Sulfanilic Acid From Hungary and Portugal

Investigations Nos. 701-TA-426 and
731-TA-984-985 (Final)

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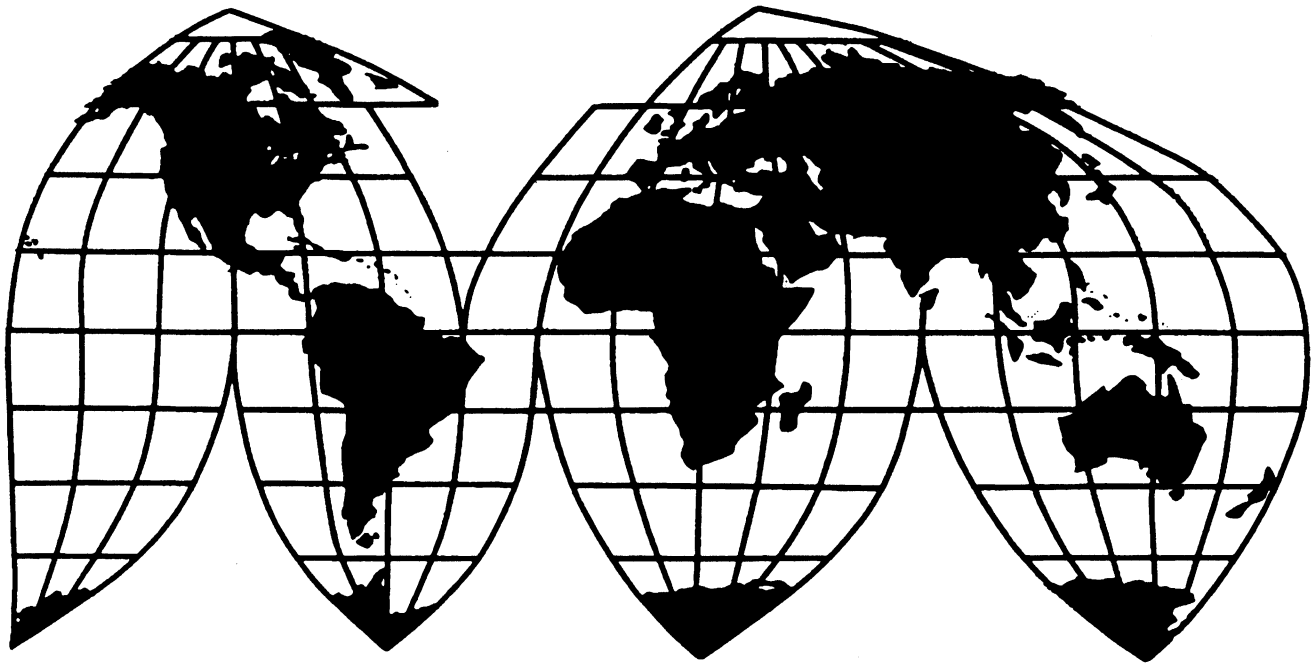

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-426 and 731-TA-984-985 (Final)

SULFANILIC ACID FROM HUNGARY AND PORTUGAL

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Hungary of sulfanilic acid, provided for in subheadings 2921.42.22 and 2921.42.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Hungary, and by reason of imports of sulfanilic acid from Hungary and Portugal that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted these investigations effective September 28, 2001, following receipt of a petition filed with the Commission and Commerce by Nation Ford Chemical Co. of Fort Mill, SC. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of sulfanilic acid from Hungary were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and that imports of sulfanilic acid from Hungary and Portugal were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing 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 21, 2002 (67 FR 35832).[2] The hearing was held in Washington, DC, on September 24, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] A revised final phase schedule was published in the *Federal Register* of June 6, 2002 (67 FR 39041).

VIEWS OF THE COMMISSION

Investigations Nos. 701-TA-426 and 731-TA-984 and 985 (Final)

SULFANILIC ACID FROM HUNGARY AND PORTUGAL

Based on the record in these investigations, we find that an industry in the United States is materially injured by reason of imports of sulfanilic acid from Hungary that are subsidized and by imports of sulfanilic acid from Hungary and Portugal that are sold in the United States at less than fair value ("LTFV").

I. DOMESTIC LIKE PRODUCT

A. In General

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[1] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[2] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[3]

The decision regarding the appropriate domestic like product(s) in an investigation is 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.[4] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[5] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[6] Although the Commission must accept the determination of the Department of Commerce ("Commerce")

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[1] 19 U.S.C. § 1677(4)(A).

[2] 19 U.S.C. § 1677(4)(A).

[3] 19 U.S.C. § 1677(10).

[4] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (CIT 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (CIT 1996).

[5] See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

[6] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also, S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[7]

B. Product Description

The scope of these investigations is as follows:

> All grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid. Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and 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.[8]

Sulfanilic acid (not including sodium sulfanilate) is produced in two grades, namely technical (or crude) sulfanilic acid and refined (or pure) sulfanilic acid.[9] Sodium sulfanilate (the monosodium salt of sulfanilic acid included in the scope of these investigations) is produced and sold only as one grade.[10] In solid form, the technical and refined grades of sulfanilic acid and sodium sulfanilate are both gray-white to white crystalline powders.[11]

Sulfanilic acid is used to produce optical brightening agents, food colorants and other synthetic organic dyes, and certain concrete additives.[12] The form of sulfanilic acid used by the end user depends on both the product being produced and the end user's production process. In most cases, optical brighteners and food colorants are produced with the pure product (either refined sulfanilic acid or sodium sulfanilate). Optical brighteners, particularly paper brighteners, constitute the largest single end use for refined sulfanilic acid and sodium sulfanilate. Technical grade sulfanilic acid is used principally as a raw material for refined sulfanilic acid and sodium sulfanilate, as well as in the production of certain specialty synthetic organic dyes and concrete additives.

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[7] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[8] 67 Fed. Reg. 9696 (March 4, 2002); 67 Fed. Reg. 30358 and 30362 (May 6, 2002).

[9] Technical grade sulfanilic acid is 96 percent pure and refined sulfanilic acid is 98 percent pure. Antidumping Petition, Sulfanilic Acid From Hungary and Portugal and Countervailing Duty Petition, Sulfanilic Acid From Portugal (hereinafter "Petition"), vol. I, p. 13.

[10] Sodium sulfanilate, which is 99 percent pure, contains 75 percent minimum equivalent sulfanilic acid. Interview with ***, Nations Ford Chemical Co., October 25, 2001; Confidential Report ("CR") at I-5; Public Report ("PR") at I-4.

[11] Technical and refined acids are always sold as solids; although some sodium sulfanilate is shipped in the solid form, much is shipped by the domestic producer to its customers as a 30 percent salt solution. Conference Transcript ("Tr."), p. 24.

[12] The majority of U.S. consumption of sulfanilic acid is for the production of optical brighteners. Approximately *** percent of U.S. consumption of sulfanilic acid is used to produce food colorants. The remainder of sulfanilic acid sales is used in the production of concrete additives and specialty dyes. CR at I-5; PR at I-4.

C. Domestic Like Product

Nations Ford Chemical Company ("NFC"), the petitioner, accounted for all U.S. production of sulfanilic acid from 1999 to June 2002.[13] NFC advocates a single like product consisting of all sulfanilic acid corresponding to the scope, including technical grade sulfanilic acid, refined grade sulfanilic acid, and sodium sulfanilate.[14] Respondents Quimigal de Portugal, S.A. ("Quimigal") and 3V Inc. ("3V") advocate three separate like products consisting of technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate, arguing primarily that the three products are not interchangeable.[15]

For the reasons set forth below, we define a single domestic like product consisting of all three grades of sulfanilic acid.

Physical Characteristics and Uses

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate (collectively referred to herein as "sulfanilic acid") have the same organic function, i.e., they each provide the same molecular building block in producing food colors, optical brighteners, and concrete additives, which are the primary end uses for sulfanilic acid.[16] All three forms are grey-white to white crystalline solids and are available as dry free-flowing powders, although the sodium sulfanilate form also is sold in a liquid solution.[17]

The primary physical characteristics that distinguish the different forms of sulfanilic acid are the amount and nature of impurities in the product, rather than its absolute purity. The different forms all have a similar overall purity level, but certain forms have greater quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid.[18] The refined grade sulfanilic acid and sodium sulfanilate have the least amount of impurities.[19]

Interchangeability

Technical sulfanilic acid is used principally as a raw material input for refined sulfanilic acid and sodium sulfanilate and as a concrete additive, but it also is used in the production of certain specialty synthetic organic dyes. The purer forms of sulfanilic acid (refined sulfanilic acid and sodium sulfanilate) are used primarily in the production of optical brighteners and food colorings.[20]

Refined sulfanilic acid and sodium sulfanilate are interchangeable as they are both used to produce the same products (optical brighteners and dyes), although the specific production process

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[13] CR and PR at I-2.

[14] NFC Prehearing Brief at 2-4.

[15] Quimigal Posthearing Brief at R-26; 3V Posthearing Brief at 2.

[16] CR at I-8; PR at I-6.

[17] CR at I-5; PR at I-4.

[18] CR at I-4 - I-5; PR at I-3 - I-4.

[19] CR at I-5; PR at I-4.

[20] CR at I-8; PR at I-6. Petitioner states that customers specify whether they want the salt or the "free acid" forms of sulfanilic acid (the term "free acid" is reportedly used to distinguish the acid form, whether refined or technical, from the salt form). However, Petitioner states that customers do not care whether the free acid is technical or refined, they simply require that the acid meets their specifications. NFC Postconference (preliminary phase) Brief at 2-3; NFC Posthearing Brief at 3-4.

employed by the end user will determine whether it uses the refined acid or the salt.[21] Furthermore, the record shows that it is possible to use technical grade sulfanilic acid in some of these applications.[22]

Although current operating processes may be an obstacle to immediate interchangeability between refined acid and sodium sulfanilate, the record evidence suggests that end users have switched between these grades based on market conditions.[23] We note that in 1990, when the availability of refined acid from Japan was reduced, one of the largest producers of brighteners in the United States changed from using refined sulfanilic acid from Japan to domestic sodium sulfanilate.[24] In addition, a representative of 3V testified that his company had switched from using the salt to using the refined acid for price reasons and that 3V continues to monitor and receive bids for salt purchases.[25]

Channels of Distribution

All forms of domestic sulfanilic acid are sold directly to end users.[26]

Customer and Producer Perceptions

Several purchasers noted that, while refined sulfanilic acid and sodium sulfanilate are usable in any application, technical sulfanilic acid is not usable in some applications because it is a less pure form. For example, *** reported that all grades can be used in concrete applications (which typically use the technical grade), but only the refined grade can be used in "high end" applications such as brighteners.[27] *** noted that both the refined and sodium sulfanilate forms are "purified" products and are highly interchangeable.[28] In its questionnaire response, ***.[29] ***.[30]

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[21] CR at I-8 - I-9; PR at I-6. Purchaser *** reported using refined grade or sodium sulfanilate for brighteners, and *** reported that refined grade and sodium sulfanilate could be used ***. CR at D-5 and D-7; PR at D-3. See also, Quimigal Posthearing Brief exhibit D. A chart provided by Quimigal dividing the world market by uses and product types demonstrates that sodium sulfanilate and refined sulfanilic acid are both used in food colors and in optical brighteners.

[22] ***, a purchaser and end user of sulfanilic acid, reported that ***. CR at D-5; PR at D-3. On the other hand, purchaser Clariant stated that the use of technical grade sulfanilic acid would impart undesirable qualities in its finished product. Conference Tr. at 31.

[23] Clariant, an importer and end user of both the Portuguese and Hungarian product, stated that the production method it uses in producing optical brighteners used in the textile and paper industries requires the input of the refined sulfanilic acid, whereas the other two domestic optical brightener producers use domestic sodium sulfanilate. Conference Tr. at 30 and 45. While Clariant is presently not using domestically produced refined sulfanilic acid, it has done so in the past. Conference Tr. at 41-42. According to John Dickson, CEO of NFC, Clariant was NFC's largest customer for refined sulfanilic acid in 1997. Conference Tr. at 48.

[24] Conference Tr. at 10.

[25] CR at I-9 n.39; PR at I-8 n.39; Hearing Tr. at 135-136. 3V reported that from 1997 through part of year 2000, it purchased primarily sodium sulfanilate rather than refined sulfanilic acid even though the switch required reconfiguration of existing equipment. 3V Posthearing Brief at 19-20; Hearing Tr. at 132-34. We further note that it appears that 3V ***. NFC Posthearing Brief at Appendix 6.

[26] Petition, vol. I, p. 17; CR at I-10; PR at I-8.

[27] CR at II-7 n.17; PR at II-5 n.17.

[28] CR at I-8 - I-9; PR at I-6.

[29] CR at D-6; PR at D-3; See also, Quimigal Prehearing Brief Exhibit 3.

[30] CR at D-6; PR at D-3.

Common Manufacturing Facilities and Production Employees

Petitioner produces and sells technical grade sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. Technical grade sulfanilic acid is packaged and sold or used as the basic material to produce refined sulfanilic acid and sodium sulfanilate.[31] Both refined sulfanilic acid and the sodium salt are produced in the same building but on separate production equipment. Petitioner reports some interchangeability in employees between production of the different forms of sulfanilic acid, with technical acid workers assisting in the production of refined acid when not operating the technical equipment. Petitioner also states that "the refined acid and salt equipment are interchangeable and the operators can work both production units."[32]

Price

The record indicates some differences in prices among the three forms of sulfanilic acid. However, as discussed below in our analysis of price effects, pricing in this market is distorted by the presence of subject imports.[33] Therefore, we place little weight on pricing for our like product analysis.

Conclusion

We find that the three forms of sulfanilic acid have similar physical characteristics, end uses, channels of distribution, and common manufacturing facilities and production employees. There is also evidence of some interchangeability among the different forms of sulfanilic acid, especially between refined grade sulfanilic acid and sodium sulfanilate.[34] Accordingly, we define a single domestic like product consisting of all three forms of sulfanilic acid.[35]

II. DOMESTIC INDUSTRY

The domestic industry is defined as "the producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[36] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[37] Based on our like product determination, we determine that there is a single domestic industry consisting of all domestic producers of sulfanilic acid, i.e., NFC.

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[31] CR at I-6; PR at I-5.

[32] CR at I-6; PR at I-5.

[33] CR and PR Tables V-1 - V-3.

[34] The Commission has stated that it "normally does not find separate like products based on different grades of chemicals or mineral products." See e.g., Bulk Acetylsalicylic Acid (Aspirin) from China, Inv. No. 731-TA-828, USITC Pub. 3314 (June 2000).

[35] We note that this definition is consistent with previous investigations of sulfanilic acid. See Sulfanilic Acid from the People's Republic of China, Inv. No. 731-TA-538 (Final), USITC Pub. 2542 (August 1992); Sulfanilic Acid from Hungary and India, Invs. Nos. 701-TA-318 (Final) and 731-TA-560 and 561 (Final), USITC Pub. 2603 (February 1993); Sulfanilic Acid from China and India, Invs., Nos. 701-TA-318 (Review) and 731-TA-538 and 561 (Review), USITC Pub. 3301 (May 2000).

[36] 19 U.S.C. § 1677(4)(A).

[37] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (CIT 1994), aff'd, 96 F.3d 1352 (Fed. Cir.1996).

III. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a material injury determination, Section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.[38] In assessing whether subject imports compete with each other and with the domestic like product,[39] the Commission has generally considered four factors, including:

(1) the degree of fungibility between the subject 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 geographical markets of subject imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.[40]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[41] Only a "reasonable overlap" of competition is required.[42]

Petitioner argues that the Commission should cumulate imports from the two subject countries, pointing to evidence of competition between sulfanilic acid imports from the subject countries, as well as between imports from these countries and domestic producers. Petitioner argues that sulfanilic acid from both subject countries and the domestic like product are fungible, compete in the same geographic markets, are sold through similar channels of distribution, and were simultaneously present in the U.S. market.[43]

Quimigal and 3V contend that the Commission's four factor analysis does not support cumulation of imports from Hungary and Portugal. They argue that there is little fungibility between

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[38] 19 U.S.C. § 1677(7)(G)(I). There are four exceptions to the cumulation provision, none of which applies to these investigations. See id. at 1677(7)(G)(ii).

[39] The SAA (at 848) expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." Citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd 859 F.2d 915 (Fed. Cir. 1988).

[40] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[41] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[42] See Goss Graphic System, Inc. v. United States, ___ CIT ___, slip op. 98-147 at 8 (Oct. 16, 1998) ("cumulation does not require two products to be highly fungible"); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required").

[43] NFC Posthearing Brief at 5.

subject imports of refined sulfanilic acid and domestic sulfanilic acid, which is primarily sodium sulfanilate and technical sulfanilic acid. In addition, Quimigal argues that technical grade sulfanilic acid contains too many impurities to be used in most of the applications for which refined sulfanilic acid is used.[44]

B. Analysis

We find that there is a reasonable overlap of competition among the subject imports and between the subject imports and the domestic like product.

Fungibility

Subject imports during the period of investigation consisted entirely of refined sulfanilic acid.[45] Although refined sulfanilic acid represented less than *** percent of NFC's total shipments from 1999 to 2001, in interim 2002 (January-June) refined acid accounted for *** percent of NFC's shipments. The record indicates that subject imports and domestic refined grade sulfanilic acid are highly fungible.[46] [47]

From 1999 to 2001, sodium sulfanilate accounted for more than *** percent of NFC's total shipments. Several purchasers indicated a high degree of interchangeability between refined sulfanilic acid and sodium sulfanilate. For example, *** reported that all grades can be used in concrete applications (which typically use the technical grade), and that both the refined grade and sodium sulfanilate can be used in "high end" applications such as brighteners.[48] *** both reported that refined acid and sodium sulfanilate are used in the same applications, i.e., dyes and brighteners. *** stated that ***.[49] A chart submitted by ***, which divides the world market for sulfanilic acid by end-uses and product types, shows that sodium sulfanilate and refined sulfanilic acid are each used in food colors and in optical brighteners.[50] In its questionnaire response, ***.[51]

Similar Geographical Markets

The domestic like product and subject imports from Hungary and Portugal compete in the same geographical markets. Importer/purchaser Clariant and the sole domestic producer NFC are both located in South Carolina. Clariant imports subject merchandise to its facility in South Carolina and also has purchased domestic like product. ***.[52]

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[44] Quimigal Posthearing Brief at R-22; 3V Posthearing Brief at 7.

[45] See CR at I-7 n. 29 and IV-1; PR at I-5 n. 29 and IV-1.

[46] CR and PR Table II-1. *** answered this question only in terms of refined sulfanilic acid. *** answered this question in terms of sulfanilic acid, regardless of form.

[47] In its Postconference (preliminary phase) Brief, Quimigal stated that it thought that sulfanilic acid imported into the United States from Hungary is produced using an inferior process, which may result in a lower quality product compared to refined sulfanilic acid imported into the United States from Portugal. Quimigal Postconference (preliminary phase) Brief at 7. However, the record provides no evidence of significant quality differences, and Clariant purchases both Portuguese and Hungarian refined acid for its production of optical brighteners. See Clariant Postconference (preliminary phase) Brief at 1.

[48] CR at II-7 n.17; PR at II-5 n.17.

[49] CR at D-7; PR at D-3.

[50] ***

[51] CR at D-6; PR at D-3.

[52] CR and PR at IV-1.

NFC reported a geographic market area encompassing ***.[53] The importers responding to this question consume sulfanilic acid internally and have operations in ***.[54]

Channels of Distribution

Available data for 2001 indicate that *** sales by NFC and *** sales of subject imports were made to end users.[55]

Simultaneous Presence

Official Commerce import statistics show that the domestic like product and subject imports have been present in the U.S. market since 2000.

Conclusion

Subject imports are highly fungible with each other. Subject imports are at least somewhat fungible with each grade of sulfanilic acid, and are highly fungible with the refined sulfanilic acid that accounts for a large and growing portion of domestic product. During the period examined, imports from both subject countries and the domestic like product were present in the same geographical markets, were sold entirely to end users, and were simultaneously present in the U.S. market throughout most of the period examined. We therefore find that a reasonable overlap of competition exists among subject imports and between subject imports and the domestic like product, and cumulate subject imports from Hungary and Portugal for purposes of our material injury analysis.

IV. CONDITIONS OF COMPETITION

The following conditions of competition are pertinent to our analysis in these investigations. NFC and the majority of responding importers and purchasers stated that demand for sulfanilic acid in the United States has remained relatively stable since 1999 and tends to track general economic conditions.[56] Apparent U.S. consumption of sulfanilic acid increased from *** pounds in 1999 to *** pounds in 2000, but fell to *** pounds in 2001.[57] Apparent domestic consumption in interim 2002 was *** pounds compared to *** pounds in interim 2001.[58]

The market for sulfanilic acid is highly concentrated, with seven purchasers accounting for approximately *** percent of total domestic consumption and one domestic producer, NFC, accounting for all domestic production.[59] The purchaser base consists mostly of multinational companies.[60] Purchasers make annual commitments to buy agreed upon quantities of sulfanilic acid, and shipments are made by producers and importers as required by the purchaser.[61]

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[53] CR at V-2; PR at V-1.

[54] CR at V-2; PR at V-1.

[55] CR and PR at II-1.

[56] CR at II-3; PR at II-2.

[57] CR and PR Table C-1.

[58] CR and PR Table C-1.

[59] CR and PR at II-1 nn.1 and 3; CR at V-5; PR at V-4.

[60] CR and PR at II-1 n.3.

[61] NFC Amendment to vol. I of Petition at 5, October 4, 2001.

There are several major uses for sulfanilic acid, in particular optical brightening agents, food colors and other synthetic organic dyes, and concrete additives.[62] The record indicates that each purchaser makes only one of these products.[63] As explained earlier in the like product section, the form of sulfanilic acid used by a purchaser depends on both the end product and the purchaser's production process.[64] Both optical brighteners and food colorants can be made with either refined acid or sodium sulfanilate, while technical grade acid is used mainly for certain dyes and concrete additives.[65] Also as discussed earlier, the record indicates that purchasers using either refined acid or sodium sulfanilate can switch their production process to use the other form, and at least two purchasers have done so. Moreover, refined acid can be substituted for technical grade acid.[66]

The record indicates at least a moderate degree of substitutability among the domestic product and subject imports, and a high degree of substitutability between domestic refined acid and subject imports. The record also indicates that price is an important factor in purchasing decisions.[67]

The domestic industry expanded capacity and invested in new equipment during the period of investigation. In 1998, NFC acquired the production equipment of Zeneca, a U.K. firm that ceased production of sulfanilic acid in France, and moved this equipment to its production site in Fort Mill, South Carolina.[68] By 1999, this new equipment was operational, allowing NFC to produce technical sulfanilic acid with lower levels of impurities.[69]

The Commission has previously conducted investigations concerning imports of sulfanilic acid from China (antidumping), Hungary (antidumping), and India (antidumping and countervailing duty). An antidumping duty order on China has been in place since 1992, and antidumping and countervailing duty orders have been in place on India since 1993.[70] In May 2000, the Commission completed reviews of the orders on China and India and determined that their revocation would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[71]

Between 1998 and 2000, China was the leading source of imports of sulfanilic acid into the U.S. market.[72] Pursuant to an administrative review completed in March 2000, Commerce imposed higher antidumping duties on Chinese producers of sulfanilic acid, and no imports of sulfanilic acid from China entered the U.S. market in 2001 or interim 2002.[73] The volume of other nonsubject imports was ***

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[62] CR at I-5; PR at I-4.

[63] CR at I-5; PR at I-4.

[64] CR at I-8; PR at I-6.

[65] CR at I-8; PR at I-6.

[66] CR at I-8 - I-9; PR at I-6 - I-7.

[67] CR at II-5 - II-6; PR at II-4.

[68] NFC Postconference (preliminary phase) Brief at 5; CR and PR at III-1.

[69] NFC Postconference (preliminary phase) Brief at 5; CR and PR at III-1.

[70] CR and PR at I-2. The Commission reached a negative determination regarding Hungary. 58 Fed. Reg. 11246, February 24, 1993. The petitioner challenged this negative determination and the United States Court of International Trade ("CIT") remanded the matter to the Commission for reconsideration and clarification of its views. 848 F. Supp. 204 (1994). On remand, the Commission again reached a negative determination for Hungary, which the CIT affirmed on June 14, 1994. Sulfanilic Acid from the Republic of Hungary, 731-TA-560 (Remand) USITC Pub. No. 2835 (November 1994).

[71] 65 FR 34232, May 26, 2000.

[72] CR and PR Table IV-1; Preliminary Phase Confidential and Public Reports Table IV-1. The volume of imports of sulfanilic acid from China was *** in 1998, *** in 1999, *** in 2000, and *** in 2001 and interim 2002.

[73] CR and PR Table C-1.

pounds in 1999, *** pounds in 2000, and *** pounds in 2001, and was *** pounds in interim 2002 compared to *** pounds during interim 2001.[74]

V. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the final phase of an antidumping or countervailing duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.[75] In making this determination, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[76] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[77] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[78] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[79]

For the reasons discussed below, we determine that the domestic industry is materially injured by reason of subject imports from Hungary and Portugal.

A. Volume

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[80]

As noted earlier, over the period of investigation, apparent U.S. consumption of sulfanilic acid initially rose from *** pounds in 1999 to *** pounds in 2000, but fell to *** pounds in 2001. It was *** pounds in interim 2002 compared to *** pounds in interim 2001.[81]

Even as apparent U.S. consumption declined toward the end of the period, the volume and market penetration of subject imports increased rapidly.[82] The volume of cumulated subject imports increased from *** pounds in 1999 to *** pounds in 2000 and *** pounds in 2001.[83] Similarly, the market share of subject imports (as a ratio of apparent consumption) increased from *** percent in 1999 to *** percent in 2000 and *** percent in 2001.[84] The absolute volume of subject imports and their share

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[74] CR and PR Table C-1.

[75] 19 U.S.C. § 1673d(b).

[76] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also, Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[77] 19 U.S.C. § 1677(7)(A).

[78] 19 U.S.C. § 1677(7)(C)(iii).

[79] 19 U.S.C. § 1677(7)(C)(iii).

[80] 19 U.S.C. § 1677(7)(C)(i).

[81] CR and PR Table C-1.

[82] CR and PR Tables IV-1 and IV-3.

[83] CR and PR Table C-1. As a ratio of domestic production, subject imports increased from *** percent in 1999 to *** percent in 2000 and *** percent in 2001. See CR and PR Table C-1.

[84] CR and PR Table C-1. From 2000 to 2001, subject imports increased substantially by ***, even as apparent domestic consumption fell by ***.

of apparent domestic consumption and production declined in interim 2002 compared to interim 2001.[85] Given the rapid increase in subject imports over the period of investigation, and the sharp drop in subject imports after these petitions were filed, we find that the reduced volume of subject imports in interim 2002 was due to the pendency of these investigations.[86] [87]

As noted earlier, nonsubject imports from China had a substantial presence in the U.S. market in 1999 and 2000 but fell to *** by 2001.[88] However, the rapidly increasing volume of subject imports between 1999 and 2001 captured the portion of the market previously held by imports from China.[89] The domestic industry's share of apparent domestic consumption was *** percent in 1999, *** percent in 2000, and *** percent in 2001.[90] Although respondents argue that the domestic industry is not injured by reason of subject imports because subject imports merely replaced imports from China, we disagree.[91] The fact that subject imports from Hungary and Portugal have replaced imports from China does not decide the independent inquiry of whether subject imports from Hungary and Portugal are a cause of material injury to the domestic industry.[92] Moreover, Commerce, in an administrative review, found imports from China to be sold in the U.S. market at less than fair value from March 1997 to February 1999. Thus, the imports from China were low priced and may have themselves had an adverse effect on the market and the domestic industry.[93]

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[85] The volume of subject imports was *** pounds in interim 2002, compared to *** pounds in interim 2001. Subject import market share was *** percent in interim 2002, compared to *** percent in interim 2001. CR and PR Table C-1.

[86] 19 U.S.C. § 1677(7)(I). The statute instructs the Commission to consider whether changes in volume, price effects, or impact are related to the pendency of the investigation. If the Commission determines that such changes are related to the pendency of the investigation, it has the discretion under the statute to reduce the weight accorded to such information.

[87] Respondent Quimigal argued that due to the European Commission's antidumping duty order on sulfanilic acid from China, no subject imports will be shipped to the United States in the foreseeable future. See Quimigal Posthearing Brief at 29 and Exhibit 3. We note that because the European Commission's order was issued in July 2002, it is not clear yet what the effect on the U.S. market will be.

[88] CR and PR Table C-1. The volume of imports of sulfanilic acid from China was *** in 1999, *** in 2000, and *** in 2001.

[89] CR and PR Table C-1.

[90] CR and PR Table C-1.

[91] We also are not persuaded by Quimigal's argument that PIERS import data indicate that imports from China and other nonsubject countries entered the U.S. market in larger numbers than Commission data reflect. Quimigal Posthearing Brief at R-2. As is our normal practice, we relied on official statistics and responses to our importer questionnaires for information concerning the level of imports (subject and nonsubject) from various countries. These data comprise only merchandise covered by the scope of the investigation and were verified for accuracy by Commission staff. The PIERS data are for a "basket" category including both imports subject to these investigations and other chemicals not subject to investigation. Moreover, the PIERS data cover a time period (January 2000 through September 2002) different than the January 1999 through June 2002 period investigated by the Commission.

[92] This is consistent with our finding in Certain Ammonium Nitrate from Ukraine, Inv. No. 731-TA-894, USITC Pub. 3448 at 11, 13 (August 2001); see also, City Lumber Co. v. United States, 311 F. Supp. 340, 347-48 (Cust. Ct. 1970) (in the second of two sequential investigations involving imports of the same product from different countries, the Commission may base its injury determination with respect to the second country on sales at less than fair value that continue injury due to subject imports from the first country), aff'd, 457 F.2d 991 (C.C.PA. 1972).

[93] Commissioner Bragg does not join the preceding sentence. Commissioner Bragg notes that in the results of two administrative reviews issued in March 2000, Commerce imposed final antidumping duties on imports of sulfanilic acid from China of 18.75 percent for the 1997-98 review period, and 85.2 percent for the 1998-99 review

We consequently find the absolute volume of subject imports, and the increase in that volume relative to apparent domestic production and consumption, to be significant.

B. Price

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[94]

As noted previously, domestically produced and imported refined sulfanilic acid are highly interchangeable, and even products of different grades can be moderately interchangeable. Moreover, price is a significant factor in purchasing decisions. Price comparisons between the U.S. product and subject imports were available only for sales of refined sulfanilic acid and, as such, were possible only for five quarters in 2001 and interim 2002.[95] Subject imports of refined sulfanilic acid undersold the domestic like product in six out of nine price comparisons during this period with the frequency of underselling increasing in the last four quarters of the period to four out of five instances.[96] Moreover, the magnitude of underselling by subject imports also increased later in the period. In 2001, the range of underselling was between *** percent whereas the range of underselling in interim 2002 was between *** percent.[97] We find this underselling to be significant.[98]

The product-specific pricing data show that NFC's selling price for refined sulfanilic acid ranged between *** per pound in 1999, before subject imports entered the market. It ranged between *** per

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period; previously, from 1997 through 1999, U.S. importers were able to import sulfanilic acid from two related factories in China without posting any antidumping duty deposits. The 85.2 percent rate remains the applicable deposit rate now in effect. Commissioner Bragg concurs that the fact that subject imports from Hungary and Portugal replaced imports from China is not dispositive of the relevant inquiry before the Commission, i.e. whether subject imports from Hungary and Portugal are a cause of material injury to the domestic industry. Commissioner Bragg finds that the displacement of LTFV imports from China in the U.S. market by subject imports from Hungary and Portugal corroborates the compelling evidence of material injury to the domestic industry by reason of subject imports in these investigations. Commissioner Bragg finds particularly significant the increase in subject import volume from 2000 to 2001, even as apparent U.S. consumption declined by *** percent during this period. CR and PR Table C-1.

[94] 19 U.S.C. § 1677(7)(C)(ii).

[95] CR at V-13; PR at V-6.

[96] CR and PR Table V-3. We note that the three instances of overselling by subject imports involved very small volumes compared to the instances where subject imports undersold the domestic product, which usually involved significantly larger quantities. CR and PR Table V-3.

[97] CR and PR Table V-3.

[98] We note that the 2001 prices reported for domestically produced refined sulfanilic acid were for a "new process" or semi-refined product, which NFC sold for approximately $0.05 per pound less than regular refined sulfanilic acid. CR at V-5 n.12; PR at V-4 n.12. Thus, the pricing data for 2001 are not for directly competitive products, and comparisons based on these data understate somewhat the margins of underselling. CR at V-5 n.12; PR at V-4 n.12.

pound in interim 2002, after the surge of subject imports.[99] On an annual basis, NFC's average unit sales value for refined sulfanilic acid fell from *** per pound in 1999 to *** per pound in 2001 and *** in interim 2002.[100] Similarly, the purchase prices reported for refined sulfanilic acid from Hungary and Portugal fell over the period of investigation.[101] In addition, the average unit values of subject imports declined throughout the period in which they were present in the U.S. market.[102] The average unit value for cumulated subject imports from Hungary and Portugal fell from *** in 2000 to *** in 2001, and was *** in interim 2002 compared to *** in interim 2001.[103]

Since technical grade sulfanilic acid is the primary input for making refined sulfanilic acid, in a market where prices for the refined product are not depressed by LTFV imports, the downstream refined grade would be expected to sell at a premium over technical acid.[104] However, the price of domestically produced and imported refined sulfanilic acid was nearly always below that of domestic technical sulfanilic acid in 2000, 2001 and interim 2002.[105] Moreover, under normal market conditions, the refined acid and sodium sulfanilate should command similar prices.[106] The price of domestic sodium sulfanilate was substantially higher than that for domestically produced and imported refined sulfanilic acid throughout the period of investigation; this price differential also indicates depressed prices for refined acid.[107] Therefore, based on the decline in domestic prices and the abnormally low prices for refined grade sulfanilic acid in the market, we find that subject imports depressed prices in the U.S. market to a significant degree.[108]

For the foregoing reasons we find that the increasing volume of subject imports, sold at low and declining prices, undersold the domestic like product and significantly depressed domestic prices.

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[99] CR and PR Table V-1.

[100] CR at PR Table C-3.

[101] CR and PR Table V-3. The purchase price for refined acid from Hungary fell from *** per pound in the last three quarters of 2000 to *** per pound in the first quarter of 2002. The purchase price for refined acid from Portugal generally rose from *** per pound in the first quarter of 2000 to *** per pound in the second quarter of 2001, but then fell to *** per pound in the second quarter of 2002.

[102] We note that given the stable product mix of subject imports from Hungary and Portugal over the POI, average unit values are probative of the price trends for such imports.

[103] CR and PR Table IV-1.

[104] All parties agree that the price of refined sulfanilic acid typically would be 30 percent higher than the price of technical sulfanilic acid. CR at I-11; PR at I-8.

[105] CR and PR Tables V-1 and V-3.

[106] CR at I-11; PR I-10.

[107] CR and PR at Tables V-1 to V-3. We note that prices for sodium sulfanilate were reported on a contained sulfanilic acid basis. See also, CR at I-11; PR I-10.

[108] We are not persuaded by respondents' argument that U.S. prices quoted by NFC are artificially inflated due to global purchasing arrangements, and that underselling margins comparing the prices in the United States of the domestic product to the subject imports are therefore overstated. The statute requires us to consider solely the price effects of "imports of that merchandise on prices in the United States" for the U.S. domestic like product. 19 U.S.C. § 1677(7)(B)(i)(II). Moreover, record evidence indicates that NFC's prices in the European market are a reflection of market conditions in the European Union, and as such, have little relation with U.S. prices. Evidence also indicates that global supply agreements are not unique to NFC; as Quimigal claims, other foreign producers have such arrangements with their customers.

C. Impact

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[109] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the industry."[110] [111] [112]

Subject imports entered the U.S. market in 2000, when they captured *** percent of apparent consumption; they increased even more rapidly in 2001, rising to *** percent of the market, even as apparent U.S. consumption declined by *** percent.[113] Key indicators of the industry's condition fell sharply between 2000 and 2001,[114] coincident with the largest surge in subject imports, and some key indicators were at lower levels in 2001 than they were in 1999.[115] Production volume initially rose from *** pounds in 1999 to *** pounds in 2000, but then fell to *** pounds in 2001. Capacity utilization initially rose from *** percent in 1999 to *** percent in 2000, but then fell to its lowest level during the period of investigation, *** percent, in 2001.[116] The quantity of U.S. shipments rose from *** pounds in

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[109] 19 U.S.C. § 1677(7)(C)(iii); see also, SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[110] 19 U.S.C. § 1677(7)(C)(iii).

[111] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). Commerce calculated a final country-wide subsidy rate for Hungary of 2.87 percent ad valorem. 67 Fed. Reg. 60223 (September 25, 2002). With respect to antidumping margins, Commerce calculated the final weighted margin for Nitrokemia and all others to be 20.98 percent. 67 Fed. Reg. 60221 (September 25, 2002). For Portugal, Commerce calculated the final weighted antidumping margin for Quimigal and all others to be 74.14 percent. 67 Fed. Reg. 60219 (September 25, 2002).

[112] Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on the domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Preliminary), USITC Pub. 3345 (Sept. 2000) at 11 n.63.

[113] CR and PR Table C-1.

[114] As discussed earlier, the statute instructs the Commission to consider whether changes in volume, price effects, or impact are related to the pendency of the investigation. 19 U.S.C. § 1677(7)(I). If the Commission determines that such changes are related to the pendency of the investigation, it has the discretion under the statute to reduce the weight accorded to such information. The Commission earlier found that the reduced volume of subject imports in interim 2002 was largely due to the pendency of the investigations. Similarly, we give less weight to 2002 data here although they do show continuing adverse effects, most notably a decline in profitability.

[115] We recognize that some indicia of the industry's condition, such as market share, employment, and inventories, do not exhibit the same trend. However, we find that the declining indicators, including such critical elements as production, shipments, capacity utilization, and profitability, are compelling evidence of the significant adverse impact by reason of subject imports.

[116] CR and PR Table C-1.

1999 to *** pounds in 2000 and declined to *** pounds in 2001.[117] The industry's operating income initially rose from *** in 1999 to *** in 2000, but then *** to *** in 2001.[118] As a ratio to net sales, operating income initially rose from *** percent in 1999 to *** percent in 2000, but then fell to a *** of *** percent in 2001.[119]

The record indicates that the *** drop in NFC's operating income from 2000 to 2001 was primarily due to the effects of subject imports. Operating income fell in 2001 because of a ***.[120] By 1999, NFC had put in place new production equipment with the intent of selling refined sulfanilic acid to ***, the only two domestic purchasers of that form of sulfanilic acid.[121] In 1999 and 2000, NFC's production exceeded sales as it accumulated inventory to accommodate these anticipated sales. As a result of this production level, ***, leading to the relatively *** reported in 1999 and 2000.[122] However, in 2000 and 2001, *** chose to purchase low-priced subject imports; in fact, almost *** of the subject imports were purchased by these two companies.[123] Thus, NFC's production *** in 2001 as it worked off inventory, leading to a *** rise in other factory costs.[124] This in turn resulted in ***

Respondents argued that NFC's *** was due mostly to factors not related to subject imports, in particular startup costs for the new production equipment, inventory revaluation, and legal fees related to antidumping and countervailing duty investigations.[125] We disagree. NFC's new equipment came on line in early 1999,[126] before its ***. The inventory revaluation occurred in interim 2002,[127] also ***. Finally, ***. ***; this increase is far outpaced by the *** over the same period which, as discussed above, was due primarily to the effects of subject imports.[128]

We also note that apparent consumption fell from 2000 to 2001, which would normally be expected to have some adverse effect on the industry.[129] However, we find that the deterioration in the condition of the domestic industry, particularly its operating income, far outpaced declining demand, and is instead attributable to a significant degree to increased imports of lower priced subject merchandise. We thus find that the cumulated subject imports have had a significant adverse impact on the domestic sulfanilic acid industry.

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[117] CR and PR Table C-1.

[118] CR and PR Table VI-1.

[119] CR and PR Table VI-1.

[120] CR and PR Table VI-2. ***.

[121] These two companies had been purchasing sulfanilic acid from China, but NFC expected, with its new production capability, to capture those sales. Hearing Tr. at 16-18, 39.

[122] CR at VI-4 n.9; PR at VI-3 n.9.

[123] In the preliminary investigations, *** CR at V-15 - V-16 n.27; PR at V-7 n.27.
***

In an industry characterized by few purchasers and annual supply contracts, losing customers *** represents a significant loss of business for NFC.

[124] CR at V-15 n.12; PR at V-14 n.12.

[125] *** Quimigal Posthearing Brief at 10-11.

[126] CR and PR at III-1.

[127] CR at VI-5, n.12; PR at VI-2, n.12.

[128] CR and PR Table VI-2.

[129] CR and PR Table C-1.

CONCLUSION

For the foregoing reasons, we determine that an industry in the United States is materially injured by reason of subsidized imports of sulfanilic acid from Hungary and imports of sulfanilic acid from Hungary and Portugal that are sold in the United States at less than fair value.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by Nation Ford Chemical Co. (NFC) of Fort Mill, SC, on September 28, 2001, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (LTFV) imports of sulfanilic acid[1] from Hungary and LTFV imports of such product from Portugal. Information relating to the background of the investigations is provided below.[2]

Date	*Action*
September 28, 2001 . . .	Petition filed with Commerce and the Commission; institution of Commission investigations (66 FR 51070, October 5, 2001)
October 26, 2001	Commerce's notices of initiation (66 FR 54214 (antidumping) and 66 FR 54229 (countervailing duty (CVD)))
November 13, 2001 . . .	Commission's preliminary determinations[3] (66 FR 57988, November 19, 2001)
March 4, 2002	Commerce's preliminary CVD determination (67 FR 9696)
May 6, 2002	Commerce's preliminary antidumping duty determinations (67 FR 30358 (Hungary) and 67 FR 30362 (Portugal), May 6, 2002); scheduling of final phase of Commission investigations (67 FR 35832, May 21, 2002)

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[1] For purposes of these investigations, sulfanilic acid is defined by Commerce as all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid.

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

Technical sulfanilic acid, classifiable under subheading 2921.42.22 of the Harmonized Tariff Schedule (HTS), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under subheading 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), classifiable under HTS subheading 2921.42.90, is a powder, granular, or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content. (67 FR 60219, September 25, 2002).

Sulfanilic acid has a 2002 normal trade relations tariff rate of 0.5 cent/kg + 9.0 percent *ad valorem*, applicable to imports from Hungary and Portugal; this rate also applies to sodium sulfanilate. This tariff rate is scheduled for staged reductions to 6.5 percent *ad valorem* in 2004 and thereafter.

[2] *Federal Register* notices cited in the tabulation regarding Commerce's final determinations and the Commission's scheduling and revised scheduling of the final phase of the investigations are presented in appendix A.

[3] The Commission determined there was a reasonable indication that an industry in the United States was threatened with material injury by reason of allegedly dumped and subsidized imports from Hungary and allegedly dumped imports from Portugal. Commissioner Devaney dissented with respect to Hungary.

Date	*Action*
May 30, 2002	Commission's revised scheduling for final phase of the subject investigations (67 FR 39041, June 6, 2002)
September 18, 2002 . . .	Commerce's final CVD determination[4] (67 FR 60223, September 25, 2002); Commerce's final antidumping duty determinations (67 FR 60221 (Hungary) and 67 FR 60219 (Portugal), September 25, 2002)[5]
September 24, 2002 . . .	Commission's hearing[6]
October 22, 2002	Commission's vote
November 1, 2002	Commission determinations transmitted to Commerce

SUMMARY DATA

A summary of data collected in these investigations is presented in appendix C, tables C-1 through C-4. Except as noted, U.S. industry data are based on the questionnaire response of the one firm that accounted for all U.S. production of sulfanilic acid during January 1999-June 2002. U.S. imports are based on official statistics for technical and refined sulfanilic acid plus importer questionnaire responses for imports of sodium sulfanilate.

PREVIOUS INVESTIGATIONS CONCERNING SULFANILIC ACID

The Commission has previously conducted investigations concerning imports of sulfanilic acid from China, Hungary, and India. The Commission completed its original investigation concerning China in August 1992, determining that an industry in the United States was threatened with material injury by reason of imports of sulfanilic acid from China that Commerce determined to be sold at LTFV.[7] Subsequently, in February 1993, the Commission found that an industry in the United States was threatened with material injury by reason of imports of sulfanilic acid from India that Commerce found to be both subsidized and sold at LTFV.[8] At the same time, the Commission found that an industry in the United States was not materially injured by reason of imports of sulfanilic acid from Hungary that

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[4] Commerce calculated a final country-wide subsidy rate of 2.87 percent *ad valorem*, (1.11 percent provided by the Restructuring Assistance Program; 1.49 percent provided by Nitrokemia 2000 Rt. (Nitrokemia) Loan Guarantees; and 0.27 percent provided by 2000 Guaranteed Loans). Additionally, Commerce found another program, the Forgiveness of Environmental Liabilities Program, not to be countervailable.

[5] With respect to Hungary, Commerce calculated its final LTFV margin based on a comparison of export price to normal value and found a final weighted-average dumping margin of 20.98 percent for Nitrokemia and all others. For Portugal, Commerce calculated its final LTFV margin based on a comparison of export price to normal value and found a final weighted-average dumping margin of 74.14 percent for Quimigal de Portugal, S. A. (Quimigal) and all others.

[6] A list of witnesses appearing at the hearing is presented in appendix B.

[7] 57 FR 37556, August 19, 1992. The Commission further determined that it would not have found material injury but for the suspension of liquidation of entries of the merchandise under investigation. *Sulfanilic Acid from the People's Republic of China*, Inv. No. 731-TA-538 (Final), USITC Pub. 2542 (August 1992), p. 3.

[8] 58 FR 11246, February 24, 1993. The Commission also determined for both the CVD and antidumping duty investigations that it would not have found material injury but for the suspension of liquidation of entries of the merchandise under investigation. *Sulfanilic Acid from Hungary and India*, Invs. Nos. 701-TA-318 (Final) and 731-TA-560 and 561 (Final), USITC Pub. 2603 (February 1993), pp. 3-4.

Commerce found to be sold at LTFV.[9] [10] As a result of the Commission's determinations in the aforementioned investigations, Commerce issued an antidumping order on imports of sulfanilic acid from China[11] and issued CVD and antidumping duty orders on such imports from India.[12] In May 2000, the Commission completed reviews of these orders and determined that their revocation would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[13]

THE SUBJECT PRODUCT

As noted on page I-1, the imported product subject to these investigations is defined as:

> All grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid. Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and 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.[14]

The Commission's determination regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.[15]

In these investigations, the petitioner has argued for one like product, stating that the Commission "in all prior cases, including the recent sunset review and the preliminary determination in this case, {has} correctly found all forms of sulfanilic acid to be one 'like product.' "[16] In both the preliminary and final phase of these investigations, Quimigal, the Portuguese respondent, has argued that

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[9] 58 FR 11246, February 24, 1993. The petitioner challenged the Commission's final negative determination regarding Hungary. The Court of International Trade (CIT) remanded the matter to the Commission for reconsideration and clarification of its views. 848 F. Supp. 204 (1994). On remand, the Commission reached a negative determination for Hungary, which the CIT affirmed on June 14, 1994.

[10] In all of the investigations concerning sulfanilic acid, the petitioner was R-M Industries, Inc., the predecessor firm to NFC. Additionally, in each of the investigations, the Commission defined the domestic like product as all forms of sulfanilic acid, including technical grade sulfanilic acid, refined grade sulfanilic acid, and sodium sulfanilate.

[11] 57 FR 37524, August 19, 1992.

[12] 58 FR 12026, March 2, 1993 (CVD order) and 58 FR 12025, March 2, 1993 (antidumping duty order).

[13] 65 FR 34232, May 26, 2000. Commerce found the following margins (*in percent*) would likely prevail should the orders have been revoked: China (antidumping)–Sinochem Hebei, 19.14 and all others, 85.20; India (antidumping)–all manufacturers, producers, and exporters, 114.80 and India (CVD), 43.71. 65 FR 6156, February 8, 2000, and 65 FR 18070, April 6, 2000.

[14] 67 FR 9696, March 4, 2002; and 67 FR 30358 and 30362, May 6, 2002.

[15] Producer, importer, purchaser, and foreign producer questionnaire recipients were asked to comment on these factors as they applied to similarities and/or differences among (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate. Their responses are presented in appendix D.

[16] Petitioner prehearing brief, p. 2. *See also*, petitioner postconference brief, pp. 2-4 and appendix 1.

technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate are separate like products.[17] In this regard, Quimigal stated:

> "We are mindful that the Commission has visited this issue several times in the past . . . and has concluded that there is only one like product, and we understand that. And I think our principal point is that there is a very, very strong market segmentation. The customer bases for technical are different than for the solution, than for the refined dry product."[18]

Physical Characteristics and Uses

Sulfanilic acid (not including sodium sulfanilate) is produced in two grades--namely, technical (or crude) sulfanilic acid and refined (or pure) sulfanilic acid.[19] In contrast, sodium sulfanilate (the monosodium salt of sulfanilic acid) is produced and sold only as one grade.[20] In solid form, the technical and refined grades of sulfanilic acid and sodium sulfanilate are all gray-white to white crystalline powders.[21]

Sulfanilic acid is used to produce optical brightening agents, food colorants and other synthetic organic dyes, and certain concrete additives. The form of sulfanilic acid used by the end user, however, depends on both the product being produced and the production process. In most cases, optical brighteners and food colors are produced with pure product (either refined sulfanilic acid or sodium sulfanilate). Optical brighteners, particularly paper brighteners, constitute the largest single end use for refined sulfanilic acid and sodium sulfanilate. Technical grade sulfanilic acid is used principally as a raw material for refined sulfanilic acid and sodium sulfanilate, as well as in the production of certain specialty synthetic organic dyes and special concretes. ***.[22]

Manufacturing Facilities and Production Employees

Sulfanilic acid is made by reacting two basic chemicals, aniline and sulfuric acid. Process technology has changed since it was first produced in the early 1900s, largely due to improvements in process efficiencies that resulted in a higher overall yield from the reaction or a higher product purity.

According to petitioner, both it and the Portugese producer use similar manufacturing processes.[23] Aniline and sulfuric acid are mixed in a closed reactor to form an intermediate product, aniline hydrogen sulfate. The intermediate product is then heated or "baked" to form technical sulfanilic

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[17] Quimigal postconference brief, pp. 2-5 and hearing transcript, pp. 122-123.

[18] Testimony of Kevin M. O'Brien, Baker & McKenzie, hearing transcript, p. 122. 3V Incorporated (3V), a purchaser of sulfanilic acid, concurs with Quimigal. Testimony of Christina C. Benson, Arent, Fox, Kintner, Plotkin & Kahn, PLCC, hearing transcript, p. 123 and 3V posthearing brief, pp. 1-6.

[19] Technical grade sulfanilic acid is 96 percent pure and refined sulfanilic acid is 98 percent pure. Petition, vol. I, p. 13.

[20] Sodium sulfanilate, which is 99 percent pure, contains 75 percent minimum equivalent sulfanilic acid. Interview with ***, NFC, October 25, 2001; petition, vol. I, p. 13.

[21] Technical and refined acids are always sold as solids; although some sodium sulfanilate is shipped in the solid form, much is shipped by the domestic producer to its customers as a 30 percent salt solution. Conference transcript, p. 24; petitioner postconference brief, appendix 1, p. 2.

[22] ***.

[23] Petition, vol. II, p. 4.

acid, which the domestic producer either sells in this state, or uses to produce sodium sulfanilate or refined acid. NFC produces sodium sulfanilate by the addition of sodium hydroxide to a water solution of the technical grade acid. It produces refined sulfanilic acid by dissolving the technical grade acid in hot water and then recrystallizing, filtering, and drying.[24] Petitioner states that process improvements in domestic facilities, such as a new refined acid operation in the mid 1990s and the purchase and relocation of a previously-used continuous reactor system to produce technical acid in the late 1990s, have proven to be very efficient and cost effective.[25]

Petitioner produces and sells technical grade sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. Technical grade sulfanilic acid is packaged and sold or used as an input to produce refined sulfanilic acid and sodium sulfanilate. Both refined sulfanilic acid and the sodium salt are produced in the same building but on separate production equipment and each uses technical sulfanilic acid as the basic raw material.[26] Petitioner reports some interchangeability in employees between the different forms of sulfanilic acid, with technical acid workers assisting in the production of refined acid when not operating the technical equipment. Petitioner also states that "the refined acid and salt equipment are interchangeable and the operators can work both production units."[27] Equipment and employees used to produce sulfanilic acid are also used to produce ***. *** .[28]

The Portuguese production plant is quite modern, having been brought on line in 1999, and was designed to produce only refined sulfanilic acid.[29] The Portuguese production process is similar to the domestic process except that, whereas the domestic producer uses one facility to produce the technical acid and a second facility to purify the technical grade into refined sulfanilic acid, the Portuguese

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[24] Refined sulfanilic acid can also be produced by re-acidification of a sodium sulfanilate solution, although this additional step results in a wastewater stream that is difficult to treat and petitioner discontinued this method in the early 1990s. Petition, vol. I, pp. 15-16.

[25] Interview with ***, NFC, on October 16, 2001, and petition, vol. I, pp. 16-17. NFC bought the technical acid production plant from Zeneca Ltd., a UK firm that made technical acid in France, and relocated the plant to the United States. *Id.*

[26] Conference transcript, p. 19. Technical grade sulfanilic acid is produced in a separate building. *Id.*

[27] Petitioner postconference brief, appendix 1, p. 7 (flowchart). Petitioner states that it has excess capacity to produce the technical sulfanilic acid; therefore it produces the technical sulfanilic acid for about 2-week intervals and then the technical acid operators assist in the production of refined sulfanilic acid. Likewise, large extra capacity to produce sodium sulfanilate allows those workers to assist in the production of refined sulfanilic acid. Petitioner postconference brief, appendix 1, p. 5.

[28] NFC questionnaire, p. 4; interview with ***, NFC, on October 16, 2001.

[29] Quimigal postconference brief, p. 9; conference transcript, p. 32; petition, vol. II, p. 4. At the hearing, Quimigal stated:

> "We don't sell technical grade acid or sodium sulfanilate, because our main clients require the refined grade product. We have chosen to specialize in this segment of the market, because there are more {applications} for full grade sulfanilic acid than for technical grade. The refined grade is, therefore, more marketable. We have no plans to develop a technical grade or sodium sulfanilate product and we don't believe that our main consumers will be interested in purchasing those products from us, if we did."

Testimony of Antunes Paulo, Commercial Manager, Quimigal, hearing transcript, p. 102.

producer uses a continuous process in a single reaction vessel to produce refined sulfanilic acid from the starting materials.[30]

According to the petitioner, the Hungarian sulfanilic acid is produced using technology where aniline and sulfuric acid are reacted in an organic solvent. After the reaction, the crude mixture of sulfanilic acid is neutralized and water is added to form a proprietary water-soluble salt. With the addition of the water, the mixture separates into two "phases"–an organic solvent phase and a water phase. The salt of sulfanilic acid is removed with the water phase and ultimately re-acidified and converted into refined sulfanilic acid.[31] According to petitioner, such a process is not economically viable and results in a waste stream that would be very costly to treat.[32]

Regardless of the production process used, after the desired product is isolated and/or purified, it is packaged to suit the needs of the customer. According to the petitioner, domestic refined and technical sulfanilic acid and imported refined sulfanilic acid are available in either paper or poly bags of 25 kilograms each, or larger bulk bags of 500 to 1,000 kilograms.[33] Sodium sulfanilate may be sold as a powder and packaged similar to the acid; however, petitioner's sales to two big optical brightener customers are as a solution that is approximately 30 percent sulfanilic acid by weight and shipped in tank trucks or tank cars.[34]

Interchangeability and Customer and Producer Perceptions

The petitioner states that "all forms of sulfanilic acid are interchangeable with all other forms because they all provide the same molecular building block in producing food colors, brighteners, and concrete additives, which are the primary markets for sulfanilic acid."[35] Refined sulfanilic acid can always be used instead of the technical grade,[36] but the reverse is not true since some users (e.g., food color producers and optical brightener producers) require the higher purity of the refined sulfanilic acid or sodium sulfanilate. Petitioner states that refined sulfanilic acid and sodium sulfanilate are interchangeable since they are both used to produce the same products--optical brighteners and food colors--although the specific production process used by each firm will determine whether it uses the refined acid or the salt. However, petitioner points out that "one of the largest producers of brighteners in the United States changed from using refined acid produced in Japan to the domestic salt in 1990 when the availability of the refined acid from Japan was reduced"[37] and therefore, although current operating

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[30] Conference transcript, pp. 19 and 32; petitioner postconference brief, appendix 1, pp. 5-6.

[31] Petition, vol. III, p. 3; petitioner postconference brief, appendix 2, pp. 1-2; interview with ***, NFC, on October 16, 2001.

[32] Petition, vol. III, p. 3.

[33] Petitioner postconference brief, appendix 1, p. 2; interview with ***, NFC, on October 16, 2001. About *** percent of NFC's shipments are in the bulk form, which is two 500 kilogram bags per pallet. *Id.*

[34] Conference transcript, p. 24; petitioner postconference brief, appendix 1, p. 2; interview with ***, NFC, on October 16, 2001.

[35] Conference transcript, p. 9.

[36] Petitioner states that customers specify whether they want the salt or the "free acid" forms of sulfanilic acid (the term "free acid" is reportedly used to distinguish the acid form, whether refined or technical, from the salt form). However, petitioner says that customers do not care whether the free acid is technical or refined; they simply require that the free acid meets their specifications. Petitioner postconference brief, pp. 2-3.

[37] Conference transcript, p. 10. *See also*, hearing transcript, p. 36. Petitioner further stated:

(continued...)

process may be an obstacle to interchangeability between the refined acid and the salt, it is an obstacle that can be overcome if the price difference is sufficient.[38] [39]

Quimigal argues that there are differences among the three forms of sulfanilic acid and these limit the uses to which they can be applied.[40] Quimigal bases its argument on the fact that the technical grade product has a higher level of impurities than the refined grade product, thereby making it an impractical substitute for refined grade in the production of optical brighteners, food colors, or specialty

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[37] (...continued)

> "I think nowhere do you see the potential or interchangeability better than you take the three customers that make brighteners and see that they don't all use the salt, and they don't all use the refined. You take the two customers for food colors, and one uses one, and one uses the other."

Testimony of John Dickson, NFC, hearing transcript, p. 36.

[38] Conference transcript, p. 10. *See also*, hearing transcript, p. 36.

[39] At the hearing in these investigations, 3V, a purchaser testifying in opposition to the imposition of CVD and antidumping duties, commented with respect to switching between grades of sulfanilic acid, stating:

> "As a matter of fact, 3V has used the sulfanilic acid in a salt form in the past. This all depends on the type of efforts, the type of modification that you have to deal with in your plant floor and procedures, and cost of running equipment, that would otherwise be used for making other products. There's only a question of price, after all. If the price of the sulfanilic acid salt is something that we have to live {with}, then we're going to have to change our operation to suffice that situation, the market situation. So it is possible, but at which cost? That's the problem."

Testimony of John Centioni, Executive Vice-President, Technical Affairs, hearing transcript, pp. 132-133.

Also, in this regard, Philip Denley, Director, Twinstar Chemicals, Ltd. (Twinstar), testifying on behalf of Quimigal, stated:

> ". . . as I said earlier, the amount of times that people have changed from one product refined to salt solution and then back again, I can't remember when that's happened. As far as we're concerned, we consider them to be three separate markets. We're only interested in the refined market. So our comparison is with other competitors for refined grade product. We're not fighting against, if you like, salt solution or technical product."

Testimony of Philip Denley, Director, Twinstar, hearing transcript, pp. 145-146.

[40] Quimigal postconference brief, p. 3. *See also*, Quimigal prehearing brief, pp. 17-19. At the hearing, Quimigal stated:

> "Specific types of sulfanilic acid are not fully interchangeable. In fact, as a practical matter, they are not interchangeable at all. Sulfanilic acid is not an end-use product. It is only useful as a component in other products, such as concrete, optical {brighteners}, and food colors. Different manufacturers use different process equipment and that equipment is designed for a particular type of sulfanilic acid only."

Testimony of Antunes Paulo, Commercial Manager, Quimigal, hearing transcript, p. 102

dyes. Additionally, Quimigal argues that physical differences limit interchangeability between the sodium sulfanilate and refined sulfanilic acid.[41]

Clariant, an importer and end user of both Portuguese and Hungarian product, states that the production method it uses in producing optical brighteners used in the textile and paper industries requires the input of the refined sulfanilic acid, whereas the other two domestic producers of optical brighteners use domestic sodium sulfanilate.[42] It further states that the use of the technical grade sulfanilic acid would impart undesirable qualities in its finished product.[43] While Clariant is presently not using domestically produced refined sulfanilic acid, it has done so in the past.[44]

Further information with respect to interchangeability and customer and producer perceptions can be found in Part II of this report, *Conditions of Competition in the U.S. Market.*

Channels of Distribution

Both the domestic producer and the importers of sulfanilic acid sell the product directly to domestic users. In its petition, petitioner stated that there were only two buyers of the refined sulfanilic acid imported from Hungary and Portugal, making up 30 percent of the total domestic market for all forms of sulfanilic acid.[45]

Price

According to petitioner, absent the presence of lower-priced imported refined sulfanilic acid, the price of technical sulfanilic acid should be about 30 percent lower than the refined sulfanilic acid and sodium sulfanilate. However, petitioner states that as a result of the imported refined acid being sold at prices below what it is charging for technical acid, it has been forced to reduce its price of refined acid to below its price for technical acid and sodium salt.[46] Quimigal states that because of "the cost of complex refinement processes used to purify technical sulfanilic acid into sodium sulfanilate, and into refined sulfanilic acid, price is also a factor that supports the definition of individual like products . . ."[47] More detailed information on actual prices is presented in Part V of this report, *Pricing and Related Information.*

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[41] Quimigal postconference brief, pp. 3-4, *citing: Sulfanilic Acid From China and India*, Invs. Nos. 701-TA-318 (Review) and 731-TA-538 and 561 (Review), USITC Pub. 3301 (May 2000), pp. I-7-8 and n. 22. *See also*, Quimigal prehearing brief, pp. 17-19.

[42] Conference transcript, pp. 30 and 45.

[43] Conference transcript, p. 31.

[44] Conference transcript, pp. 41-42. According to John Dickson, CEO of NFC, Clariant was NFC's largest customer for refined sulfanilic acid in 1997. *Id.*, p. 48. ***.

[45] Petition, vol. I, p. 17.

[46] Petitioner postconference brief, appendix 1, p. 6. Petitioner further states that low-priced refined sulfanilic acid suppresses the price of technical sulfanilic acid, and if the price differential is significant enough, even suppresses the price of sodium sulfanilate. Conference transcript, pp. 9-10. *See also*, petitioner prehearing brief, pp. 5-6 and hearing transcript, pp. 41-42.

[47] Quimigal postconference brief, p. 4.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

In the U.S. market, domestic and imported sulfanilic acid are sold to end users. Available data for 2001 indicate that *** sales by NFC were made to end users,[1] while the vast majority of imports of sulfanilic acid were consumed internally.[2]

Globally, both producers and purchasers of sulfanilic acid are highly concentrated groups. NFC is the only U.S. producer of sulfanilic acid, and competes with several producers in Asia, as well as three European producers (including the two subject producers), for the business of six multinational corporations.[3]

Three forms of sulfanilic acid are produced in the U.S. market; technical grade, refined grade, and sodium sulfanilate (salt form). The technical grade is primarily utilized in the production of concrete additives and dyes, and serves as the starting point for making the refined and salt forms of sulfanilic acid. The refined and salt forms are primarily utilized in the production of optical brighteners and food colors.[4] Data on NFC's domestic sulfanilic acid sales by each of the three product forms are provided in table II-1.[5]

Table II-1
Sulfanilic acid: Percent of NFC's domestic shipments, by type, 1999-2001 and January-June 2002

* * * * * * *

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on available information, NFC has the ability to respond to changes in demand with moderate to large changes in the quantity of shipments of U.S.-produced sulfanilic acid to the U.S.

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[1] NFC states there are six major U.S. customers – two customers use sulfanilic acid to produce food colorings (*** uses refined sulfanilic acid and *** uses sodium sulfanilate), three customers use sulfanilic acid to produce brighteners for paper products (Clariant uses refined sulfanilic acid, while *** and *** use sodium sulfanilate), and *** utilizes technical sulfanilic acid as a concrete additive. Conference transcript, pp. 9-10 and 30-31; e-mail response from ***, NFC, October 2, 2002.

[2] The respondent 3V stated that Quimigal is atypical in that it sells through the distributor Twinstar Chemicals. 3V posthearing brief, p. 4.

[3] Each of the six multinational corporations ***. Petition, vol. I, pp. 9-10.

[4] *Id.*

[5] While the record indicates that different forms of sulfanilic acid can be used for equivalent end uses, respondents Quimigal and 3V argue that extreme market segmentation exists for the three forms of sulfanilic acid. According to 3V, substantial equipment and production modifications, as well as worker retraining, would be required for an optical brightener producer to switch from sodium sulfanilate to refined sulfanilic acid or vice versa. 3V posthearing brief, p. 3. Quimigal states that no facilities use multiple grades of sulfanilic acid for the same end use at the same time, and that switching production processes to accommodate a different form of sulfanilic acid based on short-term price movements would not be a logical business decision due to the necessary investment and uncertainty of future price movements. Quimigal posthearing brief, pp. 7 and R-14.

market. The main factors contributing to this degree of responsiveness are general increases in excess capacity and *** sales to export markets. These factors are detailed next.

Industry Capacity

Data reported by the U.S. producer indicates that there is excess capacity with which to expand production in the event of price changes. Domestic capacity utilization remained below *** percent during the period examined. NFC stated that installation of the continuous reactor facility purchased from Zeneca increased its production capacity by 60 percent, and it is capable of producing enough technical grade, refined grade, and sodium sulfanilate to meet U.S. demand.[6]

Inventory Levels

The U.S. producer's inventories of sulfanilic acid, as a ratio to total shipments, ranged from *** to *** percent during the period examined. These data indicate that NFC has some ability to use inventories as a means of increasing shipments to the U.S. market.

Export Markets

Exports ranged from *** to *** percent of total shipments during the period examined. These numbers suggest that NFC has some ability to divert shipments to or from alternate markets in response to changes in the price of sulfanilic acid.[7] [8]

U.S. Demand

Based on available information, the overall demand for sulfanilic acid is unlikely to change significantly in response to changes in price. The main factor contributing to the low degree of price sensitivity is the lack of substitute products.

Demand Characteristics

Both NFC and the majority of responding importers and purchasers stated in their questionnaire responses that demand for sulfanilic acid in the United States has remained relatively stable since January 1, 1999, and tends to track general economic movement. At the hearing, both NFC and respondents discussed regional demand trends and future demand for the major end uses of sulfanilic acid. Europe and the United States are the largest and second largest markets for sulfanilic acid, and are expected to experience moderately increased or stable demand, respectively, as compared to the higher growth markets of South America and Southeast Asia (brighteners). India is also considered a substantial

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[6] Hearing transcript, p. 28.

[7] In its questionnaire response, NFC reported that its principal export markets are ***.

[8] NFC, importers, and purchasers were asked to comment on the effects of the European Community's antidumping measures on sulfanilic acid from China, and antidumping and countervailing duty measures on such imports from India, in terms of supply and prices in the EC and U.S. markets. According to the majority of importers and purchasers, the effects will be reduced supplies and higher prices in both markets. In contrast, NFC stated that its market information from Europe shows that Chinese products' prices are essentially unchanged due to lowering the products' prices to account for the added duties. Thus, according to NFC, Hungary and Portugal will continue to dump product in the United States. NFC posthearing brief, pp. 11-12; hearing transcript, pp. 26-27.

market for sulfanilic acid (dyes), but its market is closed to foreign producers. Demand for sulfanilic acid in Japan has declined during the past five years as brightener and dye production have moved offshore. Further, technological advancements using acrylic concrete additives have reduced Japan's demand for technical sulfanilic acid. While Japan is ahead of other countries in terms of embracing this new technology, NFC expects overall demand for technical sulfanilic acid to decline over time due to these advanced alternative concrete additives. In contrast, NFC believes demand for brighteners and food colors will remain relatively stable.[9]

Substitute Products

Questionnaire responses from NFC, four importers, and five purchasers reveal that all responding firms believe there are no substitutes for sulfanilic acid for most applications.[10]

Cost Share

According to NFC and the responding importers and purchasers, the sulfanilic acid that they sell or purchase in the U.S. market is used in the production of food colorings, optical brighteners, concrete additives, and dyes. Several firms estimated the percentage of total end-use cost accounted for by sulfanilic acid to be in the range of 15 to 36 percent.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported sulfanilic acid depends upon such factors as relative prices, quality, and conditions of sale. Based on available data, staff believes that, given identical forms of sulfanilic acid, there is a high degree of substitution between domestic sulfanilic acid and subject imports from Hungary and Portugal. However, substitutability in a broader sense may be moderated by the fact that certain end users prefer or require different forms of sulfanilic acid.

Factors Affecting Sales

Table II-2 summarizes purchasers' responses concerning their top three factors in purchase decisions.[11] As indicated in the table, quality was cited most frequently as purchasers' primary factor in buying decisions, and tied with price as the most frequently cited factor among the top three factors.[12]

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[9] Hearing transcript, pp. 78-80 and 140-142. NFC also stated that the concentration of global demand in a few multinational companies may lead to declines in U.S. demand for sulfanilic acid if these companies decide to switch production to facilities outside of the United States. For example, two major U.S. purchasers, ***. NFC prehearing brief, p. 12.

[10] As previously mentioned in this section of the report, Japan has developed technologically advanced acrylic concrete additives which can replace sulfanilic acid.

[11] The Commission sent out both importers' and purchasers' questionnaires to 12 firms, of which three firms returned both questionnaires and three firms returned only a purchasers' questionnaire. The six responding purchasers account for the majority of U.S. consumption during the period examined.

[12] Six of six responding purchasers indicated that they require suppliers of sulfanilic acid to become certified or prequalified with respect to quality and other performance characteristics.

Table II-2
Sulfanilic acid: Ranking factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	—	4	—
Price	—	2	4
Quality	5	—	1
Other[1]	1	—	1

[1] Other factors include extension of credit and pre-arranged contracts.

Source: Compiled from data submitted in response to Commission questionnaires.

When asked how often their firms purchase sulfanilic acid that is offered at the lowest price, two out of five responding purchasers that answered the question indicated "usually," one indicated "sometimes," and two indicated "never." Questions concerning purchasers' awareness of the country of origin and the supplier of sulfanilic acid reveal that all six responding purchasers "always" know both pieces of information when making purchase decisions.

Questionnaire responses reveal that NFC believes differences other than price between products from various supplying countries are *** important in the sale of sulfanilic acid in the U.S. market. Responding importers who had knowledge of the requested country combinations reported that differences other than price are "always" or "sometimes" important in the sale of sulfanilic acid in the U.S. market (table II-3).[13] [14]

Table II-3
Sulfanilic acid: Perceived importance of differences in factors other than price between sulfanilic acid produced in the United States and in other countries in sales of sulfanilic acid in the U.S. market

* * * * * * *

Comparison of Domestic and Imported Sulfanilic Acid

NFC reported that sulfanilic acid from different countries is *** interchangeable. Importers' responses were more diverse, and indicate that sulfanilic acid from different countries is "always," "frequently," or "sometimes" interchangeable (table II-4).[15] [16] Data submitted by purchasers reveal that sulfanilic acid from all sources is generally used in the same applications.

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[13] At the hearing, John Dickson of NFC stated that, "...once you get {past} the availability and quality issue{s}, then of course it's all price." Hearing transcript, p. 69.

[14] ***.

[15] NFC answered this question only in terms of refined sulfanilic acid. All responding importers/purchasers answered this question in terms of sulfanilic acid, regardless of form.

[16] ***.

Table II-4
Sulfanilic acid: Perceived degree of interchangeability of sulfanilic acid produced in the United States and in other countries

* * * * * * *

Several importers noted that, while the refined grade is usable in any application, the technical grade is not usable in some applications because it is a less pure form of sulfanilic acid. For example, *** reported that all grades can be used in concrete applications (which typically use the technical grade), but only the refined grade can be used in "high end" applications such as brighteners.[17] In its questionnaire response, *** noted that both the refined and salt forms are "purified" products and are sufficiently interchangeable.[18]

Purchasers were also asked to rate domestically produced sulfanilic acid against sulfanilic acid imported from subject and nonsubject countries using a number of factors, such as availability, delivery time, discounts, price, product consistency, product quality, product range, and reliability of supply. Limited available information reveals that the U.S.-produced product is generally considered comparable to subject and nonsubject imports. However, *** noted that the U.S. product is superior to the Hungarian and Portuguese products in terms of availability and delivery time, but is inferior to subject imports in terms of discounts and price. The purchaser *** noted that the U.S. product is superior to the Chinese product with respect to price (due to the antidumping and CVD orders), while also noting that the U.S. product is inferior to the French product in terms of discounts and product range.

ELASTICITY ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for sulfanilic acid measures the sensitivity of the quantity supplied by the U.S. producer to changes in the U.S. market price for sulfanilic acid. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced sulfanilic acid. Previous analysis of these factors indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market. An estimate in the range of 3.0 to 5.0 is suggested. No parties commented on this estimate.

U.S. Demand Elasticity

The U.S. demand elasticity for sulfanilic acid measures the sensitivity of the overall quantity demanded to a change in the U.S. market price for sulfanilic acid. This estimate depends on the factors discussed earlier, such as the existence, availability, and commercial viability of substitute products. As noted earlier, all responding firms reported that there are generally no substitute products for sulfanilic acid. Based on available information, the aggregate demand for sulfanilic acid is likely to be inelastic. An estimate in the range of -0.25 to -0.50 is suggested. While NFC did not comment on this estimate, the respondent Quimigal stated that the inelastic nature of demand for sulfanilic acid, coupled with some

[17] Staff interview with *** of ***, October 22, 2001.

[18] Respondents Quimigal and 3V argue that the refined and salt forms of sulfanilic acid are not readily interchangeable. See footnote 5 in this section of the report.

purchasers' desire to source from multiple suppliers, means that NFC "will never achieve its goal of 100 percent market share..."[19]

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between U.S.-produced sulfanilic acid and sulfanilic acid from all subject countries is likely to be in the range of 3.0 to 5.0. No parties commented on this estimate.

[19] Quimigal prehearing brief, p. 16.

PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and Part VI and (except as noted) is based on the questionnaire response of the single firm that accounted for all U.S. production of sulfanilic acid during January 1999-June 2002.

The petitioner, NFC, has been responsible for all U.S. production of sulfanilic acid during the period examined. NFC is a privately-owned corporation located in Fort Mill, SC. NFC has been the only U.S. producer of sulfanilic acid since 1991, when Hilton Davis discontinued production and began purchasing all of its sulfanilic acid requirements from NFC. NFC began its first production of sulfanilic acid in 1984 with its acquisition of American Cyanamid's production equipment.[1] By 1994, NFC had tripled its original capacity to produce sulfanilic acid. In 1998, NFC acquired the technical sulfanilic acid business of Zeneca Ltd., a UK firm that made technical acid in France. That plant was moved from France to the United States and commenced production in March 1999. The new plant, using a continuous reactor, became fully operational in 2000 and, according to NFC, produces a "superior quality of technical acid that has made conversion to the salt and refined acid more cost efficient."[2] Data provided by NFC with respect to its production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators are provided in table III-1.[3]

Table III-1
Sulfanilic acid: Reported U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

Data provided by NFC with respect to its domestic sales of sulfanilic acid, by type and market segment, are presented in table III-2.

Table III-2
Sulfanilic acid: Reported U.S. shipments, by type and market segment, 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

[1] Petition, vol. I, p. 16. NFC began producing sodium salt and refined sulfanilic acid in 1987. *Id.*

[2] *Id.*, p. 17.

[3] NFC was able to provide separate trade and financial data for technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. Such data are provided in tables C-2, C-3, and C-4, respectively, of this report.

PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Three firms, Clariant, ***, and ***, accounted for all imports of sulfanilic acid from Hungary and Portugal during the period examined. In the case of Clariant and ***, all product imported by these firms was for internal use. Clariant imported and/or purchased ***. ***. During 1999, ***. Imports of sodium sulfanilate (all from China) amounted to *** in 1999 and *** in 2000. ***.[1] ***.

For the earlier portion of the period examined during these investigations, China was the leading source of imports of sulfanilic acid. According to NFC, this occurred because:

> "During the period of 1997 through 1999 importers of Chinese sulfanilic acid were allowed to import sulfanilic acid from two related factories in China without making any antidumping duty deposits. This situation did not change until March 13, 2000, when Commerce determined that the actual duty applicable for the 1997-98 annual review was 18.75 percent. This also established the new duty deposit rate. This rate remained in effect until March 21, 2000, when Commerce determined that the actual duty applicable for the 1998-99 period was 85.2 percent. This is the deposit rate now in effect.
>
> The retroactive nature of the review process accounts for large quantities of Chinese dumped sulfanilic acid being imported in 1999 and 2000. The Chinese would never have exported this large quantity of sulfanilic acid had they known the actual duty would be 18.75 percent and 85.2 percent for the respective years."[2] [3]

As the imposition of the retroactive duties on Chinese imports applies to these investigations, NFC observed:

> "As the Chinese importers woke up to the big retroactive duties they began to import much less in the second half of 2000. There have been no Chinese imports at all this year (2001), just in time for Quimigal to start making large exports from their new factory in Portugal and then followed by Nitrokemia from their plant in Hungary. Attachment 4 (of the petition) clearly shows how the Chinese reduction in imports was simply replaced by imports from Portugal and Hungary."[4] [5]

---

[1] In the preliminary phase of these investigations, ***.

[2] Petition, pp. 19-20.

[3] Subsequent to the conclusion of the Commission's preliminary investigations, Commerce has been conducting an administrative review of the antidumping duty order on sulfanilic acid from China for the August 1, 2000, through July 31, 2001, period of review. On May 10, 2002, Commerce announced its preliminary findings with respect to its review. Commerce preliminarily determined the following: the duty for Baoding for the period of review would be 46.27 percent; the review with respect to Xinyu would be rescinded; and the rate for all others would be 85.20 percent. 67 FR 31770. Commerce is presently conducting the final phase of its administrative review.

[4] Petition, p. 20. Just over *** percent of total imports from China in 2000 entered during January-June 2000.

[5] With respect to NFC's comments, Clariant noted:

(continued...)

According to NFC, when the Chinese withdrew from the U.S. market they began exporting product to Europe, thereby creating problems for the Hungarian and Portuguese producers. In this regard, John Dickson of NFC noted:

> ". . . I'll be the first to tell you that it's the China and India problem in Europe that's causing Quimigal and Nitrokemia to sell below their cost of production and has caused them to be in the horrible problem that they are."[6]

At the hearing in these investigations, Quimigal offered the following comment with respect to imports from China, their exit from the U.S. market, and Quimigal's subsequent entry into that market:

> "It's useful to remember that the Chinese exports are deemed to have been at fair value. Up through the end of 1999, there were no subject imports from Portugal at all in the U.S. market. There were zero. The China effect, which has been referred to by the petitioner in its complaint and is set forth in the attachments, shaped the landscape of the U.S. market through the end of 1999.
>
> In other words, when Mr. Dickson said that the Chinese dropped the floor on the market and dropped prices substantially and lowered them dramatically, that was all before the Portuguese producers, before Quimigal or Twinstar, entered the market. When 2000 came along, that's how the landscape looked, and it was all due to fairly traded imports.
>
> Now, what did Quimigal do? It ignored basically 70 percent of the market, the market for technical grade and the market for salt. There's been nothing that we've heard that suggested there was any competition, and indeed there simply wasn't.
>
> What Quimigal did was sell to two customers at higher prices than the Chinese had made. There is simply no basis to conclude that there is a price suppressing effect or a price depressing effect by what Quimigal did . . ."[7]

---

[5] (...continued)

> "It is patently obvious in the petition, and through the petitioner's comments at the preliminary conference on October 18, 2001, that NFC's complaint is with imported sulfanilic acid from China and India, and the perceived injury it suffered when those imports were in the U.S. market, rather than any threat from European sources. As petitioner himself stated, 'the whole problem is India and China causing this convolution of these industries.' . . . Perhaps this belief is what caused Mr. Dickson to dedicate the majority of his petition to describing the damage inflicted on the domestic industry by China and India. More likely, petitioner was forced to discuss China and India because he cannot plausibly allege unfair trade practices on the part of Portugal and Hungary, without also making the equally implausible claim that all producers (other than NFC, of course) are all selling sulfanilic acid around the world at less than their cost of production. In any case, the unfair trade practices of which petitioner complains have already been remedied in the form of antidumping and countervailing duties against China and India."

Clariant postconference brief, p. 2.

[6] Conference transcript, p. 55.

[7] Testimony of Kevin M. O'Brien, Baker & McKenzie, hearing transcript, p. 177.

As discussed more completely in Part VII of this report, *Threat Considerations*, in July 2001, the European Commission (EC) initiated antidumping proceedings against imports into the European Union from China and India.[8] On July 22, 2002, the EC imposed antidumping duties on imports of sulfanilic acid originating in China and India in the amounts of 21.0 and 18.3 percent, respectively. Additionally, the EC imposed countervailing duties on imports from India in the amount 7.1 percent.[9]

U.S. IMPORTS

Table IV-1 presents data on U.S. imports of sulfanilic acid based on official statistics of Commerce for technical and refined sulfanilic acid plus importer questionnaire responses for imports of sodium sulfanilate.[10]

Table IV-1
Sulfanilic acid: U.S. imports, by sources, 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption are presented in table IV-2.

Table IV-2
Sulfanilic acid: U.S. producer's U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

U.S. MARKET SHARES

Data concerning U.S. market shares are presented in table IV-3.

Table IV-3
Sulfanilic acid: Apparent U.S. consumption and market shares, 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

[8] Antisubsidy proceedings were also initiated against India.

[9] *Official Journal of the European Communities*, July 22, 2002.

[10] Imports of sulfanilic acid (technical and refined grades) are classified under HTS subheading 2921.42.22 with no differentiation made between the grades. Imports of sodium sulfanilate are classified under HTS subheading 2921.42.90, a "basket category."

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The main raw materials used in the production of sulfanilic acid are aniline and sulfuric acid. Raw material costs ranged from *** to *** percent of the total cost of goods sold for U.S. production of sulfanilic acid during the period examined. According to NFC, the cost of aniline increased in early 2000, ***.[1] NFC further stated that the subsequent decline in aniline prices in 2001 and the first six months of 2002 caused overall raw material costs to decline, as aniline accounts for approximately *** percent of NFC's raw material costs.[2]

Transportation Costs to the U.S. Market

Transportation costs for sulfanilic acid from Hungary and from Portugal ***[3] to the United States (excluding U.S. inland costs) are estimated to be 10.2 and *** percent, respectively, of the cost of the sulfanilic acid during 2001. These estimates are derived from official import data for HTS subheading 2921.42.22 and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs and Geographic Markets

Transportation costs of sulfanilic acid for delivery within the United States vary from firm to firm but tend to account for a small to moderate percentage of the total cost of the product. For NFC, these costs accounted for *** percent of the total cost of sulfanilic acid. For the three importers who provided usable responses to this question, these costs accounted for between *** and *** percent of the total cost of the product, with an average of 7.7 percent.

NFC reported a geographic market area encompassing ***.[4]

Producers and importers were also requested to provide estimates of the percentages of their shipments that were made within specified distance ranges. NFC reported that *** percent occurred within 100 miles, *** percent occurred within 101 to 1000 miles, and *** percent occurred at distances over 1,000 miles. For the two importers that provided usable responses to this question, an average of *** percent of shipments occurred within 100 miles, *** percent occurred within 101 to 1,000 miles, and *** percent occurred at distances over 1,000 miles.[5]

---

[1] Amendment to vol. I of petition, p. 8 (October 4, 2001).

[2] E-mail response from *** of ***, September 3, 2002.

[3] ***.

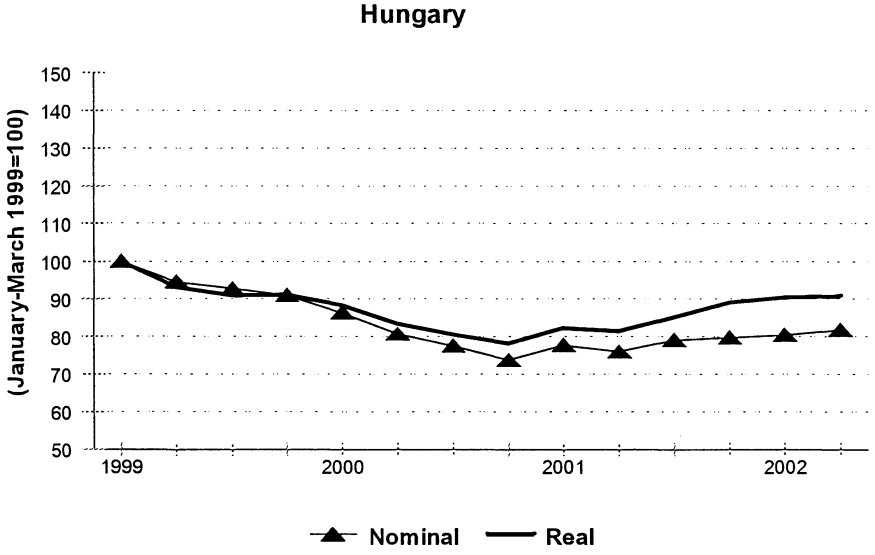
[4] Since most responding importers consume sulfanilic acid internally, importers' answers to this question provided little applicable information. Responding importers are based in ***.

[5] The two responding importers were ***, and ***. In 1999, *** imported *** that was subsequently shipped to end users. In 1999 and 2000, *** imported *** that was subsequently shipped to end users.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the real value of the Hungarian forint depreciated nearly 22.0 percentage points relative to the U.S. dollar from January 1999 through December 2000, then increased by nearly 13.0 percentage points through June 2002 (figure V-1).

Figure V-1
Exchange rates: Indices of the nominal and real values of the Hungarian forint relative to the U.S. dollar, by quarters, January 1999-June 2002



Source: International Monetary Fund, *International Financial Statistics*, July 2002.

Real values for the Portuguese escudo cannot be calculated due to the unavailability of the relevant producer price information. However, nominal trends show that the escudo depreciated just over 21.0 percentage points relative to the U.S. dollar from January 1999 through December 2000 and then fluctuated within a 5.0 percentage point range for the remainder of the period examined (figure V-2).

PRICING PRACTICES

Pricing Methods

Available information reveals that sales of sulfanilic acid in the United States typically involve annual contracts or blanket purchase orders, with price fixed for the duration of the agreement, and quantity occasionally fixed for the duration of the agreement.[6] [7]

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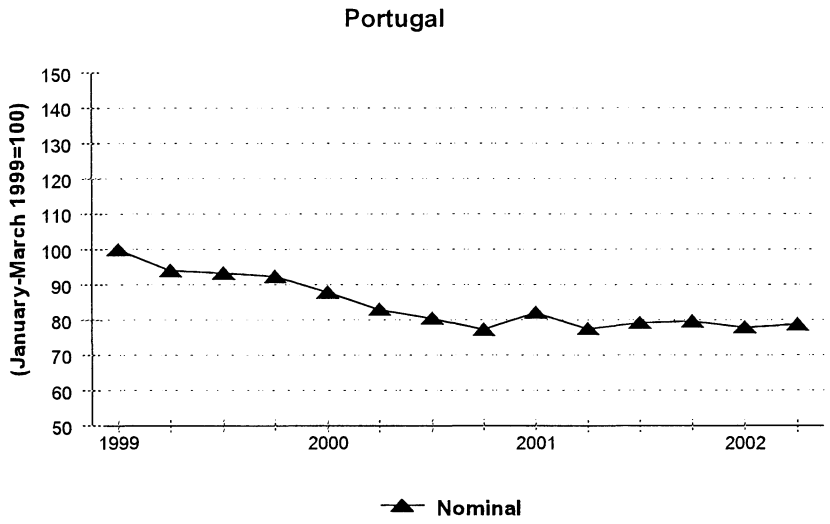
[6] See, e.g., conference transcript, p. 43, and hearing transcript pp. 67-68. Several importers reported contract periods of less than one year. For example, *** reported issuing blanket purchase orders, often on a quarterly basis, and *** reported that contracts/purchase orders typically last six months to one year. *** reported that all sales were on a spot basis.

[7] At the hearing, John Dickson of NFC provided additional information on NFC's experience with contract negotiations. Hearing transcript, pp. 67-71.

Figure V-2
Exchange rates: Index of the nominal values of the Portuguese escudo relative to the U.S. dollar, by quarters, January 1999-June 2002



Source: International Monetary Fund, *International Financial Statistics*, July 2002.

According to NFC, its six primary customers are multinational organizations which manage sulfanilic acid purchases on a global basis. NFC states that the practice of global purchasing creates additional pressure on sulfanilic acid prices that did not exist when purchasing decisions were made in the country where the product was used.[8] While *** reported that each location makes its own decisions regarding purchases of sulfanilic acid, *** and 3V reported that purchases are made on a global basis.[9] [10]

[8] Petitioner postconference brief, p. 16.

[9] While 3V's purchases of sulfanilic acid may be on a global basis, the company does not sole source the product. 3V stated that it prefers to have multiple suppliers of sulfanilic acid. 3V posthearing brief, pp. 21-22. *See also* hearing transcript, pp. 127-128.

[10] 3V argues that NFC's practice of offering lower prices for delivery in Europe as compared to the prices NFC offers to U.S. customers has led to artificially high prices for NFC's sulfanilic acid in the U.S. market, and causes a competitive disadvantage for U.S. producers of optical brighteners as they compete against foreign producers that have lower input costs. Moreover, 3V argues that NFC's dual pricing practices also artificially depress prices in foreign markets, and that the "skewed pricing" in each market makes price data unreliable for determining margins of underselling or establishing whether the subject imports are having any price suppressing or depressing effects in the U.S. market. 3V posthearing brief, pp. 14-17. In contrast, NFC states that the lower prices it charges in Europe are necessary to compete in that market, and that NFC's export prices are actually higher than the prices offered by European, Chinese, or Indian suppliers. Hearing transcript, pp. 45-48.

Sales Terms and Discounts

*** responding sulfanilic acid importers did not report the existence of fixed discount policies. However, NFC reported the existence of volume-based price discounts.[11] *** reported that sulfanilic acid prices are typically quoted on an f.o.b. basis and payment is required within 30 days, while *** reported that purchase prices are generally quoted on a delivered basis with payment due in 30 to 45 days.

PRICE DATA

The Commission requested that NFC, importers, and purchasers provide quarterly data for the total quantity and value of three sulfanilic acid products. Data were requested for the period January 1999 through June 2002. The products for which pricing data were requested are as follows:

Product 1. **– Technical grade sulfanilic acid**

Product 2. **– Refined grade sulfanilic acid**[12]

Product 3. **– Sodium sulfanilate**

NFC, two importers, and five purchasers provided usable pricing data for sales or purchases of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters.[13] Selling price data reported by NFC accounted for *** of the 1999-2001 value of the U.S. producer's commercial shipments of sulfanilic acid. Purchase price data accounted for *** percent of the 2000-01 value of the U.S. producer's commercial shipments of sulfanilic acid, as well as *** percent of the 2000-01 value of imports of sulfanilic acid from Hungary and *** percent of the 2000-01 value of imports of sulfanilic acid from Portugal.

Data on selling prices and quantities of products 1 through 3 sold by NFC are presented in table V-1 and figures V-3 through V-5.[14] Purchase price data for products 1 through 3 are presented in tables V-2 and V-3, as well as figures V-6 through V-8.

Table V-1
Sulfanilic acid: Average f.o.b. selling prices and quantities of U.S.-produced sulfanilic acid, as reported by NFC, by quarters, January 1999-June 2002

* * * * * * *

[11] At the hearing, John Dickson of NFC stated that price reductions for sodium sulfanilate during the fourth quarter of each year of the period examined are due to volume-based discounts. Hearing transcript, p. 71.

[12] NFC produced a somewhat less pure form of refined sulfanilic acid during the period examined called semi-refined which was more cost-efficient to produce and was sold for approximately $0.05 per pound less than regular refined sulfanilic acid. According to NFC, both Clariant and Warner-Jenkinson purchased the product during the period, but ultimately switched to purchasing the regular refined product due to unacceptable results in their production processes. Hearing transcript, pp. 81-85.

[13] The importers *** and *** provided purchase price data, which was combined with purchasers' reported price data to calculate weighted-average purchase prices. As previously discussed in this report, most imported sulfanilic acid is internally consumed.

[14] ***.

Table V-2
Sulfanilic acid: Weighted-average delivered purchase prices and quantities for U.S.-produced products 1 and 3, as reported by purchasers, by quarters, January 2000-June 2002

* * * * * * *

Table V-3
Sulfanilic acid: Weighted-average delivered purchase prices and quantities for product 2, as reported by purchasers, and margins of underselling/(overselling), by quarters, January 2000-June 2002

* * * * * * *

Figure V-3
F.o.b. selling prices for product 1, as reported by NFC, by quarters, January 1999-June 2002

* * * * * * *

Figure V-4
F.o.b. selling prices for product 2, as reported by NFC, by quarters, January 1999-June 2002

* * * * * * *

Figure V-5
F.o.b. selling prices for product 3, as reported by NFC, by quarters, January 1999-June 2002

* * * * * * *

Figure V-6
Weighted-average delivered purchase prices for product 1, as reported by purchasers, by quarters, January 2000-June 2002

* * * * * * *

Figure V-7
Weighted-average delivered purchase prices for product 2, as reported by purchasers, by quarters, January 2000-June 2002

* * * * * * *

Figure V-8
Weighted-average delivered purchase prices for product 3, as reported by purchasers, by quarters, January 2000-June 2002

* * * * * * *

According to NFC, in a market where all sulfanilic acid is fairly traded, the price of technical acid would be approximately 30 percent less than the prices for refined acid and sodium sulfanilate due to lower production costs and impurities that are undesirable for some applications. Further, NFC states that the refined acid and sodium sulfanilate would be priced about the same in a fairly traded market.[15] However, NFC contends that subject imports have caused price irregularities in the U.S. market. For example, in some instances NFC may have sold refined acid at prices lower than what it typically charges for technical acid and/or sodium sulfanilate in order to compete against the prices of the subject imports.[16] [17]

Price comparisons between the U.S. products and subject imports were only available for product 2 - refined grade sulfanilic acid. Thus, only product 2 is discussed next.

As shown in table V-3 and figure V-7, purchase price comparisons for product 2 between the United States and Hungary were possible in four quarters. In three quarters, the Hungarian product was priced above the U.S. product, with margins ranging from *** to *** percent and averaging *** percent. In the other quarter, the Hungarian product was priced below the U.S. product, with a margin of *** percent. Purchase price comparisons for product 2 between the United States and Portugal were possible in five quarters. In all five quarters, the Portuguese product was priced below the U.S. product, with margins ranging from *** to *** percent and averaging *** percent.

LOST SALES AND LOST REVENUES

During these investigations, NFC provided information on 15 allegations of lost sales and two allegations of lost revenues due to imports of sulfanilic acid from Hungary and Portugal.[18] Of the 17 specific lost sales/lost revenue allegations, *** were confirmed by purchasers and *** were denied by purchasers. The reported allegations of lost sales and lost revenues total $*** and involve nearly *** pounds of sulfanilic acid, of which $*** and *** pounds were confirmed by purchasers.[19] The lost sales and lost revenues allegations are reported in tables V-4 and V-5, respectively. Additional information provided by purchasers follows.

Table V-4
Sulfanilic Acid: Lost sales allegations

* * * * * * *

[15] The respondent 3V stated that refined sulfanilic acid and sodium sulfanilate would have similar pricing structures only if the sodium sulfanilate is quoted on a 100 percent acid base. 3V posthearing brief, p. 5.

[16] NFC postconference brief, appendix 1, p. 6.

[17] At the hearing, NFC acknowledged that price comparisons between the imported refined product and the U.S.-produced salt product (based on a contained sulfanilic acid basis) should reflect the price differences between the imported refined product and U.S.-produced refined product if price irregularities did not exist in the U.S. market. Hearing transcript, pp. 37-38.

[18] ***.

[19] As discussed later in this section of the report, NFC contests some purchasers' responses to the lost sales and lost revenue allegations. From NFC's perspective, an additional $*** and *** pounds should also be interpreted as confirmed by purchasers.

Table V-5
Sulfanilic Acid: Lost revenue allegations

*	*	*	*	*	*	*
*	*	*	*	*	*	*[20] [21] [22] [23] [24] [25] [26] [27] [28] [29] [30]

[20] Staff interview with *** of ***, October 22, 2001.

[21] Staff interview with *** of ***, October 22, 2001.

[22] NFC challenged the validity of ***'s response by stating that "***." NFC prehearing brief, p. 8.

[23] During both the preliminary and final phases of these investigations, ***.

[24] Fax response of *** of ***, October 31, 2001.

[25] ***.

[26] Fax response from *** of ***, September 9, 2002.

[27] NFC challenged the validity of ***'s response in the final phase of these investigations by stating that "***." NFC prehearing brief, p. 7. *See also* appendix 4 of NFC's posthearing brief.

[28] ***.

[29] Fax and telephone responses of *** of ***, October 31, 2001, and August 29, 2002. During the preliminary phase of these investigations, ***.

[30] NFC challenged the validity of ***'s response by stating that "***." NFC prehearing brief, p. 8. *See also* appendix 3 of NFC's posthearing brief.

PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCER

BACKGROUND

NFC's sales of sulfanilic acid represent somewhat more than half[1] of its total sales revenue during the period examined, with the percentage of total revenue due to sulfanilic acid sales increasing from *** percent in 1999 to *** percent in 2001.

The three forms of sulfanilic acid produced and sold by NFC (technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate), combined, are reflected in the profit and loss information presented in this section of the report.[2] The relative importance of each type of sulfanilic acid sold by NFC changed somewhat during the period examined. Although its relative importance declined, sodium sulfanilate represented ***. The shares of technical sulfanilic acid and refined sulfanilic acid generally increased and declined, respectively, through 2001. However, data for the first six months of 2002 indicate that refined sulfanilic acid increased its relative significance while the shares of technical sulfanilic acid and sodium sulfanilate declined.[3] [4]

As noted previously, in 1999 NFC began operating a new continuous reactor facility which subsequently replaced its batch ball mill production process. As stated by petitioner, this new facility improved the company's cost structure by improving the quality of technical sulfanilic acid and thus making conversion of technical sulfanilic acid into sodium sulfanilate and refined sulfanilic acid more cost efficient.[5] [6]

NFC's annual financial data were reported on the basis of a calendar year, which is also the period covered by its audited financial statements.

OPERATIONS ON SULFANILIC ACID

Income-and-loss data for NFC's operations on sulfanilic acid are presented in table VI-1. Data on a per-pound basis are shown in table VI-2.[7]

---

[1] Conference transcript, p. 7. In addition to sulfanilic acid, NFC also sells and toll processes pigments and custom chemicals. *Id.* ***.

[2] Separate financial data are presented for technical sulfanilic acid in appendix table C-2, for refined sulfanilic acid in appendix table C-3, and for sodium sulfanilate in appendix table C-4.

[3] For the years 1999 through 2001, the relative share of NFC's technical sulfanilic acid shipments increased, while its relative share of refined sulfanilic acid shipments generally decreased. According to NFC, ***. In interim 2002, the relative importance of these two forms of sulfanilic acid reversed. The *** increase in the volume of refined sulfanilic acid shipments was, according to NFC, ***.

[4] Compare appendix tables C-1 through C-4; *see also* table II-1.

[5] Petition, vol. I, pp. 16-17. ***.

[6] Quimigal argues that NFC is ***. Quimigal posthearing brief, pp. 4-5. NFC states that it made sound investments that resulted in improved efficiency and output, but that an inability to utilize the capacity profitably in 2001 and interim 2002 is the result of price pressure and lost sales for refined sulfanilic acid due to subject imports. Further, NFC states that the volume decline in sales of sodium sulfanilate is not enough to explain NFC's losses in 2001 and interim 2002, but rather the unprofitability of its refined business is to blame. NFC posthearing brief, p. 10.

[7] ***.

Table VI-1
Sulfanilic acid: Results of operations, 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

Table VI-2
Results of sulfanilic acid operations (*per pound*), 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

Sulfanilic acid sales volume and revenue increased in 2000, then declined *** in 2001 and between interim 2001 and interim 2002. While average unit sales value declined from 1999 to 2001, interim data reveal an increase in unit sales value during the first half of 2002 as compared to the first half of 2001.[8]

Despite the decline in average unit sales value, NFC's profitability (gross and operating) increased in 2000 as a result of higher volume, lower average unit cost of goods sold (COGS), and decreased selling, general, and administrative (SG&A) expenses.[9] Lower sales volume and revenue, as well as increased average unit COGS and SG&A expenses, combined to reduce NFC's profitability in both 2001 (compared to 2000) and interim 2002 (compared to interim 2001) and generate a *** operating loss in 2001 and a *** loss in interim 2002.[10] [11] [12] [13]

NFC's estimated cash flows from sulfanilic acid operations increased along with profitability in 2000, then dipped along with operating income in 2001 and interim 2002. The interest expense allocated to sulfanilic acid is relatively *** compared to operating income.[14] As a result, the ratio of times interest earned reflected ***.

---

[8] Due to the variability of NFC's product mix during the period examined, a variance analysis is not presented in this report.

[9] ***.

[10] According to counsel, NFC's refunds from the Byrd Amendment "kept NFC's losses in 2001 from being greater than they were." Hearing transcript, p. 31. *See also* NFC posthearing brief, p. 10.

[11] ***.

[12] ***. Also in interim 2002, NFC downgraded the value of its inventory of semi-refined sulfanilic acid (hearing transcript, p. 84), ***.

[13] The respondent 3V argues that NFC's decision to sell at much lower prices in Europe (as compared to NFC's U.S. prices) is a major cause of NFC's alleged financial decline. 3V posthearing brief, p. 16. According to NFC, its export sales are relatively insignificant in terms of overall profitability because such sales account for less than 10 percent of NFC's total sulfanilic acid sales by value. NFC continues to export sulfanilic acid (primarily the technical grade) at lower prices because there is a marginal benefit to such sales despite the fact that export sales do not cover the full cost of production. Hearing transcript, pp. 53-54.

[14] ***.

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND RESEARCH AND DEVELOPMENT EXPENSES

Data on capital expenditures, research and development (R&D) expenses, and the value of property, plant, and equipment are shown in table VI-3.

Table VI-3
Value of assets, capital expenditures, and R&D expenses related to sulfanilic acid operations, 1999-2001, January-June 2001, and January-June 2002

* * * * * * *

As indicated above, in 1998 NFC acquired the technical sulfanilic acid business of Zeneca Ltd. – a UK firm which produced technical sulfanilic acid in France. In March 1999, NFC began using Zeneca's transplanted continuous reactor production process ***. ***.

The capital expenditures in 1999 and 2000 represented the purchase and installation of the Zeneca equipment and associated improvements. ***.

R&D expenses reportedly represented ***. ***.[15]

CAPITAL AND INVESTMENT

The Commission requested NFC to describe any actual or potential negative effects of subject imports of sulfanilic acid on its growth, investment, ability to raise capital, or development and production efforts. NFC stated that the actual negative effect of subject imports is the ***.[16] Additionally, NFC stated that potential negative effects are ***.

[15] NFC's October 26, 2001, response to request for clarification.

[16] ***.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the nature of the subsidy was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN HUNGARY[1]

Data provided by Nitrokemia, the sole producer/exporter of sulfanilic acid in Hungary, are presented in table VII-1. According to the petition, the history of Nitrokemia's involvement with sulfanilic acid "goes back about 20 years ago when ***.[2] During the past 20 years, Nitrokemia has been the major supplier to ***".[3] According to the petition, the Nitrokemia plant was designed to produce only refined sulfanilic acid for which there is no "significant" home market inasmuch as there are no producers of paper dyes, food colors, and concrete additives in Hungary.[4] [5] In 2001, Nitrokemia's home market shipments amounted to *** percent of its total shipments, with the United States and *** accounting for *** percent and *** percent, respectively.[6]

Table VII-1
Sulfanilic acid: Reported Hungarian production capacity, production, shipments, and inventories, 1999-2001, January-June 2001, January-June 2002, and projected 2002-03

* * * * * * *

THE INDUSTRY IN PORTUGAL[7]

Data provided by Quimigal, the lone producer of sulfanilic acid in Portugal, are presented in table VII-2. Quimigal, which began production in 1999, was formerly a state-owned company that was

[1] Sulfanilic acid from Hungary is not subject to antidumping findings or remedies in any WTO-member countries.

[2] Petition, vol. III, p. 3.

[3] *Id.*

[4] *Id.*, and petition, vol. I, p. 11.

[5] However, at the hearing in these investigations, NFC testified that based on its "understanding of the production processes in Hungary and Portugal, it would not require any significant investment in equipment for these foreign producers to make sodium salt." Testimony of Phillip McCarter, Project Engineer, NFC, hearing transcript, p. 30. In its posthearing submission, NFC provided a copy of a Nitrokemia brochure offering to sell sodium salt. Petitioner posthearing brief, appendix 13.

[6] Nitrokemia questionnaire.

[7] Sulfanilic acid from Portugal is not subject to antidumping findings or remedies in any WTO-member countries.

Table VII-2
Sulfanilic acid:[1] Reported Portugese production capacity, production, shipments, and inventories, 1999-2001, January-June 2001, January-June 2002, and projected 2002-03

* * * * * * *

sold to the De Mello Group in 1997.[8] The De Mello Group is a Portugese conglomerate with holdings in Portugese chemical, banking, insurance, healthcare, and shipping industries.[9] All of Quimigal's production is refined sulfanilic acid and is sold by Twinstar Chemical, Ltd., a chemical trading company located in the United Kingdom.[10] According to the petition, Quimigal's main business is the production of aniline[11] that is sold primarily to Dow Chemical in Portugal for the production of urethane chemicals.[12]

Quimigal contends that any problems NFC may be experiencing are "properly attributable to non-subject imports from China," rather than imports from Portugal.[13] In this regard, Quimigal cites NFC's own testimony stating (concerning the U.S. market):

> ". . . the bottom fell out in 1998 when the Chinese dropped the price by more than 25 percent and then dropped it even further the next year. The Department of Commerce applied large retroactive dumping duties against these imports in '98 and '99, and the Chinese imports since have receded from the market."[14]

Insofar as the issue of threat is concerned, Quimigal has throughout these proceedings argued that its exports to the United States will not threaten the U.S. industry and noted, in particular, the change in the European market resulting from the July 2001 initiation of EC antidumping and subsidy cases and the subsequent decision by the EC, in July 2002, to impose antidumping and countervailing duties on Chinese and Indian imports of sulfanilic acid. As a result of these actions, Quimigal indicates that the Chinese and Indian producers have reduced their presence in the European market, leading Quimigal to ship all of its production to the EU with ***.[15]

THE EC ANTIDUMPING AND COUNTERVAILING DUTY PROCEEDINGS

As noted in Part IV, *U.S. Imports, Apparent U.S. Consumption, and Market Shares*, the aforementioned EC dumping and subsidy proceedings were completed on July 22, 2002. As a result of those proceedings, the EC imposed antidumping duties on imports of sulfanilic acid originating in China and India in the amounts of 21.0 and 18.3 percent, respectively. Additionally, the EC imposed countervailing duties on imports from India in the amount 7.1 percent.[16] In the questionnaires in these final phase investigations, questionnaire recipients were asked to comment regarding the EC proceedings

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[8] Petition, vol. II, p. 3.

[9] *Id.*

[10] *Id.*, pp. 3-4.

[11] Sulfanilic acid is a downstream derivative of aniline.

[12] Petition, vol. II, p. 3. Petitioner states that it was Quimigal's position as an aniline producer that led it to the decision several years ago to also produce sulfanilic acid. *Id.*

[13] Quimigal postconference brief, p. 11. *See also* Quimigal posthearing brief, pp. 2-3.

[14] *Id.*, p. 9.

[15] Quimigal questionnaire. *See also* hearing transcript, pp. 99-101 and Quimigal posthearing brief, pp. 12-14.

[16] *Official Journal of the European Communities*, July 22, 2002.

and what, if any, effect the potential restriction of Chinese and Indian imports in the EC would have on supply and price in the European and U.S. markets. In its response, Nitrokemia commented: ***.[17] In its response, Quimigal stated: ***,[18] ***.[19] ***.[20]

Concerning sales to the U.S. market, representatives from Quimigal testified:

". . . contracts for 2002 are in place and neither we nor Twinstar have any contracts to ship sulfanilic acid to the United States. Moreover, neither Quimigal nor Twinstar intends to enter contracts for the shipment of sulfanilic acid to the United States during 2003. Instead, we are focusing our -- in the new opportunities in Europe that are developing, as the result of Twinstar and Quimigal's close consumer relationships and from the European antidumping and significant measures on sulfanilic acid from China and India."[21] [22]

NFC, the U.S. producer, offered the following comment concerning the EC restrictions:

"According to the EU, in 2001, the Chinese have the single largest market share in Europe of over 28 percent. This is very important business to the Chinese exporters, and they will not simply let the business go . . . The Chinese have simply lowered their CIF prices for sales to Europe; thus, absorbing the 21 percent anti-dumping duty . . .

If the Commission does not vote for final duties in this case, it will take huge pressure off {Nitrokemia and Quimigal} in Europe. Their potential market will expand dramatically, and they will land back in the United States with more force than they ever did before. They will be back in the U.S. market, looking not just to replace our refined sulfanilic acid sales, but our technical and sodium salt sales as well."[23]

With respect to its comments concerning the Chinese lowering their price in Europe to adjust to the antidumping duties and why the new duties will not be as effective as duties in the United States, NFC testified:

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[17] Nitrokemia questionnaire.

[18] ***.

[19] ***.

[20] Quimigal questionnaire.

[21] Testimony of Antunes Paulo, Commercial Manager, Quimigal, hearing transcript, pp. 99-100.

[22] As a further point with respect to its ability to go beyond the European market, Quimigal noted:

"In the European investigation . . . the demand for pure sulfanilic acid in the European Union was roughly 7,000 tons per year. This is more than the current capacity of Quimigal, Nitrokemia, or -- European Union producer Sorochemie. Sorochemie's maximum capacity is roughly 600 tons per year. Nitrokemia has never produced more than 1,500 tons per year. Quimigal has yet to achieve its theoretical capacity of 3,500 metric tons per year. Quimigal is . . . already having trouble meeting . . . the European Union demand for its product . . ."

Id., p. 100.

[23] Testimony of John Dickson, NFC, hearing transcript, pp. 26-27.

"Twenty percent is not large enough to keep the Chinese out of the European market. My own experience of that was true because if we roll the clock all the way back to 1992, the margin {in the United States} for all others was 85 percent, the same as it is today because it's the same order, but the margin for Sinochem Hebei who are the only respondents, is 19.04 percent, and what I said in my testimony is they absorbed the 19.04. Not only did they absorb it, but then they ended up cutting the delivery duty paid price even lower than it was before. So my thought is, my thought, my actual knowledge based upon customer contact and feedback in Europe, they're doing exactly the same thing today and just out of coincidence or not coincidence or whatever, the same respondent, Sinochem Hebei in Europe, they were the only Chinese respondent. They have, they and everybody else in China have a 21 percent duty and it's not large enough. It's not large enough to take away the injury. The EU has already said that in their report, and it's not large enough to make them abandon their 28 percent share of market."[24]

Insofar as possible "duty absorption" leading to a return to the U.S. market by subject imports, NFC, in its posthearing submission, commented:

"Mr. Paulo {of Quimigal} did admit at the hearing what Mr. Dickson {of NFC} already had contended, namely that the Chinese are absorbing the duty. Mr. Paulo said Quimigal would fight this duty absorption administratively.[25] Launching that fight, proving the case and getting effective relief will take considerable time. Meanwhile, without the discipline of the orders, Nitrokemia and Quimigal will return to the U.S. market desperate to lock in sales for the remainder of 2002 and into 2003 and beyond. NFC's customers have not entered into these contracts yet, and resist price increases, as they wait to see how the Commission votes."[26]

For its part, Quimigal offered the following concerning possible "duty absorption" by the Chinese producers:

"The notion advanced by NFC that Chinese suppliers will simply absorb the duties and frustrate the EU dumping order has no basis. To the extent that strategy was used in the United States, it failed. Should such absorption occur in the EU, then the European Commission will impose additional duties to provide the protection intended by the dumping order. With respect to Indian suppliers, Quimigal agreed to a price level which is consistent with Quimigal's plans to market primarily in Europe."[27]

U.S. INVENTORIES OF PRODUCT FROM HUNGARY AND PORTUGAL

Inasmuch as sulfanilic acid is either purchased directly by end users or shipped directly to them, none of the importer/purchasers responding to the Commission's questionnaire reported inventories of sulfanilic acid from Hungary or Portugal.

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[24] *Id.*, hearing transcript, p. 64.

[25] Testimony of Antunes Paulo, Commercial Manager, Quimigal, hearing transcript, pp. 138-139.

[26] Petitioner posthearing brief, pp. 11-12.

[27] Quimigal posthearing brief, p. 14.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–426 and 731–TA–984–985 (Final)]

Sulfanilic Acid From Hungary and Portugal

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–426 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–984–985 (Final) under section 735(b) of the Act (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 subsidized imports from Hungary of sulfanilic acid and less-than-fair-value imports from Hungary and Portugal of sulfanilic acid, provided for in subheadings 2921.42.22 and 2921.42.90 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, 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: May 6, 2002.

FOR FURTHER INFORMATION CONTACT: Gail Burns (202–205–2501), Office of Investigations, U.S. International Trade

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as "all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid."

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. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Hungary of sulfanilic acid, and that such products from Hungary and Portugal 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 investigations were requested in a petition filed on September 28, 2001, by Nation Ford Chemical Co., Fort Mill, SC.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. 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 the final phase of these investigations will be placed in the nonpublic record on July 10, 2002, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 24, 2002, 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 July 17, 2002. 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 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 July 19, 2002, 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 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is July 17, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 31, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 31, 2002. On August 14, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 16, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. In addition, parties may submit comments on Commerce's final determination with respect to sulfanilic acid from Portugal no later than three working days after Commerce's notice of final determination is published in the **Federal Register**. 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. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's 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 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: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: May 16, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12704 Filed 5–20–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–426 and 731–TA–984–985 (Final)]

Sulfanilic Acid From Hungary and Portugal

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: May 30, 2002.

FOR FURTHER INFORMATION CONTACT: Gail Burns (202–205–2501), 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. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION: Effective on May 6, 2002, the Commission established a schedule for the conduct of the final phase of the subject investigations (**Federal Register** 67 FR 35832, May 21, 2002). The applicable statute directs that the Commission make its final injury determination within 45 days after the final determination by the U.S. Department of Commerce, which is September 18, 2002 (**Federal Register** 67 FR 36151, May 23, 2002). The Commission, therefore, is revising its schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 17, 2002; the prehearing conference, if needed, will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 20, 2002; the prehearing staff report will be placed in the nonpublic record on September 11, 2002; the deadline for filing prehearing briefs is September 18, 2002; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 24, 2002; the deadline for filing posthearing briefs is October 1, 2002; the Commission will make its final release of information on October 15, 2002; and final party comments are due on October 17, 2002.

For further information concerning these investigations see the Commission's notice cited above and 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).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: June 3, 2002

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–14329 Filed 6–5–01; 8:45 am]

BILLING CODE 7020–02–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–806]

Notice of Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Portugal

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

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: The Department of Commerce is conducting an antidumping duty investigation of sulfanilic acid from Portugal. We determine that sulfanilic acid from Portugal is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended. On May 6, 2002, the Department of Commerce published its preliminary determination of sales at less than fair value of sulfanilic acid from Portugal. Based on the results of verification and our analysis of the comments received, we have made changes in the margin calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled "Continuation of Suspension of Liquidation."

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: S. Anthony Grasso and Andrew Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3853, (202) 482–1276, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the

regulations as codified at 19 CFR Part 351 (April 2001).

Petitioner

The petitioner in this investigation is Nation Ford Chemical Company.

Case History

Since the publication of the preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Sulfanilic Acid From Portugal*, 67 FR 30362 (May 6, 2002) ("*Preliminary Determination*")), the following events have occurred:

On July 22 through July 31, 2002, we conducted a verification of the questionnaire responses submitted by Quimigal - Quimical de Portugal, S.A. ("Quimigal" or "the respondent"). We issued the verification report on August 13, 2002.

The petitioner and respondent filed case and rebuttal briefs, respectively, on August 21, 2002 and August 27, 2002. A public hearing was not held because none was requested within a timely manner.

Scope of Investigation

Imports 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.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and 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, currently classifiable under the subheading 2921.42.22 of the *Harmonized Tariff Schedule* ("HTS"), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also currently classifiable under 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), currently classifiable under the HTS subheading 2921.42.90, is a powder, granular, or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

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

Period of Investigation

The period of investigation ("POI") for this investigation is July 1, 2000, through June 30, 2001.

Fair Value Comparisons

To determine whether sales of sulfanilic acid from Portugal to the United States were made at less than fair value, we compared the export price ("EP") to the normal value ("NV"). Our calculations followed the methodologies described in the *Preliminary Determination*, except as noted below and in Quimigal's calculation memorandum, which is on file in the Import Administration's Central Records Unit ("CRU") Room B–099 of the main Department building. *See* Memorandum from team to the file, "*Final Determination Calculation Memorandum for Quimigal - Quimica de Portugal, S.A.*" ("*Calculation Memorandum*"), dated September 18, 2002.

Date of Sale

At the *Preliminary Determination*, we used Quimigal's invoice date as the date of sale. Based on our review of Quimigal's submissions to the Department and the information examined at verification, we used for this final determination Quimigal's contractual agreements as the date of sale in making our final determination. For more discussion about this decision, *see* the Memorandum from Richard Moreland to Faryar Shirzad: "Issues and Decision Memorandum for the Antidumping Duty Investigation of Sulfanilic Acid from Portugal; Final Determination," dated September 19, 2002, ("*Decision Memorandum*") at Comment 1.

Export Price

We calculated EP in accordance with section 772(a) of the Act. We calculated EP based on the same methodologies described in the *Preliminary Determination*, with the following exceptions. We have made changes to EP for certain clerical errors noted at verification. *See* Memorandum from Case Analysts to File: "Verification of the Questionnaire Responses of Quimigal-Quimica de Portugal, S.A." ("Verification Report"). Additionally, we made adjustments to EP for the few instances where U.S. sales were invoiced in a currency other than Portuguese Escudos. For a detailed description of all U.S. sales changes made to Quimigal's margin calculations for the final determination, *see Calculation Memorandum*.

As noted above, we have determined that the sales contract date, rather than the invoice date used in the *Preliminary Determination*, is the appropriate date of sale for U.S sales. Accordingly, we have excluded from our calculation of EP those reported sales with a date of sale prior to the POI. We have added to our calculation of EP certain sales with date of sale during the POI that were not shipped by Quimigal until after the POI. For a detailed description of all U.S. sales changes made to Quimigal's margin calculations for the final determination, *see Calculation Memorandum*.

Normal Value

We used the same methodology as that described in the Preliminary Determination to determine the cost of production ("COP"), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

a. *Comparison Market Sales*

Because we have determined that the sales contract date is the appropriate date of sale, we have excluded from our calculation of NV those reported sales with a date of sale prior to the POI. Additionally, we have made changes to the third-country sales database in accordance with certain clerical errors noted at verification.

b. *Cost of Production Analysis*

We continued to use the reported COP amounts as adjusted by the Department in the *Preliminary Determination* to compute a weighted-average COP during the POI, except in the following instances in which the costs were not appropriately quantified or valued. Specifically, we adjusted Quimigal's reported fixed overhead and reported general and administrative ("G&A") expenses based on findings made during verification. For further information about these adjustments, see the Decision Memorandum at Comments 2 and 4, respectively, and the Calculation Memorandum.

c. *Calculation of Normal Value Based on Constructed Value*

We calculated constructed value ("CV") in accordance with section 773(a)(4) of the Act. We calculated CV based on the same methodologies described in the *Preliminary*

Determination, with the following exceptions. Specifically, we recalculated Quimigal's short-term interest rate and subsequently the credit expense ratio. Also, we recalculated the CV profit in accordance with section 773(e)(2)(B) of the Act. For more discussion about this revision, see the Decision Memorandum at Comment 5. For a detailed description of all recalculations made to Quimigal's margin calculations for the final determination, *see Calculation Memorandum.*

Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the *Preliminary Determination.*

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by Quimigal for our final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the September 18, 2002, *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all imports of sulfanilic acid from Portugal that are entered, or withdrawn from warehouse, for consumption on or after May 6, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Quimigal - Quimica de Portugal S.A.	74.14
All Others	74.14

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 18, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX I

List of Comments in the Issues and Decision Memorandum

Comment 1: Date of Sale: Contract Date versus Invoice Date
Comment 2: Overhead: Straight Line Depreciation versus Accelerated Depreciation
Comment 3: Net Interest Expense Ratio
Comment 4: Selling, General, and Administrative Expense Ratio
Comment 5: Constructed Value Profit Ratio
Comment 6: Corrections and Clarifications to the Verification Report

[FR Doc. 02-24356 Filed 9-24-02; 8:45 am]
BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-437-804]

Notice of Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Hungary

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

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: The Department of Commerce is conducting an antidumping duty investigation on sulfanilic acid from Hungary. We determine that sulfanilic acid from Hungary is being, or is likely to be, sold in the United States at less than fair value, as provided in section 731 of the Tariff Act of 1930, as amended. On May 6, 2002, the Department of Commerce published its preliminary determination of sales at less than fair value of sulfanilic acid from Hungary. Based on the results of verification and our analysis of the comments received, we have made changes in the margin calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled "Continuation of Suspension of Liquidation."

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Audrey Twyman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4126 or (202) 482-3534, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to the regulations as codified at 19 CFR Part 351 (April 2001).

Petitioner

The petitioner in this investigation is Nation Ford Chemical Company.

Case History

Since the publication of the preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Hungary*, 67 FR 30358 (May 6, 2002) ("*Preliminary Determination*")), the following events have occurred:

Nitrokemia 2000 (the "respondent") requested a postponement of the final determination on May 13, 2002. *See Sulfanilic Acid from Hungary: Postponement of Final Determination and Extension of Provisional Measures of Antidumping Duty Investigation*, 67 FR 36151 (May 23, 2002).

We verified the questionnaire responses submitted by Nitrokemia 2000 between June 3 and 11, 2002. We issued the verification report on July 1, 2002.

The petitioner and the respondent submitted case briefs on July 31, 2002, and August 1, 2002, respectively. Neither party submitted rebuttal briefs. No public hearing was held because none was requested.

Scope of Investigation

Imports 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.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and 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, currently classifiable under the subheading 2921.42.22 of the *Harmonized Tariff Schedule* ("HTS"), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also currently classifiable under 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), currently classifiable under the HTS subheading 2921.42.90, is a powder, granular, or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

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

Period of Investigation

The period of investigation ("POI") for this investigation is July 1, 2000, through June 30, 2001.

Fair Value Comparisons

To determine whether sales of sulfanilic acid from Hungary to the United States were made at less than fair value, we compared the export price ("EP") to the normal value ("NV"). Our calculations followed the methodologies described in the *Preliminary Determination*, except as noted below and in Nitrokemia 2000's September 11, 2002, calculation memorandum which is on file in the Import Administration's Central Records Unit ("CRU"), Room B–099 of the main Department of Commerce building. See Memorandum from Team to the file "Final Determination Calculation Memorandum for Nitrokemia 2000" ("*Calculation Memorandum*") dated September 18, 2002.

Export Price

We calculated EP in accordance with section 772(a) of the Act. We calculated EP based on the same methodologies described in the *Preliminary Determination*, with the following exceptions. We have made changes to EP based on our findings at verification. We did not deduct certain expenses reported by Nitrokemia 2000 as "direct expenses" as we determined that these expenses had been separately reported by Nitrokemia 2000 and already had been deducted from EP. We revised credit to reflect the verified short-term interest rate. We have also determined that the contract date is the appropriate date of sale for U.S. sales. Accordingly, we have excluded from our calculation of EP, those reported sales with a contract date prior to the POI. We have added to our calculation of EP, certain sales with contract dates during the POI that were not shipped by Nitrokemia 2000 until after the POI. For a detailed description of all U.S. sales changes made to Nitrokemia 2000's margin calculations for the final determination, *see Calculation Memorandum.*

Normal Value

We used the same methodology as that described in the *Preliminary Determination* to determine the cost of production ("COP"), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

1. Cost of Production Analysis

We based fixed and variable overhead, and general and administrative expenses, on Nitrokemia 2000's costs obtained during verification for 2001. We based interest expense on information obtained from Nitrokemia 2000's financial statement for 2001. For a detailed description of changes made to Nitrokemia 2000's cost of production calculation, *see Calculation Memorandum.*

2. Calculation of NV

We have made changes to NV based on our findings at verification. We did not deduct certain expenses reported by Nitrokemia 2000 as "direct expenses" as we determined that these expenses had been separately reported by Nitrokemia 2000 and already deducted from NV. We revised credit and inventory expenses to reflect the verified short-term interest rate.

Verification

As provided in section 782(i)(1) of the Act, we verified all information relied upon in making our final determination.

Analysis of Comments Received

All issues raised in the case briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum for the Antidumping Duty Investigation of Sulfanilic Acid from Hungary: Final Determination" from Richard W. Moreland, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated September 18, 2002 ("*Decision Memorandum*"), which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the Decision *Memorandum.* Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing

the U.S. Customs Service to continue to suspend liquidation of all imports of sulfanilic acid from Hungary that are entered, or withdrawn from warehouse, for consumption on or after May 6, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Nitrokemia 2000	20.98 percent
All Others	20.98 percent

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 18, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments in the Issues and Decision Memorandum

Comment 1: Use of adverse facts available for the entire response
Comment 2: Use of the verified cost of manufacture for the cost test
Comment 3: Use of adverse facts available for G&A and interest expenses
Comment 4: Use of adverse facts available in the COP analysis for the unreported adjustments to comparison market sales
Comment 5: Calculation of NV based on comparison market sales after disregarding sales below COP
Comment 6: Inclusion in the dumping margin calculation of certain sales to the United States

[FR Doc. 02–24357 Filed 9–24–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–437–805]

Final Affirmative Countervailing Duty Determination: Sulfanilic Acid from Hungary

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

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: The Department of Commerce has made a final determination that countervailable subsidies are being provided to certain producers or exporters of sulfanilic acid from Hungary. For information on the estimated countervailing duty rates, see infra section on "Suspension of Liquidation."

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Melani Miller or Daniel J. Alexy, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0116 and (202) 482–1540, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 ("the Act"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department") regulations are to the regulations as codified at 19 CFR Part 351 (April 2002).

Petitioner

The petitioner in this investigation is Nation Ford Chemical Company ("the petitioner").

Case History

The following events have occurred since the publication of the preliminary determination in the **Federal Register**. *See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Sulfanilic Acid from Hungary*, 67 FR 9696 (March 4, 2002) ("*Preliminary Determination*").

On March 5, 2002, we issued supplemental questionnaires to Nitrokemia 2000 Rt. ("Nitrokemia 2000") and the Government of Hungary ("GOH"). We received responses to these supplemental questionnaires on March 18 and 19, 2002.

On March 27, 2002, Nitrokemia 2000 submitted comments on the *Preliminary Determination*. On May 13, 2002, the petitioner also submitted comments on the *Preliminary Determination*, as well as on the upcoming verifications.

From May 30 to June 4, 2002, we conducted a verification of the questionnaire responses submitted by the GOH and Nitrokemia 2000.

On August 15 and 16, 2002, we received case briefs from Nitrokemia 2000 and the petitioner.

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation, is calendar year 2000.

Scope of Investigation

Imports 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.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and 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, currently classifiable under the subheading 2921.42.22 of the *Harmonized Tariff Schedule* ("HTS"), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also currently classifiable under 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), currently classifiable under the HTS subheading 2921.42.90, is a powder, granular, or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

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

Injury Test

Because Hungary is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission ("ITC") is required to determine whether imports of the subject merchandise from Hungary materially injure, or threaten material injury to, a U.S. industry. On November 13, 2001, the ITC made its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Hungary of the subject merchandise. *See Sulfanilic Acid from Hungary and Portugal*, 66 FR 57988 (November 19, 2001).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" from Richard W. Moreland, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated September 18, 2002 ("*Decision Memorandum*"), which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at http://ia.ita.doc.gov/frn/ under the heading "Hungary." The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

As a result of our *Preliminary Determination*, we instructed the Customs Service ("Customs") to suspend liquidation of all entries of sulfanilic acid from Hungary, which were entered or withdrawn from warehouse, for consumption on or after March 4, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed Customs to discontinue the suspension of liquidation for countervailing duty purposes for merchandise entered on or after July 2, 2002, but to continue the suspension of liquidation of entries made between March 4, 2002 and July 1, 2002.

We have calculated an individual net subsidy rate for Nitrokemia 2000, the only investigated manufacturer of the subject merchandise, pursuant to section 705(c)(1)(B)(i) of the Act. Because Nitrokemia 2000 is the only respondent in this case, its rate serves as the "All Others" rate. We determine that the total estimated net subsidy rates for Nitrokemia 2000 and for all other producers and exporters of the subject merchandise are as follows:

Producer/Exporter	Ad Valorem Subsidy Rate
Nitrokemia 2000 Rt.	2.87 percent
All Others	2.87 percent

We will issue a countervailing duty order and instruct Customs to suspend liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective Order ("APO"), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 18, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24358 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DS–S?≤

APPENDIX B

CALENDER OF PUBLIC HEARING

CALENDAR OF THE PUBLIC HEARING

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

Subject:	Sulfanilic acid from Hungary and Portugal
Invs. Nos.:	701-TA-426 and 731-TA-984 and 985 (Final)
Date and Time:	September 24, 2002 - 9:30 a.m.

The hearing in connection with these investigations was held in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Countervailing and Antidumping Duties:

Pepper Hamilton LLP
Washington, DC
on behalf of

Nation Ford Chemical Company

John A. Dickson, Chief Executive Officer, Nation Ford Chemical Company
Phillip Wesley McCarter, Project Engineer, Nation Ford Chemical Company

Gregory C. Dorris) – OF COUNSEL

In Opposition to the Imposition of Countervailing and Antidumping Duties:

Baker & McKenzie
Washington, DC
on behalf of

Quimigal - Quimica de Portugal, S.A.

Antunes Paulo, Commercial Manager, Quimigal - Quimica de Portugal, S.A.
Renato Bittencourt, Translator for Mr. Paulo
Philip Denley, Director, Twinstar Chemicals Limited

Kevin M. O'Brien)
Lisa A. Murray) – OF COUNSEL

In Opposition to the Imposition of Countervailing and Antidumping Duties:–*Continued*

Arent Fox Kintner Plotkin & Kahn, PLLC
Washington, DC
on behalf of

3V Incorporated

John Centioni, Executive Vice President, Technical Affairs, 3V Incorporated

Christina C. Benson) – OF COUNSEL

APPENDIX C

SUMMARY DATA

Table C-1
Sulfanilic acid: Summary data concerning the U.S. market, 1999-2001, January-June 2001, and January-June 2002

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Table C-2
Technical sulfanilic acid: Summary U.S. producer trade and financial data, 1999-2001, January-June 2001, and January-June 2002

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Table C-3
Refined sulfanilic acid: Summary U.S. producer trade and financial data, 1999-2001, January-June 2001, and January-June 2002

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Table C-4
Sodium sulfanilate: Summary U.S. producer trade and financial data, 1999-2001, January-June 2001, and January-June 2002

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APPENDIX D

U.S. PRODUCER, IMPORTER, PURCHASER, AND FOREIGN PRODUCER COMMENTS CONCERNING COMPARABILITY OF TECHNICAL SULFANILIC ACID, REFINED SULFANILIC ACID, AND SODIUM SULFANILATE

1. Please describe any similarities and/or differences in the physical characteristics of (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate.

* * * * * * *

2. Please describe any similarities and/or differences in the uses for (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate.

* * * * * * *

3. Please describe the degree of interchangeability, if any, between (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate.

* * * * * * *

4. Please describe any similarities and/or differences in the channels of distribution for (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate.

* * * * * * *

5. Please describe to the best of your knowledge, any similarities and/or differences in customer and producers perceptions of (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate.

* * * * * * *

6. Please explain whether (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate are made in common (i.e., the same or shared) manufacturing facilities, using common production processes, and production employees.

* * * * * * *

7. Please describe any similarities and/or differences in the prices of (1) technical sulfanilic acid, (2) refined sulfanilic acid, and (3) sodium sulfanilate.

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