Table D-6
Sulfanilic acid: U.S. producers' and importers' shares of apparent U.S. consumption, by products, 1989-91, January-March 1991, and January-March 1992

* * * * * * *

APPENDIX E

COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS OF SULFANILIC ACID FROM CHINA, HUNGARY, AND INDIA 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 CHINA, HUNGARY, AND INDIA 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 China, Hungary, and India on their growth, investment, ability to raise capital, and development and production efforts (including efforts to develop a derivative or improved version of their product).

* * * * * * *

Actual Negative Effects

China and Hungary

* * * * * * *

Hungary

* * * * * * *

Anticipated Negative Effects

China

* * * * * * *

Hungary

* * * * * * *

India

* * * * * * *

Hungary and India

* * * * * * *

Influence of Imports on Capital Investment

China, Hungary, and India

* * * * * * *

ATTACHMENT A

SUMMARY DATA CONCERNING THE U.S. MARKET

Sulfanilic acid: Summary data concerning the U.S. market, 1989-91, January-March 1991, and January-March 1992

* * * * * * *