

ALUMINUM SULFATE FROM VENEZUELA

Determination of the Commission in
Investigation No. 701-TA-299
(Preliminary) Under the Tariff Act
of 1930, Together With the
Information Obtained in the
Investigation

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Determination of the Commission in
Investigation No. 731-TA-431
(Preliminary) Under the Tariff Act
of 1930, Together With the
Information Obtained in the
Investigation

UNITED STATES INTERNATIONAL TRADE COMMISSION

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C O N T E N T S

	<u>Page</u>
Determinations-----	1
Views of the Commission-----	3
Additional views of Vice-Chairman Ronald A. Cass-----	15
Dissenting views of Chairman Anne E. Brunsdale-----	25
Information obtained in the investigations:	
Introduction-----	A-1
Nature and extent of alleged subsidies and sales at LTFV-----	A-1
The product:	
Description and uses-----	A-2
U.S. tariff treatment-----	A-4
U.S. market and channels of distribution-----	A-4
U.S. producers-----	A-5
U.S. importers-----	A-6
Consideration of the alleged material injury-----	A-6
U.S. production, capacity, and capacity utilization-----	A-7
U.S. producers' shipments and inventories-----	A-7
Employment-----	A-9
Financial experience of General Chemical de Puerto Rico:	
Aluminum sulfate operations-----	A-9
Capital expenditures-----	A-11
Value of plant, property, and equipment-----	A-11
Impact of imports on capital and investment-----	A-11
Consideration of the alleged threat of material injury-----	A-11
Consideration of the causal relationship between the alleged subsidized and LTFV imports and the alleged material injury:	
Imports-----	A-14
U.S. consumption and market penetration-----	A-14
Prices-----	A-16
Lost sales and lost revenues-----	A-19
Exchange rates-----	A-19
Appendix A. Commerce's and Commission's <u>Federal Register</u> notices-----	A-21
Appendix B. List of witnesses at the Commission's conference-----	A-27
Appendix C. Comments received from General Chemical de Puerto Rico on the effects of imports from Venezuela on its growth, development and production efforts, investment, and ability to raise capital-----	A-29

Tables

1. Aluminum sulfate: General Chemical de Puerto Rico's production, average practical capacity, capacity utilization, domestic shipments, end-of-period inventories, average number of production and related workers, and hours worked by and total compensation paid to such workers, 1986-88-----	A-8
2. Income-and-loss experience of General Chemical de Puerto Rico on its operations producing aluminum sulfate, accounting years 1986-88-----	A-10
3. Income-and-loss experience (on an average per-ton basis) of General Chemical de Puerto Rico on its operations producing aluminum sulfate, accounting years 1986-88-----	A-10

CONTENTS

Tables--Continued

	<u>Page</u>
4. Aluminum sulfate: U.S. imports, by principal sources, 1986-88-----	A-14
5. Aluminum sulfate: U.S. imports into Puerto Rico, by sources, 1986-88-	A-15
6. Aluminum sulfate: Apparent U.S. consumption and ratio of imports to consumption, 1986-88-----	A-15
7. Aluminum sulfate: Apparent consumption in Puerto Rico (P.R.) and ratio of imports to consumption, 1986-88-----	A-16
8. U.S.-Venezuelan exchange rates: Nominal exchange rates of the Venezuelan Bolivar in U.S. dollars, real-exchange-rate equivalents, and producer price indexes in the United States and Venezuela, indexed by quarters, January 1986-December 1988-----	A-20

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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigations Nos. 701-TA-299 and 731-TA-431 (Preliminary)

ALUMINUM SULFATE FROM VENEZUELA

Determinations

On the basis of the record 1/ developed in the subject investigations, the Commission determines, 2/ pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate, provided for in subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (formerly provided for in item 417.16 of the Tariff Schedules of the United States), that are alleged to be subsidized by the Government of Venezuela. The Commission also determines, 2/ pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 29, 1989, petitions were filed with the Commission and the Department of Commerce by General Chemical de Puerto Rico, Dorado, Puerto Rico, alleging that a regional industry in the United States is materially injured by reason of subsidized and LTFV imports of aluminum sulfate from Venezuela. Accordingly, effective March 29, 1989, the Commission instituted preliminary countervailing duty investigation No. 701-TA-299 (Preliminary) and antidumping investigation No. 731-TA-431 (Preliminary).

1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

2/ Chairman Brunsdale dissenting.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of April 5, 1989 (54 F.R. 13750). The conference was held in Washington, DC, on April 19, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION 1/

Based on the information obtained in these preliminary investigations, we determine that there is a reasonable indication that a regional industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate which are alleged to be both subsidized and sold at less than fair value (LTFV). 2/ 3/ 4/

1/ Chairman Brunsdale dissenting, see her Separate Views.

2/ Vice Chairman Cass joins the majority opinion with respect to like product and addresses several concerns in his Additional Views.

3/ The legal standard in preliminary antidumping and countervailing duty investigations is set forth in sections 703(a) and 733(a) of the Tariff Act of 1930, 19 U.S.C. §§ 1671b(a) and 1673b(a), which require the Commission to determine whether, based on the best information available at the time of the preliminary determination, there is a reasonable indication of material injury to a domestic industry, or threat thereof, or material retardation of establishment of such an industry, by reason of imports of dry aluminum sulfate. Maverick Tube Corp. v. United States, 12 CIT ___, 687 F. Supp. 1569, 1573 (1988). In preliminary investigations, an affirmative determination is based on a "reasonable indication" of material injury, as opposed to the actual finding of material injury or threat required in a final determination. Compare 19 U.S.C. §§ 1671b(a) and 1673b(a) with 19 U.S.C. §§ 1671d(b)(1) and 1673d(b)(1).

In American Lamb v. United States, 785 F.2d 994 (Fed. Cir. 1986), the Federal Circuit stated that (i) the purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations, (ii) the "reasonable indication" standard requires more than a finding that there is a possibility of such injury, and (iii) the Commission may weigh the evidence before it to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation." Id. at 1001-04. See Shock Absorbers and Parts, Components, and Subassemblies Thereof from Brazil, Inv. No. 731-TA-421 (Preliminary), USITC Pub. 2128 (September 1988) (hereinafter Shock Absorbers); New Steel Rails from Canada, Invs. Nos 701-TA-297 and 731-TA-422 (Preliminary), USITC Pub. 2135 (November 1988) (hereinafter New Steel Rails). See also Additional Views of Commissioner Eckes in Shock Absorbers and New Steel Rails for his views on the preliminary standard.

4/ Material retardation of the establishment of an industry is not an issue in these investigations and will not be discussed further.

Domestic Industry.

1. Like product

To determine whether there exists a "reasonable indication of material injury" the Commission must first determine the domestic "like product" corresponding to the imported merchandise under investigation. Like product is defined in section 771(10) of the Tariff Act of 1930 as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation...." 5/

The Commission's decision regarding like product is essentially a factual determination, made on a case-by-case basis. 6/ The Commission usually considers a number of factors when determining what product is "like" the product subject to investigation, including: (1) physical characteristics and uses, (2) interchangeability, (3) channels of distribution, (4) common manufacturing facilities and production employees, (5) customer or producer perceptions, and (6) price. 7/ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a given investigation. The Commission looks for clear

5/ 19 U.S.C. § 1677(10).

6/ *Asociacion Colombiana de Exportadores de Flores v. United States*, 12 CIT ___, 693 F. Supp. 1165, 1169 (1988) (hereinafter "ASOCOLFLORES").

7/ *See, e.g., Certain All-Terrain Vehicles from Japan*, Inv. No. 731-TA-388 (Preliminary), USITC Pub. 2071 (March 1988) at 6; ASOCOLFLORES, 693 F. Supp. at 1170 n.8.

dividing lines between like products 8/ because minor distinctions are an insufficient basis for finding separate like products. 9/

The aluminum sulfate subject to these investigations is produced in Venezuela by Sulfatos del Orinoco, C.A. (SULFORCA). All exports to the United States of Venezuelan aluminum sulfate are shipped in dry form to Puerto Rico where they are liquified before delivery to the single buyer, the Puerto Rican Sewer and Aqueduct Authority (PRASA). 10/ The Commission recently addressed the aluminum sulfate like product issue in Dry Aluminum Sulfate from Sweden, 11/ wherein the Commission found the domestic like product to include both liquid and dry aluminum sulfate. 12/

We have not discovered anything during the course of these investigations which indicates that we should revisit the like product finding in the Swedish case. In fact, the reversion of the dry form imported here to the liquid form required by the buyer provides strong support for our conclusion in the Swedish case that aluminum sulfate should be viewed as "one like product which includes both the liquid and dry forms." 13/ Accordingly, in these investigations we find that the like product includes both dry and liquid aluminum sulfate whether of standard,

8/ See, e.g., Operators for Jalousie and Awning Windows from El Salvador, Invs. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934 (Jan. 1987) at 4, n.4.

9/ ASOCOLFLORES, 693 F. Supp. at 1168-69. S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

10/ See Report at A-5.

11/ Inv. No. 731-TA-430, (Preliminary), USITC Pub. 2174 (March 1989).

12/ Id. at 10.

13/ Id. at 9.

low iron, or iron-free grade. 14/ Further, we define the domestic industry to be U.S. producers of aluminum sulfate. 15/

2. Regional Industry

In these investigations, petitioner proposed that the Commission apply a regional industry analysis to Puerto Rico when assessing the impact of imports of aluminum sulfate from Venezuela on the U.S. industry.

Section 771(4)(C) of the Tariff Act of 1930 16/ establishes three requirements for a regional industry analysis: (1) producers within the region must sell "all or almost all" of their production of the like product

14/ For a more detailed discussion of aluminum sulfate like product issues see id. at 5-10.

15/ The domestic industry is defined in section 771(4)(A) of the Tariff Act of 1930 as:

... the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

19 U.S.C. § 1677(4)(A).

16/ This section states in pertinent part:

(C) **Regional industries.**--In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if --

(i) the producers within such market sell all or almost all of their production of the like product in question in that market, and

(ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

In such appropriate circumstances, material injury, [or] threat of material injury...may be found to exist with respect to an industry even if the domestic industry as a whole...is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury...by reason of the subsidized or dumped imports. 19 U.S.C. § 1677(4)(C).

within that market; (2) demand within the market must not be supplied to any substantial degree by producers located elsewhere in the United States; and (3) there must be a concentration of dumped or subsidized imports into the regional market. Treatment of an industry on a regional basis by the Commission is discretionary as indicated by the language "appropriate circumstances" and "may be treated" found in section 771(4)(C). 17/ However, the Court of International Trade and the Commission have cautioned against "[a]rbitrary or free handed sculpting of regional markets." 18/

The data collected in these investigations show that clearly two of the three statutory criteria necessary to a regional aluminum sulfate industry analysis are present in the region defined as Puerto Rico. First, during the period of investigation, except for one shipment of dry aluminum sulfate, all of Puerto Rican aluminum sulfate demand was supplied by the one domestic producer located in Puerto Rico and by imports of dry aluminum sulfate from Venezuela, Mexico, and Jamaica. 19/ Second, all of the imported Venezuelan aluminum sulfate is shipped to and consumed in Puerto Rico. 20/

17/ See, e.g., Frozen French Fried Potatoes from Canada, Inv. No. 731-TA-93 (Preliminary), USITC Pub. 1259 (June 1982) at 6; Fall Harvested Round White Potatoes from Canada, Inv. No. 731-TA-124 (Final), USITC Pub. 1463 (Dec. 1983) at 7; Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (Jan. 1986) at 5; Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987).

18/ Atlantic Sugar, Ltd. v. United States, 2 CIT ___, 519 F. Supp. 916, 920 (1981); Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108 and 109 (Preliminary), USITC Pub. 1310 at 11 n.30 (1982).

19/ See Report at A-4--A-5.

20/ See id. at A-6.

As to the third criterion, respondent argued that because General Chemical Corporations's national headquarters in New Jersey supervises production activity at General Chemical de Puerto Rico, the real petitioner in interest is not a Puerto Rican company, but rather General Chemical Corporation, a national company. Thus viewed, respondent asserts that General Chemical fails to meet the statutory requirement that "all or almost all" of domestic production be sold in the regional market because only a fraction of its total national production is supplied to the Puerto Rican market. 21/

We do not agree with respondent's assertion. We do not read section 771(4)(C) to require that producers within a region be completely independent of, or unrelated to, producers outside the region. As we have previously stated: "what is important is not the headquarters location of the particular firm but, rather, the location of the production facilities." 22/ Given that large companies with several places of production dominate many areas of U.S. production, it would be unreasonable to require that production within a region must be wholly independent of activities by related companies outside the region.

21/ Respondent's post conference statement at 13.

22/ Offshore Platform Jackets and Piles from the Republic of Korea and Japan, Invs. Nos. 701-TA-248, 731-TA-268 and 259 (Final), USITC Pub. 1848 (May 1989) at 9. See also Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final), USITC Pub. 1047 (March 1980), Staff report at A-17 (Maryland, Delaware and the District of Columbia left out of the investigation because original petition did not allege injury to its operations in this area); Atlantic Sugar, Ltd. v. United States, 744 F.2d 1556, 1559-62 (Fed Cir. 1984) (same case on appeal; "best evidence available" means Commission may consider data from producer within the region containing information on operations outside the region).

Accordingly, we find General Chemical de Puerto Rico to be the producer for purposes of applying section 771(4)(C) of the statute. 23/ General Chemical de Puerto Rico sells all its production of aluminum sulfate in Puerto Rico. Therefore, all three prongs of the regional industry statute are satisfied for the purposes of these investigations.

Having established that the required statutory criteria are met, we must also consider whether appropriate circumstances exist to apply a regional industry analysis in these investigations. Respondent contends that the Puerto Rican aluminum sulfate industry is not isolated from the national industry because: 1) U.S. producers "could" ship aluminum sulfate to Puerto Rico if they wanted to do so, 2) that prior to 1974 Puerto Rican demand for aluminum sulfate was supplied from the mainland, and 3) that the current supply pattern is not indicative of an isolated geographic area because there is essentially only one customer and one contract in Puerto Rico so only one supplier at a time is possible.

The record in these preliminary investigations establishes that distribution of aluminum sulfate in Puerto Rico is geographically isolated from mainland United States. Aluminum sulfate shares the low value-to-weight ratio and fungibility that have characterized other regionally distributed domestic like products. 24/ A low value-to-weight ratio

23/ Commissioners Rohr and Newquist note that General Chemical Corporation and General Chemical de Puerto Rico are sister corporations, wholly owned subsidiaries of Henley Manufacturing Co., Inc. As such, General Chemical de Puerto Rico owns and operates all the equipment necessary to supply its customers in Puerto Rico, maintains its own financial statements, and is subject to taxation in Puerto Rico. See Staff Conference Transcript (Tr.), April 19, 1989, at 23; Petition at 3; Petitioner's post conference statement at 8.

24/ See Report at A-4; Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108 and 109 (Preliminary), USITC Pub. 1310 (1982) at 7-8.

generally results in high transportation costs for large amounts of the material and such is the case with aluminum sulfate. 25/ Shipment of liquid aluminum sulfate from mainland United States to Puerto Rico is not economically feasible. 26/ While mainland domestic producers could ship their dry aluminum sulfate to Puerto Rico, it is evident that they do not choose to do so at the price PRASA is willing to pay because it is not currently economically viable for them to do so. 27/ As a result, demand for aluminum sulfate in Puerto Rico has been supplied by General Chemical de Puerto, and by imports, for the last 15 years. In addition, although there is only one domestic producer in this region, we do not believe that this fact precludes us from using a regional analysis where all the statutory requirements are met. 28/

For these reasons, we find that appropriate circumstances exist in this preliminary determination to analyze the aluminum sulfate industry in these investigations as a regional industry whose boundaries are defined by those of the Commonwealth of Puerto Rico.

25/ See Report at A-4.

26/ See id. at A-4, A-17.

27/ Shipment of dry aluminum sulfate is possible, but expensive. During the 1988 bidding for PRASA's contract, mainland suppliers bid \$ 840 per ton and \$ 461 per ton (dry aluminum sulfate transported to Puerto Rico and then liquified before delivery to PRASA) while General Chemical de Puerto Rico bid \$ 168.40 per ton. SULFORCA's winning bid was \$ 142 per ton. See id. at A-18.

28/ See Offshore Platform Jackets and Piles from the Republic of Korea and Japan, Invs. Nos. 701-TA-248, 731-TA-259 and 260 (Final), USITC Pub. 1848 (May 1986) at 8 (Commission found a region containing one producer acceptable under section 771(4)(C)); see also BMT Commodity Corp. v. United States, 11 CIT ___, 667 F. Supp. 880 (1987) (Commission found the establishment of an industry consisting of one domestic company to have been materially retarded).

Condition of the Domestic Industry

In determining the condition of the domestic industry, the Commission considers, among other factors, the domestic consumption of the product, U.S. production, capacity, and capacity utilization, shipments, inventories, employment, financial performance, and existing development and production efforts within the context of the business cycle and conditions of competition that are distinctive to the domestic industry. 29/ The period of these investigations covers the years 1986 through 1988. 30/

During the period of investigation, apparent consumption of aluminum sulfate in Puerto Rico increased by 20.8 percent. 31/ Although regional capacity and production increased from 1987 to 1988, 32/ capacity utilization fell throughout the period of investigation. 33/ With the loss of the PRASA contract, and the near idling of the regional producer's plant, regional shipments of aluminum sulfate declined dramatically from 1987 to 1988. 34/ The number of production and related workers producing aluminum

29/ 19 U.S.C.A. § 1677(7)(C)(iii) (Supp. IX 1988).

30/ Within the region of Puerto Rico, petitioner is the only domestic producer of aluminum sulfate and respondent is the sole Venezuelan exporter. Therefore, data collected under administrative protective order during these investigations may not be publicly discussed absent a waiver. The Commission has obtained written permission from the petitioner to characterize the trends of the business proprietary information it submitted to the Commission under an administrative protective order. Without such permission, the Commission would not have discussed the information in this manner.

31/ See id. at A-16, Table 7.

32/ See id. at A-7 and A-8, Table 1.

33/ See id. at A-8, Table 1.

34/ See id.

sulfate declined from 1987 to 1988, 35/ as did the hours worked by production and related employees, 36/ and compensation paid to production and related workers. 37/ Operating income of the regional producer of aluminum sulfate decreased dramatically from 1987 to 1988. 38/ Operating income as a percentage of net sales similarly declined during the period of investigation. 39/ Based on the economic and financial condition of the regional producer, we determine that there is a reasonable indication that the regional aluminum sulfate industry in Puerto Rico is suffering material injury.

Reasonable Indication of Material Injury

In making a preliminary determination in an antidumping or countervailing duty investigation, the Commission is to determine whether the reasonable indication of material injury to the domestic industry is "by reason of" the imports under investigation. 40/ Material injury is defined as "harm which is not inconsequential, immaterial, or unimportant." 41/ In assessing the relationship between any material injury to the domestic industry and the imports under investigation, the Commission considers, among other factors, import volume, the effect of imports on domestic prices, and the impact of imports on the U.S. operations of domestic

35/ See id.

36/ See id.

37/ See id.

38/ See id. at A-15, Table 2.

39/ See id. at A-10, Table 2.

40/ 19 U.S.C. § 1673b(a) (1982).

41/ Id. § 1677(7)(A) (1982).

producers. 42/ The Commission may take into account information concerning other causes of harm to the domestic injury, but it is not to weigh causes. 43/ The imports need only be a cause of material injury. 44/

There is essentially one buyer in this regional market, PRASA. During the period of investigation, the contract to supply PRASA with liquid aluminum sulfate accounted for nearly 98 percent of regional sales of aluminum sulfate. In the latest bidding for this contract the regional producer's bid of \$168.40 per ton lost to the Venezuelan bid of \$142.00 per ton. 45/ Since the loss of the contract to SULFORCA, the regional producer has ceased supplying PRASA with aluminum sulfate and its plant is nearly idled. Production has decreased from one batch per day of aluminum sulfate to one batch per month, 46/ and the regional producer has laid off one half

42/ Id. § 1677(7)(B) (1982).

43/ "Current law does not...contemplate that the effects from the subsidized [or LTFV] imports be weighed against the effects associated with other factors (e.g., the volume and prices of nonsubsidized [LTFV] imports, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry) which may be contributing to overall injury to an industry." S. Rep. No. 249, 96th Cong. 1st Sess. 57-58, 74 (1979).

44/ LMI-La Metalli Industriale, S.p.A. v. United States, 13 CIT ___, Slip op. 89-46 (April 11, 1989) at 31; Citrosuco Paulista, S.A. v. United States, 12 CIT ___, 704 F. Supp. 1075 1101 (1988); Hercules, Inc. v. United States, 11 CIT ___, 673 F. Supp. 454, 479 (1987).

45/ See Report at A-18.

46/ Tr. at 11 and 27.

its labor force. 47/ As a result of winning the PRASA contract, Venezuelan import penetration has increased dramatically since August 1988. 48/

In light of the poor condition of the regional industry after the loss of the PRASA contract to SULFORCA, the reliance of the industry on that one large municipal contract, and the resulting rising import volume and market penetration by Venezuelan imports, we find a reasonable indication of material injury to the regional industry by reason of Venezuelan imports of aluminum sulfate, which are alleged to be both subsidized and sold at less than fair value. 49/

Conclusion

For all the reasons set forth above, we determine that there is a reasonable indication that a regional industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate.

47/ See Report at A-9.

48/ See id. at A-14, A-16.

49/ As there is only one producer in this region we have simultaneously satisfied the requirement that there must be a reasonable indication that "producers of all or almost all of the production in that market are materially injured." 19 U.S.C. § 1677(4)(C) (1982).

ADDITIONAL VIEWS OF VICE-CHAIRMAN RONALD A. CASS

Dry Aluminum Sulfate from Venezuela
Invs. Nos. 701-TA-299 and 731-TA-431 (Preliminary)

I join the Commission in determining that there is a reasonable indication that an industry in the United States has been materially injured by reason of unfairly traded imports of aluminum sulfate from Venezuela. I also join their determination as to like product in these investigations. I write separately to explore the appropriate definition of the domestic industry in these preliminary investigations.

It is the Commission's responsibility in these preliminary investigations to determine whether there is a reasonable indication that the domestic industry has suffered material injury by reason of the subject imports. In order to reach such determinations in the past, I have carried out the three-part inquiry suggested by the statute that governs Title VII investigations.^{1/} Under this approach, the possible existence of material injury is analyzed by comparing the conditions experienced by the domestic industry to the conditions that would have existed had there been no unfairly traded imports. Three questions must be examined in order to perform this analysis. First, it is necessary to draw inferences respecting the extent to which prices and sales of the subject imports were affected by the alleged

^{1/} 3.5" Microdisks and Media Therefor from Japan, Inv. No. 731-TA-389 (Preliminary), USITC Pub. 2076 (April 1988) (Additional Views of Commissioner Cass), at 70-74.

unfair trade practices. Second, the effect of these apparent changes in the market for the subject imports on prices and sales of the domestic like product must be assessed. Finally, the impact of these changes in prices and sales of the domestic like product on employment and investment in the domestic industry must be considered. The Commission must evaluate whether these effects are "material" within the meaning of the statute. Furthermore, the recently-enacted Omnibus Trade and Competitiveness Act of 1988 has directed that the Commission explicitly consider and state its conclusions on the factors that form the basis for each of these inquiries.

The evidence of record, noted below in discussing the regional industry issue, fully meets the requisite standard for demonstrating material injury from the imports under investigation to a domestic industry if, but only if, that industry is defined as a regional, not a national, industry. For that reason, I will limit these Views to the two issues that dictate the outcome here: first, definition of the "like product" made by the U.S. industry, and, second, definition of the geographic scope of the industry.

I. Like Product

Under Title VII of the Tariff Act,^{2/} the Commission must assess the effects of LTFV imports on the industry in the United States comprised of "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the

^{2/} Tariff Act of 1930, ch. 497, Title VII, § 735, as added by the Trade Agreements Act of 1979, Pub. L. No. 96-39, Title I, § 101, 93 Stat. 150, 169 (codified as amended at 19 U.S.C. § 1673d(b)).

total domestic production of that product."^{3/} The term "like product," in turn, is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."^{4/}

The definition of the appropriate like product is not a matter of controversy between the parties in these investigations. The Commission addressed in another recent investigation the question of whether dry and liquid aluminum sulfate should be considered a single like product.^{5/} At that time, the Commission concluded, and I concurred, that dry and liquid aluminum sulfate constituted a single like product. I see no reason to change my conclusion at this time. Certainly the parties before us at this time do not ask us, nor do they present reason, to change this conclusion.

As I have argued in the past,^{6/} the factors on which the Commission has traditionally relied^{7/} serve to provide the Commission with information about

^{3/} 19 U.S.C. § 1677(4).

^{4/} 19 U.S.C. § 1677(10).

^{5/} Dry Aluminum Sulfate from Sweden, Inv. No. 731-TA-430 (Preliminary), USITC Pub. 2174 (March 1989).

^{6/} Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), at 64 (March 1989) (Concurring and Dissenting Views of Commissioner Cass).

^{7/} Traditionally, the Commission's general approach to defining the like product has entailed the examination of five factors" (1) product characteristics and uses, (2) interchangeability, (3) channels of distribution, (4) customer or producer perceptions of the relevant articles, and (5) common manufacturing equipment, facilities, and production employees. See, e.g., Fabric and Expanded Neoprene Laminate from Taiwan, USITC Pub 2032, Inv. No 731-TA-371 (Final) at 4 and n. 5 (Nov. 1987). In addition, although the Commission has not always expressly incorporated comparison of prices as one of the factors examined in its like product determinations, it has often considered the similarity (or disparity) of prices for imports and potential like domestic products. See, e.g., *Asociacion Colombiana de Exportadores de Flores v. United States*, 12 Ct. Int'l Trade ___, 693 F. Supp. 1165, 1170, n.

the nature of the markets for closely competing domestic products and the markets for the factors of production of those products. As the Commission explained in the recent Swedish aluminum sulfate case, dry and liquid aluminum sulfate compete reasonably closely both in the product market and in factor markets. I believe it is unnecessary to replicate that explanation at this time. In fact, the record in these investigations shows that the dry form of aluminum sulfate imported from Venezuela is reconverted before sale in the United States to the liquid form because most of the facilities operated by PRASA, the major customer for aluminum sulfate in the Puerto Rican market, require the liquid form of the product. For that reason, the dry aluminum sulfate imported from Venezuela and reconstituted into the liquid form prior to sale to PRASA competes directly with the liquid aluminum sulfate produced by Petitioner's Puerto Rican plant. I believe that, in light of the Commission's traditional criteria, dry and liquid aluminum sulfate are most appropriately considered to be a single like product.

II. Domestic Industry: The Regional Industry Question

The critical issue in these investigations is presented by Petitioner's argument that the Commission should define the relevant domestic industry as only the producers (actually, a single producer) of aluminum sulfate in Puerto Rico, which Petitioner asserts is a regional industry within the meaning of 19 U.S.C. § 1677(4)(C). That section of the governing statute allows the Commission, in "appropriate circumstances," to define a region of

8 (citing comparative pricing data as a suitable factor in analyzing like product issues).

the United States as a separate market if (1) "the producers within such market sell all or almost all of their production of the like product in question in that market," and (2) "the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States."^{8/} The section allows a finding of material injury with respect to that regional industry if "there is a concentration of subsidized or dumped imports into such a isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury."^{9/}

The determination of the existence of material injury in these preliminary investigations depends entirely on the resolution of the regional industry claim; if Petitioner's claim that Puerto Rico should be considered a separate region for our purposes, it appears that material injury can be established, while material injury clearly cannot be shown if Petitioner's claim fails. While it appears to be the case that the necessary minimal statutory criteria arguably are met, it is not at all clear that "appropriate circumstances" to define a regional industry exist under the circumstances presented by the present investigation. The answer to that question depends ultimately on whether the purposes of the "regional industry" section of the statute would be served by applying it in the present investigations.

It is clear that, if the industry is taken only to include the Puerto Rican producers, and if General Chemical de Puerto Rico is regarded as a Puerto Rican producer, then sufficient evidence of material injury to support an affirmative determination in these preliminary investigations plainly

^{8/} 19 U.S.C. § 1677(4)(C)i-ii.

^{9/} Id.

exists. The totality of General Chemical de Puerto Rico's injury claim is that dumped and subsidized imports from Venezuela caused General to lose a single contract with the Puerto Rico Aqueduct and Sewer Authority ("PRASA") which it allegedly otherwise would have been awarded. Petitioner contends that there were no imports of aluminum sulfate from Venezuela until 1988 when Sulforca was awarded the PRASA contract which previously had always been awarded to General^{10/}; that it is itself the only producer of aluminum sulfate in Puerto Rico and therefore that its plant constitutes the entire Puerto Rican aluminum sulfate industry; that other bidders on the PRASA contract were substantially above the price offered by both General and Sulforca and therefore were not competitive in that bidding^{11/}; that the PRASA contract accounted for the overwhelming bulk of aluminum sulfate consumption in Puerto Rico^{12/}; and that as a result of the loss of the PRASA contract, General's Puerto Rico plant has been substantially idled, significant operating losses have been incurred and approximately one half of the plant's employees have been laid off.^{13/} The information available to the Commission at this time offers little to refute these claims. Further, Petitioner contends that if PRASA continues to purchase the Venezuelan aluminum sulfate, General Chemical de Puerto Rico will be forced to shut down its plant entirely. Such allegations are clearly sufficient to provide a reasonable indication of material injury from the subject imports to an aluminum sulfate industry restricted in scope to Puerto Rico.

^{10/} Petition at 25.

^{11/} General Post Conference Br. at 10.

^{12/} Petition at 2, 27-28.

^{13/} Id.

On the other hand, if we do not define Puerto Rico as a regional market it is equally clear that no material injury can exist. In examining the United States aluminum sulfate market in the recent investigation concerning imports of aluminum sulfate from Sweden^{14/}, I observed that the Swedish imports constituted a tiny proportion of the United States market. There was no evidence that these imports were sufficient to affect domestic aluminum sulfate prices by more than a trivial amount. Further, even if it were assumed that Swedish imports had fully displaced domestic production, the share of the domestic market lost by domestic manufacturers was simply too small to cause material injury.^{15/} That observation applies with even more force in the present investigations, if the national market is considered. While the subject imports constituted approximately [**]% of the domestic aluminum sulfate market in the Swedish investigation, by contrast the subject imports in these investigations in 1988 constituted less than half the absolute amount of the Swedish imports, and injury is necessarily proportionately smaller. For that reason, material injury almost surely does not exist in the present investigations if the relevant market is defined to include the entire United States.

Unfortunately, it is by no means clear whether it is appropriate to compare the Venezuelan imports to the national market or simply to the Puerto Rican aluminum sulfate market. The necessary statutory criteria appear to be fulfilled. General Chemical de Puerto Rico's Vega Alta plant, which is the only aluminum sulfate production facility in Puerto Rico, sells all of its production within Puerto Rico. The aluminum sulfate used in Puerto Rico

^{14/} See supra n. 5.

^{15/} See id. at 37-38 (Additional Views of Commissioner Cass).

demand is not supplied to any substantial degree by aluminum sulfate producers located elsewhere in the United States, and Venezuelan aluminum sulfate exports to the United States have not been shipped to any U.S. location other than Puerto Rico.^{16/}

However, as the statute makes clear, those criteria are necessary, but not sufficient, prerequisites for this Commission to define a regional industry. Rather, the statute declares that a regional industry should be defined only in circumstances the Commission regards as "appropriate," even if those criteria are satisfied. Respondent observes that untoward results may flow from allowing a regional industry to be defined under the circumstances of the instant investigation.

One argument for defining a regional industry in the instant investigation is that the producer in Puerto Rico is legally separate from its U.S. sister corporation which produces and sells aluminum sulfate in other U.S. locations, and both are wholly owned subsidiaries of the same parent corporation. This rationale arguably places extraordinary emphasis on the legal structure which the corporation in question has chosen; a separate corporate entity for each plant would seem to result in the definition of regional industries, while a unified corporation with directly controlled plants would not. This would confer significant and economically meaningful legal consequences to Petitioner's corporate structure, although there is no showing that the legal form of this structure in fact has important implications for either the magnitude or the distribution of the subject imports' effects.

^{16/} Petition at 26.

Another basis urged here in favor of finding a regional industry is that Venezuelan aluminum sulfate was landed only in Puerto Rico, while Swedish aluminum sulfate (effects of which were analyzed with respect to the total, national aluminum sulfate industry) was imported into two locations. Resting a regional industry definition on such flimsy grounds would provide future respondents with simple, but nevertheless economically costly, means by which to evade such application of the antidumping laws. Potential respondents could avoid such designation by ensuring sales at more than one regional location, thereby avoiding the statutory definition of regional industry at whatever cost the extraneous sales might impose on them. If anything, it is not the purpose of the antidumping laws to encourage economically indefensible but legally strategic behavior by businesses.

For me, the fact that this is a preliminary investigation is ultimately conclusive. In such investigations, a lower quantum of evidence will suffice to establish the basis for affirmative determinations than would be required in a final investigation.^{17/} That standard is met here. It is not clear whether "appropriate circumstances" exist, and further development of factual information respecting the manner in which the Puerto Rican and national markets for aluminum sulfate operate is necessary to resolution of that issue. Thus, it is appropriate that the Commission allow these investigations to proceed to the Commerce Department to investigate Petitioner's claims of subsidized and less than fair value sales within the United States. Because the longer and more complete investigation normally performed in final investigations should result in more substantial information about the corporate structure of General Chemical, the degree of independence exercised

^{17/} American Lamb v. United States, 785 F.2d 994 (Fed. Cir. 1986).

by its Puerto Rican subsidiary, and the reasons the Venezuelan producer has chosen not to export to other locations in the United States, the Commission should be better able to resolve the regional industry allegation presented to us. In particular, the absence of satisfactory information concerning the national aluminum sulfate market, the relative importance of land and water transportation costs in separating regions and the importance of price competition offered by suppliers in other regions of the U.S., the role of General Chemical in that national market, and the availability of other sources of supply of aluminum sulfate to Puerto Rico make resolution of the regional industry issue particularly problematic at this time.

For that reason, I believe it is appropriate to reach affirmative determinations on Petitioner's claim in these preliminary investigations, and to revisit the question of the appropriate market definition at a later time, armed with the additional information and insight which a more thorough final investigation is likely to yield to us.

DISSENTING VIEWS OF CHAIRMAN ANNE E. BRUNSDALE

Dry Aluminum Sulfate from Venezuela
Inv. Nos. 701-TA-299 and 731-TA-431 (Preliminary)

May 15, 1989

In this somewhat unusual case, I reach a negative determination. This case involves a single contract by a single customer for the purchase of aluminum sulfate. The record is unusually complete, and there is virtually no likelihood that additional information relevant to the Commission's determination will become available in any final investigation.

My determination in this case turns on whether we consider the data on a regional industry or national industry basis. Careful consideration of the statute has led me to the conclusion that the statute does not permit use of regional industry analysis where, as here, the industry presence in the region consists of one manufacturing facility of a much larger firm that possesses other facilities producing the same product. Even if one takes the view that a regional industry analysis is permitted, the statute states that it is to be applied only in "appropriate circumstances". I am convinced that such circumstances do not exist in the present case.

My reasoning on the inapplicability of the "regional industry" approach to the present case is outlined below.^{1/} It is followed

^{1/} My thinking on the like-product question in this case is identical to that outlined in the Commission's recent determination in its investigation of imports of the same product
(continued...)

by an analysis of why, using a national industry analysis, I find no reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly dumped and subsidized imports.^{2/}

The Regional Industry Standard

Petitioner in this case, General Chemical, had a contract to provide aluminum sulfate to local water authorities in Puerto Rico. General Chemical established a facility on the island under the name General Chemical de Puerto Rico to manufacture the product. General Chemical's plant accounted for all of the aluminum sulfate manufactured in Puerto Rico, and all of the aluminum sulfate manufactured there was devoted to the Puerto Rican contracts.

Subsequently, Sulfatos, a Venezuelan firm, won the contract with the Puerto Rican water authority. It began to import into Puerto Rico dry aluminum sulfate. It also established a facility in Puerto Rico to mix the dry product with water to produce the liquid aluminum sulfate called for in the contract.

Petitioner alleges that the Venezuelan Respondent, Sulfatos, is shipping dry aluminum sulfate into Puerto Rico at dumped prices and with the benefit of countervailable subsidies. Petitioner

^{1/}(...continued)

from Sweden. I incorporate that discussion by reference here. See Dry Aluminum Sulfate from Sweden, Inv. No. 731-TA-430 (Preliminary), USITC Pub. No. 2174 at 6-8 (March 1989).

^{2/} I note that, had I used the regional industry approach adopted by my colleagues, I also would have joined in their affirmative preliminary determination.

further contends that, although it has other chemical facilities around the United States -- including aluminum sulfate plants -- that its Puerto Rican operation constitutes a regional industry under the antidumping and countervailing duty laws. It notes that it was the sole producer of aluminum sulfate in Puerto Rico, that all the Venezuelan imports of the like product enter the U.S. in Puerto Rico, and that the Venezuelan imports are all devoted to fulfilling the contract with the Puerto Rican water authorities. Therefore, Petitioner argues, it satisfies the criteria for regional industry treatment set forth in section 771(C)(4) of the Tariff Act, 19 U.S.C. § 1677(4)(C).

Section 771(4)(C) establishes three requirements that must be met prior to adoption of a regional industry analysis:^{3/} (1) producers within the region must sell all or almost all of their

^{3/} Section 771(4)(C) provides, in pertinent part:

In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if --

(i) the producers within such market sell all or almost all of their production of the like product in question in that market, and

(ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

Section 771(4)(C) also requires for regional industry treatment that the dumped or subsidized imports be concentrated in the region and that all, or almost all, of the producers in the region be injured, or threatened with injury, by reason of the imports.

production within the region; (2) demand within the region must not be supplied to any substantial degree by producers located elsewhere within the United States; and (3) there must be a concentration of the subject imports in the region. The statute further specifies that, when all three of these conditions are satisfied, the Commission may adopt a regional industry analysis in appropriate circumstances; however, it is not required to do so.

In this case, evaluation of the statutory requirements hinges on the definition of the term "producer". If "producer" is defined as General Chemical's Puerto Rican plant alone, the prerequisites for regional industry analysis are met. Alternatively, if "producer" is defined more broadly as General Chemical's total aluminum sulfate operations, or some major part thereof, the first two prerequisites are not met.

It is certainly clear that something less than an entire corporation or establishment may be viewed as being a "producer" for purposes of Title VII -- as, for example, when a firm with many facilities devotes only some of them to production of the like product or when it produces many distinct products within the same establishment. However, the statutory treatment of the term "producer" for like-product purposes does not directly address the issue of whether individual plants producing the like product can constitute separate industries. Indeed, to state that proposition comes close to rebutting it.

Petitioner in the present case operates at least 25 aluminum sulfate plants.^{4/} One might argue, as Petitioner does, that each of the small and functionally dependent parts of all the like-product operations of a firm should be defined as separate producers for purposes of regional industry analysis. Another interpretation, adopted by Respondent, is that regional industry analysis can be applied only when the producers in a putative region operate in some independent fashion. Such disputes are best resolved by looking to the controlling statute.

There is no clear suggestion in either the plain language of the statute or the accompanying legislative history that each plant of a multiple plant operation involved in production of the like product should be considered as a separate producer. In fact, the term "producer" is consistently used in the statute in terms of relationships that one single plant of a multiplant operation producing the like product would simply not maintain. For example, the statute defines "related parties" as "producers [who] are related to the exporters or importers."^{5/} The statute makes sense only if the term "producer" refers to a firm and not to a facility.

Petitioner relies on the Commission determination in Offshore Platform Jackets and Piles,^{6/} which stated that "what is important

^{4/} See Staff Report at A-5.

^{5/} 19 U.S.C. § 1677(4)(B). See also, the definitions of "interested party," 19 U.S.C. § 1677(9)(A), and "exporter," 19 U.S.C. § 1677(13)(C).

^{6/} Inv. Nos. 701-TA-248, 731-TA-259-260 (Final), USITC Pub. No. 1848 (May 1986).

is not the headquarters location of the particular firm but, rather, the location of the production facilities".^{7/} In that case, the large size of platform jackets effectively precluded their assembly in remotely located domestic facilities for use on the West Coast. Domestic firms that successfully bid for West Coast business would necessarily undertake West Coast assembly regardless of their headquarters location.

Platform Jackets does not advance Petitioner's case because it answered a different question. The decision established that, when evaluating a regional industry claim, the Commission would focus on production facilities and not office space. It did not purport to answer the next question, which was the nature or concentration of the production facilities necessary to establish a regional industry. I find nothing inconsistent with holding that a concentration of production facilities is necessary to establish a regional industry but that one facility of a larger firm in a multi-firm national industry does not constitute a regional industry.

The present case also differs from Platform Jackets in that, in this case, shipment of the like product from the continental U.S. to Puerto Rican buyers is not precluded. A U.S. supplier that competes with the Petitioner for business at many domestic locations, has recently shipped aluminum sulfate to the Puerto Rican market. Other continental producers have bid on Puerto Rican business with the intent of supplying aluminum sulfate from

^{7/} See Petitioner's post conference statement at 18, citing id.

the mainland.^{8/} Indeed, Puerto Rico's entire aluminum sulfate needs were primarily served by mainland sources prior to the construction of Petitioner's Puerto Rican plant.^{9/}

Another possible precedent for considering this case on a regional industry basis is Sugars and Sirups from Canada.^{10/} That case is distinguished from the present one by several factors. Although the Petitioner in that earlier case did operate plants outside the region, its operations within the region represented a major portion of its overall operations. Moreover, in addition to the Petitioner, seven domestic firms operated exclusively within the regional market defined by the Commission. The regional construction in that case thus clearly avoided the "free hand sculpting of regional markets" of which both the Commission and its reviewing courts must be wary.^{11/}

In this case, U.S. aluminum sulfate production is not concentrated in Puerto Rico. In fact, to find a regional industry here, we would have to ignore greater concentrations of aluminum sulfate production elsewhere in the country. This is the exact opposite of Sugar and Sirups. I therefore conclude that nothing in Commission precedent cited by Petitioner calls for application of the regional industry provisions in this case.

^{8/} See Staff Report at A-6.

^{9/} See Respondents Post-hearing Brief at 15, n.29.

^{10/} See Sugars and Sirups From Canada, 731-TA-3 (Final), USITC Pub. 1047 (March 1980).

^{11/} See Atlantic Sugar, Ltd. vs. United States, 2 CIT ___, 519 F. Supp. 916,920 (1981). See also Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108 and 109 (Preliminary), USITC Pub. No. 1310 at 11 n.30 (1982).

Furthermore, I do not believe that these are the "appropriate circumstances" that Congress had in mind when it crafted the regional industry provision. The record of the present case indicates that General Chemical de Puerto Rico operates under the complete control of its parent corporation. All major financial decisions affecting General Chemical de Puerto Rico are made at corporate headquarters in New Jersey. Moreover, purchases of bauxite, the key raw material used in the manufacture of aluminum sulfate, are also made through headquarters. All profits or losses ultimately accrue to the parent corporation as the sole owner. If we were to treat Puerto Rico as a separate regional industry in these circumstances, then we would also be bound to treat any geographically isolated plant affected by imports from a particular source as a regional industry.

The Petitioner in this case, appearing before the Commission as a Respondent in Dry Aluminum Sulfate from Sweden,^{12/} argued convincingly that the continental U.S. constitutes a single national market for aluminum sulfate, and the Commission unanimously eschewed a regional industry approach in its determination. I do not find a sufficient basis to draw a different conclusion in this case.

^{12/} Inv. No. 731-TA-430 (Preliminary), USITC Pub. No. 2174 (March 1989).

Material Injury to a National Industry

I determine that there is no reasonable indication of material injury or threat thereof to the domestic industry producing aluminum sulfate by reason of the allegedly subsidized and LTFV imports from Venezuela. In the recent investigation of imports of aluminum sulfate from Sweden, the Commission determined there was no reasonable indication of injury or threat of injury to the domestic industry by reason of such imports. The subject imports in that earlier investigation constituted less than [*****] of the domestic market for aluminum sulfate. The quantity of imports in the present investigation is significantly smaller, even when imports which began in 1988 are extrapolated to a full year basis.^{13/} While it is theoretically possible for a small quantity of imports to have a large impact on prices received by domestic producers, Petitioner does not even suggest such an outcome. In fact, Petitioner identifies no impact other than the single lost contract. On this basis, there is no reasonable indication that the subject imports materially injure, or threaten to materially injure, a domestic industry.

^{13/} See Staff Report at A-23.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On March 29, 1989, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce by General Chemical de Puerto Rico, Inc., Dorado, Puerto Rico, alleging that subsidized and less-than-fair-value (LTFV) imports of aluminum sulfate from Venezuela are being sold in the United States and that a regional industry in the United States is materially injured and threatened with material injury by reason of such imports. Accordingly, effective March 29, 1989, the Commission instituted countervailing duty investigation No. 701-TA-299 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and antidumping investigation No. 731-TA-431 (Preliminary) under section 733(a) of the Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register on April 5, 1989 (54 F.R. 13750). 1/ The public conference was held in Washington, DC, on April 19, 1989, 2/ and the vote was held on May 11. The applicable statute directs the Commission to notify Commerce of its preliminary determinations within 45 days after the filing of the petitions, or in this case by May 15, 1989.

Aluminum sulfate was the subject of another antidumping investigation recently conducted by the Commission: Investigation No. 731-TA-430 (Preliminary), Dry Aluminum Sulfate from Sweden. The Commission's determination in that investigation was negative. (Its report and finding can be found in USITC Publication 2174, March 1989, Dry Aluminum Sulfate from Sweden).

Nature and Extent of Alleged Subsidies
and Sales at LTFV

There is no information relating to the nature and extent of the alleged subsidies and sales at LTFV other than the allegations of the petitioner. The petitioner identified Sulfatos del Orinoco (Sulfatos), C.A., Ciudad Guayana, as the sole Venezuelan manufacturer exporting to the United States. (The only other firm known to produce aluminum sulfate in Venezuela--Ferro Aluminio, C.A., Caracas---***). With respect to the alleged subsidies, the petitioner cited various government programs in Venezuela--including export bonds, preferential pricing of raw materials, and preferential tax incentives--that it believes have conferred subsidies on Sulfatos' manufacture

1/ Copies of the Commission's and Commerce's notices instituting the investigations are shown in app. A.

2/ A list of witnesses appearing at the conference is presented in app. B.

and export of the subject product. 1/ The petitioner did not estimate a total net subsidy rate for Sulfatos; however, the amount of the alleged benefits pertaining to the programs for which the petitioner calculated subsidies totals 128.6 percent of the value of the exported merchandise (f.o.b. point of export).

With respect to the alleged sales at LTFV, the petitioner cited Sulfatos and one buyer in Puerto Rico--the Puerto Rican Aqueduct and Sewer Authority (PRASA)--which is the sole purchaser and user of Sulfatos' product in the United States. On the basis of PRASA's purchase price in 1988 and a fair value based on (1) the home-market price in Venezuela and (2) a constructed price (based on estimated cost of production), the petitioner, using an exchange rate of 39.25 Bolivares to the U.S. dollar, calculated dumping margins of (1) 96 percent and (2) 101 percent.

The Product

Description and uses

The imported article subject to the petitioner's complaint is aluminum sulfate--a solid chemical compound used primarily for water purification. It is chiefly characterized by its ability to attract and coagulate certain aquatic contaminants, allowing them to settle and/or be filtered out of the water. Accordingly, it is used in water wherever such treatment is demanded, such as drinking water, municipal and industrial wastewater, and lakes and reservoirs. It is also used as an agent in the production of certain products, such as paper, textiles, food, cosmetics, dyes, leather, and petrochemicals.

To produce aluminum sulfate, aluminum ore--usually bauxite, bauxite clays, or alumina hydrate--is mixed with sulfuric acid and water to yield liquid aluminum sulfate, i.e., aluminum sulfate dissolved in water. (There are no by-products or co-products produced in the process). More than 90 percent of the aluminum sulfate sold in the United States is sold in liquid form. The removal of the water by evaporation yields dry aluminum sulfate, which is crushed, ground, and screened for particle size. The resulting solid, whether in powder or a more granular form, is either bagged or left in bulk for shipment. Because of the additional processing, dry aluminum sulfate is generally sold at a substantial premium--currently, 38 to 64 percent higher than the liquid form in the continental United States. 2/ Dry aluminum sulfate may be reconverted into liquid form by mixing it with water, although this requires a container of several thousand gallons capacity, a mixer, and conveying equipment, and is not the usual practice of either producers or users. Notwithstanding the additional handling, all of the product imported from Venezuela is dry aluminum sulfate that is reconverted into liquid form in Puerto Rico before distribution.

1/ Each program on which Commerce is initiating an investigation is identified in its notice of initiation of a countervailing duty investigation (app. A).

2/ The petitioner's plant produces the liquid form only.

The decision to purchase liquid or dry aluminum sulfate is generally a matter of handling capability--i.e., the facilities the buyer has in place to store and feed aluminum sulfate into its system. Such facilities are designed to handle one or the other form. A user may have both liquid and dry capability by having two sets of handling equipment. Otherwise, to convert a user's facilities from dry to liquid--a potential transition in view of the price differential--would require a capital outlay on the order of \$10,000 to \$1 million or more, depending on the size of the user's system. New user systems, at least in those segments of the market that consume the bulk of aluminum sulfate, are almost invariably designed to handle the liquid form. Most of the systems currently operated by PRASA, the sole purchaser of the Venezuelan product, require liquid aluminum sulfate.

Virtually all of the liquid and dry aluminum sulfate produced and imported in the United States falls within three generally recognized grades of purity: "standard", "low iron", and "iron free". ^{1/} Grade is determined by the amount of aluminum, iron, and insolubles in the aluminum sulfate, the higher the grade the lower the content of these materials. In general the purity of aluminum sulfate is a function of the purity of the raw materials from which it is made. Higher grades are typically manufactured from high-purity alumina hydrates and sulfuric acids; lower grades are normally produced from bauxite and bauxite clays. The efficiency and age of a plant can also have a bearing on the purity of the aluminum sulfate it produces. For a few users, particularly those using aluminum sulfate in the production of certain products, a high grade is demanded, sometimes even specified. By the same token, some producers are unwilling or unable to produce high grades of aluminum sulfate. In any case, buyers demanding high grades of purity are a relatively small portion of the market. For the overwhelming majority of users, purity, as long as it qualifies for at least standard grade, is of little or no consequence. All of the product imported from Venezuela is manufactured from alumina hydrates and is classified as low iron. (The product produced at the petitioner's plant is manufactured from bauxite and is classified as standard).

There are a number of chemicals--such as ferric chloride and synthetic polymers--which may achieve results similar to aluminum sulfate in water purification; however, they are generally more expensive and require different handling equipment. A user cannot simply substitute one for the other. There are advantages and disadvantages of each, moreover, depending on the specific use. While, for example, aluminum sulfate tends to be less corrosive than many, it also tends to produce a thicker, less easily filtered coagulant. In addition, there are alternative water-treatment techniques which may dispense with water purification chemicals altogether. Many wastewater treatment plants, for example, have built-in filtration systems which are as effective as aluminum sulfate in removing certain contaminants. If

^{1/} The exact specifications for these grades may vary somewhat from producer to producer. Unlike many other chemicals, there are no standard specifications for grades of aluminum sulfate other than for a general classification of the chemical into "purified" and "non-purified".

incorporated into the plant during construction, such systems will very often lower overall operation and maintenance costs.

U.S. tariff treatment

Aluminum sulfate is provided for in subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (formerly provided for in item 417.16 of the Tariff Schedules of the United States), a classification which includes all aluminum sulfate, liquid and dry. The column 1 (most-favored-nation) rate of duty for this subheading, applicable to imports from Venezuela, is free.

U.S. Market and Channels of Distribution

Most aluminum sulfate sold in the United States by U.S. producers is sold either directly to end users or to chemical distributors, which store the chemical and supply end users on an as-needed basis. Most sales made directly to end users are made on the basis of competitive bids for annual contracts. Municipalities constitute a large, if not the largest, segment of this market. Under the usual terms of the contract, winning bidders are to supply the buyer's annual needs at an established price. Chemical distributors are less formal in their purchases, preferring to solicit producers for specific quantities as they need them.

Aluminum sulfate's bulk, and corresponding high transportation costs, effectively limits its distribution. Most of the liquid aluminum sulfate sold in the United States is sold within a 200-mile radius of a producing plant's location and is not delivered overseas. Problems in handling and costs of ocean transport effectively prohibit the shipment of liquid aluminum sulfate across large bodies of water. A somewhat larger radius of 400 to 500 miles beyond a plant's location is typical for dry aluminum sulfate. Transportation by water carrier, moreover, is relatively easy, and shipments by ocean freight can be made from almost any port along the Atlantic seaboard at the same ocean-going rate.

Puerto Rico, the location of the petitioner's plant and the sole destination of imports from Venezuela, is generally regarded by U.S. producers as a separate market for aluminum sulfate. Liquid producers are not competitive with dry producers in overseas shipment, and dry producers, while not subject to the same handling limitations, have not been competitive with other sources in the Caribbean. Since 1986, virtually all of Puerto Rico's needs for aluminum sulfate have been served by General Chemical de Puerto Rico, by producers in Venezuela, and, to a lesser extent, by producers in Jamaica and Mexico. PRASA, the Puerto Rican Aqueduct and Sewer Authority, accounts for all but 1 or 2 percent of this consumption. Most of PRASA's needs are for liquid aluminum sulfate, traditionally supplied by General Chemical de Puerto Rico under the terms of a 5-year contract initiated in 1974 and successfully renegotiated every year thereafter until 1988. Since August 1988, Sulfatos has supplied the bulk of PRASA's liquid needs--after

reconverting the dry material it ships to Puerto Rico into liquid form. For dry aluminum sulfate PRASA primarily relies on another Puerto Rican firm--Pharmachem, Inc., Hato Rey--which imports its material from Jamaica and serves most of the remaining small purchasers on the island, a market shared with another firm that imports small quantities of dry aluminum sulfate from Mexico. Although PRASA regularly solicits bids from dry producers in the United States and elsewhere to meet both its liquid and dry needs, none to date have been price competitive with sources in the Caribbean, and none have been successful at winning contracts.

Sulfatos is supplying PRASA under the terms of a 5-year contract, initiated in August 1988, that provides for liquid aluminum sulfate to be delivered to PRASA's water treatment sites at a fixed price per ton, the actual price to be negotiated at the beginning of each year. The Venezuelan product is imported into Puerto Rico in dry form by Alchem Corp., Penuelas, Puerto Rico--an ad hoc firm jointly owned and operated by Sulfatos and another Puerto Rican firm, Industrial Chemical Corp., Ponce, for the express purpose of converting Sulfatos' dry aluminum sulfate into liquid form. Utilizing Industrial Chemical's existing tanks, the dry material is conveyed into the tanks, is mixed with water, and is then delivered to PRASA's treatment plants.

U.S. Producers

Currently, there are about 25 firms producing liquid aluminum sulfate at 50 to 100 plant locations throughout the United States. Of these firms, 5 have the additional capacity to produce the dry form, i.e., the form which has been imported or otherwise shipped into Puerto Rico: Stauffer Chemical Co.--at 2 plants, in Bastrop, LA, and Houston, TX; Delta Chemical Corp.--at 1 plant in Baltimore, MD; Holland Chemical Co.--at 1 plant in Adams, MA; Koch Chemical Co.--at 1 plant in Rosemount, MN; and General Chemical Corp. (General Chemical de Puerto Rico's parent company)--at 3 plants, in Atlanta, GA, East St. Louis, IL, and Pittsburg, CA. The petitioner's parent company, headquartered in Parsippany, NJ, owns and operates at least 25 other aluminum sulfate plants in the continental United States. General Chemical de Puerto Rico operates 1 plant in Puerto Rico, and it is the only plant on the island which has produced aluminum sulfate. The plant was built in 1974 for the sole purpose of supplying liquid aluminum sulfate to PRASA--the plant produces no other products. It has been nearly idle since August 1988, consequent to PRASA's contract with Sulfatos. In general, producers of aluminum sulfate produce additional chemicals at their respective plant locations, but not with the machinery and equipment used to produce aluminum sulfate. Such equipment is used exclusively for the production of the subject product. None of the above firms produce the raw materials from which aluminum sulfate is made. ***

U.S. Importers

The sole importer of record and consignee for the imports from Venezuela is Alchem Corp., Penuelas, Puerto Rico--an ad hoc firm jointly owned and operated by Sulfatos and another Puerto Rican firm, Industrial Chemical Corp., Ponce, for the express purpose of converting Sulfatos' dry aluminum sulfate into liquid form. After converting the dry Venezuelan material into liquid form, it arranges for the distribution of this material to PRASA's sites throughout the island.

Consideration of the Alleged Material Injury

Unlike the petitioner, other producers in the United States are situated in such a way as to compete only nominally with sources in the Caribbean for sales of aluminum sulfate to Puerto Rico. PRASA, which accounts for the overwhelming bulk of aluminum sulfate consumption in Puerto Rico, periodically solicits U.S. producers for bids on its needs; however, U.S. producers have not been price competitive with other sources in the Caribbean and have only very rarely, if at all, made shipments to the region. For this reason the impact of the alleged subsidized and/or dumped imports on U.S. producers may be confined to General Chemical de Puerto Rico. Pursuant to section 771(4)(C) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(C)), the producers in a region of the United States may be treated as a separate industry if (1) the producers in the region concentrate their shipments within the region; (2) the buyers in the region concentrate their domestic purchases from within the region; and (3) the alleged subsidized and/or dumped imports are concentrated in the region. On the basis of the information gathered by the Commission in these investigations, there appears to be a region which meets the above criteria: (1) the petitioner is the only producer of aluminum sulfate in Puerto Rico, and all its shipments have been confined to Puerto Rico; (2) with one exception, 1/ the buyers in Puerto Rico--primarily PRASA--have purchased from either the petitioner, from sources in Venezuela, or from importers of the product from Jamaica and Mexico; and (3) all of the Venezuelan material is shipped to and consumed in Puerto Rico.

Most of the data in the following sections reflect the operations of General Chemical de Puerto Rico. Data for the aluminum sulfate industry as a whole are shown where available.

1/ Responding to an emergency solicitation by PRASA, *** shipped about *** tons of dry aluminum sulfate to PRASA in *** 1988 in the wake of Hurricane Gilbert. Temporarily unable to get shipments of dry aluminum sulfate from its usual Caribbean sources, PRASA elected to purchase the material from *** at a relatively high price. The quantity shipped by *** represents about *** percent of aluminum sulfate consumption in Puerto Rico in 1988.

U.S. production, capacity, and capacity utilization

Data on General Chemical de Puerto Rico's operations during 1986-88, including its production and capacity of aluminum sulfate, are shown in table 1. The firm's average capacity increased by *** percent from 1986 to 1987, following the addition of a *** at its plant site. Production also increased during this period, but fell in 1988 to a level *** percent below that in 1986. Capacity utilization fell throughout the period for which data were collected. Since losing its contract to supply PRASA in August of 1988, General Chemical de Puerto Rico's plant has been virtually idle. Production has declined from at least a batch per day to less than a batch per month--mostly to serve small industrial users on the island. PRASA's contracts have called for the purchase of at least 30 million pounds (15,000 tons) of liquid aluminum sulfate per year, with provisions for more should the need arise. 1/ Because PRASA has traditionally accounted for all but 1 or 2 percent of the petitioner's sales, the petitioner has geared its production accordingly. The plant produces no other product, chemical or otherwise. According to the petitioner, it suffered no unusual circumstances that resulted in a loss of production or the loss of its contract with PRASA. (Hurricane Gilbert, which traversed much of the Caribbean in August of 1988, did not affect Puerto Rico).

In contrast to General Chemical de Puerto Rico's experience, overall production of aluminum sulfate in the United States has increased. According to official data of the U.S. Department of Commerce, U.S. production of all aluminum sulfate increased from 2,665 million pounds in 1986 to 2,852 million pounds in 1987 and to 2,927 million pounds in 1988, 2/ an overall increase of 9.8 percent. General Chemical de Puerto Rico's production represented about *** percent of total U.S. production during 1986-88.

U.S. producers' shipments and inventories

General Chemical de Puerto Rico's shipments of aluminum sulfate approximate its production, as shown in table 1. Virtually all of its shipments have been delivered under contract to PRASA.

The petitioner's shipments in 1986-88 represented about *** percent of shipments of all U.S.-produced aluminum sulfate. According to official statistics of the U.S. Department of Commerce, shipments and transfers of all aluminum sulfate produced in the United States rose from 2,563 million pounds, valued at \$133.9 million, in 1986 to 2,724 million pounds, valued at

1/ PRASA's actual use of aluminum sulfate will vary directly with the amount of rainfall on the island. The effect of rain is to dilute the aluminum sulfate used in open bodies of water and the systems that these bodies of water flow into.

2/ Commerce data for 1988 are incomplete. The figure shown is Commerce's official estimate based on the reporting of producers that account for no more than 70 percent of the previous year's production. These producers reported a 2.6-percent growth rate.

Table 1

Aluminum sulfate: General Chemical de Puerto Rico's production, average practical capacity, capacity utilization, domestic shipments, end-of-period inventories, average number of production and related workers, and hours worked by and total compensation paid to such workers, 1986-88

Item	1986	1987	1988
Production (1,000 pounds).....	***	***	***
Average capacity (1,000 pounds) <u>1/</u>	***	***	***
Ratio of production to capacity (percent).....	***	***	***
Domestic shipments:			
Quantity (1,000 pounds).....	***	***	***
Value (1,000 dollars) <u>2/</u>	***	***	***
Inventories (1,000 pounds).....	***	***	***
Ratio of inventories to total shipments during the preceding period (percent)....	***	***	***
Average number of production and related workers producing aluminum sulfate.....	***	***	***
Hours worked by production and related workers producing aluminum sulfate.....	***	***	***
Wages paid to production and related workers producing aluminum sulfate	***	***	***
Hourly compensation paid to production and related workers producing aluminum sulfate.....	***	***	***

1/ The capacity reported is based on operating *** hours per week, *** weeks per year.

2/ Net of inland freight to customers. Gross sales were ***, ***, and ***, respectively.

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

\$149.0 million, in 1987--an increase which is roughly consistent with increases in production during the same period. Shipment data for 1988 are not yet available; however, data received by the Commission from producers representing about 50 percent of total shipments and transfers in 1987 show that such shipments increased in quantity by about 2 percent from 1987 to 1988.

As shown in table 1, General Chemical de Puerto Rico's end-of-period inventory levels remained moderate throughout the period for which data were collected and changed roughly according to shipments. Inventories for all U.S.-produced aluminum sulfate are not available.

Employment

For the aluminum sulfate industry, as for most chemical industries, employment is not a major factor of production. Relatively few employees are actually engaged in the production process, and labor costs typically average from 10 to 15 percent of total costs of goods sold. Basic changes in employment, moreover, usually occur only when new plants are opened or old plants are closed or converted to new methods of production, since a worker's time may be allocated among several different chemicals at a plant.

Since August 1988, General Chemical de Puerto Rico has reduced its work force by about 55 percent, or by about 6 workers. (There are no other products produced at the plant to which workers' time may be allocated).

Financial experience of General Chemical de Puerto Rico

Aluminum sulfate operations.--Income-and-loss data on General Chemical de Puerto Rico's aluminum sulfate operations are shown in table 2. Net sales of aluminum sulfate increased by *** percent from *** in 1986 to *** in 1987, and then decreased by *** percent to *** in 1988. Operating income trended similarly, increasing by *** percent from *** in 1986 to *** in 1987, and then decreasing by *** percent to *** in 1988. After increasing from *** percent in 1986 to *** percent in 1987, the firm's average operating margin decreased to *** percent in 1988. Only a few small batches of aluminum sulfate have been produced and sold since the loss of its contract with PRASA in August 1988.

Aluminum sulfate operations accounted for *** percent of the firm's sales in 1986 and 1987 and for all but about *** percent of sales in 1988--the company sold *** worth of polymers in 1988 as a distributor. The sales and related expenses of polymers are not included in table 2. As stated previously, PRASA accounted for all but about 2 percent of General Chemical de Puerto Rico's sales during the period for which data were collected.

General Chemical de Puerto Rico's income-and-loss experience on an average per-ton basis is shown in table 3. Net sales were consistently at *** per ton throughout 1986-88. Cost of goods sold remained stable at *** per ton in 1986 and 1987, but increased by *** percent to *** per ton in 1988. Similarly, general, selling, and administrative expenses were relatively stable at *** and *** per ton in 1986 and 1987, respectively, but increased by *** percent to *** per ton in 1988. Operating income remained stable during 1986-87 at approximately *** per ton as a result of consistent sales prices and operating costs. In 1988, however, operating income plummeted by *** percent as a result of higher per-ton costs due to a decreased volume of sales.

Table 2

Income-and-loss experience of General Chemical de Puerto Rico on its operations producing aluminum sulfate, accounting years 1986-88

Item	1986	1987	1988
	Value (1,000 dollars)		
Net sales.....	***	***	***
Cost of goods sold.....	***	***	***
Gross profit.....	***	***	***
General, selling, and adminis- trative expenses.....	***	***	***
Operating income or (loss).....	***	***	***
Start-up or shut-down expenses.....	***	***	***
Other income.....	***	***	***
Net income or (loss) before income taxes:	***	***	***
Depreciation and amortization.....	***	***	***
Cash flow <u>1/</u>	***	***	***
	Ratio to net sales (percent)		
Cost of goods sold.....	***	***	***
Gross profit.....	***	***	***
General, selling, and adminis- trative expenses.....	***	***	***
Operating income or (loss).....	***	***	***
Net income or (loss) before income taxes.....	***	***	***

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

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

Table 3

Income-and-loss experience (on an average per-ton basis) of General Chemical de Puerto Rico on its operations producing aluminum sulfate, accounting years 1986-88

(Per ton)

Item	1986	1987	1988
Net sales.....	***	***	***
Cost of goods sold.....	***	***	***
Gross profit.....	***	***	***
General, selling, and adminis- trative expenses.....	***	***	***
Operating income.....	***	***	***

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

Capital expenditures.--General Chemical de Puerto Rico's capital expenditures for land, buildings, and machinery and equipment used in the manufacture of aluminum sulfate are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Land and land improvements.....	***	***	***
Buildings and building improvements.	***	***	***
Machinery and equipment.....	***	***	***
Total.....	***	***	***

Value of plant, property, and equipment.--General Chemical de Puerto Rico's end-of-period investment in facilities producing aluminum sulfate and the return on those investments are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Total assets.....	***	***	***
Operating return on total assets <u>1/</u>	***	***	***
Plant, property, and equipment:			
Original cost.....	***	***	***
Book value.....	***	***	***
Operating return on fixed assets <u>2/</u>	***	***	***
Net return on fixed assets <u>3/</u>	***	***	***

1/ Defined as operating income or (loss) divided by total assets, expressed as a percent.

2/ Defined as operating income or (loss) divided by book value of fixed assets, expressed as a percent.

3/ Defined as net income or (loss) divided by book value of fixed assets, expressed as a percent.

Impact of imports on capital and investment.--The Commission requested that General Chemical de Puerto Rico describe and explain the actual or anticipated negative effects, if any, of imports of aluminum sulfate from Venezuela on the firm's growth, development and production efforts, investment, and ability to raise capital. Its comments are shown in app. C.

Consideration of the Alleged Threat of Material Injury

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any

merchandise, the Commission shall consider, among other relevant factors 1/--

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

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

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

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

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

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

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

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

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

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

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product. 1/

Available information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between the Alleged Subsidized and LTFV Imports and the Alleged Material Injury"; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in appendix C. Available information on U.S. inventories of the subject product (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), (VIII), and (IX) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows.

Sulfatos has no particular interest in amassing large quantities of inventories in Puerto Rico. All of its shipments are intended to satisfy its contract with PRASA, and it need only insure that it has enough on hand to liquify and deliver to PRASA's treatment sites when needed--at least 15,000 tons per year. Currently, PRASA is utilizing tanks owned and operated by Industrial Chemical Corp., Ponce, Puerto Rico, to liquify its product.

Nothing is currently known of the Venezuelan industry except for Sulfatos, which won the contract to supply PRASA in August 1988. 2/ According to information supplied by counsel on its behalf, Sulfatos did not begin production of aluminum sulfate until this time. It currently has an annual capacity of about *** pounds per year. 3/ About *** percent of its shipments in 1988 (*** pounds) and about *** percent of its shipments in January-March 1989 (*** pounds) went to PRASA; nearly all of the remainder were ***.

. In any case, Sulfatos projects that it will deliver a total of about *** pounds of aluminum sulfate to the United States () in 1989. Total shipments in 1989 are expected to be about *** pounds, or about *** percent of capacity.

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

2/ The Commission has not received a response to its telegram to the U.S. embassy in Caracas concerning the aluminum sulfate industry in Venezuela.

3/ Based on operating its facilities *** hours per week, *** weeks per year. (Current production is at *** hours per week, *** weeks per year).

Consideration of the Causal Relationship Between the Alleged
Subsidized and LTFV Imports and the Alleged Material Injury

Imports

Sweden and Canada are by far the largest foreign suppliers of aluminum sulfate to the United States (table 4). Imports from Venezuela began in August 1988 and, as stated previously, have all been shipped to Puerto Rico for use in water treatment plants operated by PRASA. Other sources of imports into Puerto Rico are Jamaica and Mexico. Imports into Puerto Rico are shown separately in table 5.

Table 4
Aluminum sulfate: U.S. imports, by principal sources, 1986-88

Source	1986	1987	1988
	<u>Quantity (1,000 pounds dry or equivalent)</u>		
Sweden.....	***	***	***
Canada.....	43,182	41,271	56,464
Venezuela.....	0	0	***
All others.....	2,340	1,998	***
Total.....	***	***	***
	<u>Value, c.i.f. duty-paid (1,000 dollars)</u>		
Sweden.....	***	***	***
Canada.....	1,923	1,952	2,264
Venezuela.....	-	-	***
All others.....	337	228	***
Total.....	***	***	***

Source: Imports from Sweden compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in inv. No. 731-TA-430 (Preliminary), Dry Aluminum Sulfate from Sweden; imports from Venezuela compiled from data submitted in response to questionnaires of the Commission in the instant investigation; all other imports compiled from official statistics of the U.S. Department of Commerce.

U.S. consumption and market penetration

Total U.S. consumption of aluminum sulfate, shown in table 6, increased by 10.3 percent from 1986 to 1988. Consumption in Puerto Rico, where all imports from Venezuela have been consumed, represented about *** percent of total U.S. consumption in 1988. Puerto Rican consumption also increased, as shown in table 7. Aluminum sulfate from Venezuela accounted for less than *** percent of total U.S. consumption in 1988--the first year it was imported into the United States--but more than *** percent of Puerto Rican consumption. At the same time, U.S. producers' share of Puerto Rican

Table 5

Aluminum sulfate: U.S. imports into Puerto Rico, by sources, 1986-88

Source	1986	1987	1988
	<u>Quantity (1,000 pounds dry or equivalent)</u>		
Venezuela.....	***	***	***
Jamaica.....	***	***	***
Mexico.....	***	***	***
Total.....	***	***	***
	<u>Value, c.i.f. duty-paid (1,000 dollars)</u>		
Venezuela.....	***	***	***
Jamaica.....	***	***	***
Mexico.....	***	***	***
Total.....	***	***	***

Source: Imports from Venezuela compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; all other imports compiled from the U.S. Customs Service's confidential net import file.

Table 6

Aluminum sulfate: Apparent U.S. consumption and ratio of imports to consumption, 1986-88

(In thousands of pounds dry or equivalent)

Period	Apparent U.S. con- sumption 1/	Ratio (percent) of imports to consumption		
		For Venezuela	For all other countries	Total
1986.....	***	***	***	***
1987.....	***	***	***	***
1988.....	***	***	***	***

1/ Domestic production plus imports.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

consumption declined from *** percent in 1986 to *** percent in 1988. For January-April 1989, imports from Venezuela accounted for at least 90 percent of all aluminum sulfate consumed in Puerto Rico.

Table 7

Aluminum sulfate: Apparent consumption in Puerto Rico (P.R.) and ratio of imports to consumption, 1986-88

(Quantity in thousands of pounds; value in thousands of dollars)

Period	Apparent consumption in P.R. ^{1/}	Ratio (percent) of imports to consumption		
		For Venezuela	For all other countries	Total
Quantity				
1986.....	***	***	***	***
1987.....	***	***	***	***
1988.....	*** ^{2/}	***	***	***
Value				
1986.....	***	***	***	***
1987.....	***	***	***	***
1988.....	***	***	***	***

^{1/} Domestic shipments plus imports.

^{2/} Includes *** shipped by *** to PRASA in the wake of Hurricane Gilbert in *** 1988.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from the U.S. Customs Service's confidential net import file.

Prices

Aluminum sulfate is marketed in both liquid and dry forms, with liquid accounting for approximately 95 percent of U.S. shipments during 1988. Although there are several grades, there are no established specifications to easily distinguish between them.

Demand for aluminum sulfate is directly related to the needs of municipalities for water and waste treatment, the pulp and paper industry, and to the dye, pigment, leather, food, and cosmetic industries. Municipalities and chemical distributors are the primary purchasers of dry aluminum sulfate, while the pulp and paper industry and municipalities are the primary purchasers of liquid aluminum sulfate. Although dry and liquid aluminum sulfate are used in many of the same applications, there are capital costs incurred if a user decides to shift from one form to another. ^{1/} Shifts in demand between dry and liquid aluminum sulfate have occurred as

^{1/} Capital costs vary depending upon the amount of aluminum sulfate used by an aluminum sulfate purchaser and the amount kept in inventory.

some major municipal accounts have switched from dry to liquid. 1/ Possible substitutes for aluminum sulfate include synthetic polymers and inorganic chemicals such as ferric chloride, aluminum chloride, and poly-aluminum chloride.

Price is the primary criterion used when purchasing aluminum sulfate. Prices of the different varieties of aluminum sulfate vary as a result of a number of factors. Liquid aluminum sulfate is usually less costly than dry aluminum sulfate, largely because dry is produced from wet. For example, in the continental United States during 1988 the price of standard liquid aluminum sulfate was typically 50 percent or more lower than the price of standard dry aluminum sulfate. 2/ Bulk shipments are less expensive than bag shipments, primarily because of the larger quantities involved, along with a lack of packaging. Aluminum sulfate specifications can also affect the price, with iron-free aluminum sulfate commanding a much higher price.

The costs of shipping both liquid and dry aluminum sulfate are considerable. Although it is possible to ship dry aluminum sulfate anywhere in the country, plants close to the customer have a significant competitive advantage over more distant plants. Transportation costs are even greater for liquid aluminum sulfate than they are for the dry product. Producers are unlikely to transport liquid aluminum sulfate more than 200 miles. In fact, liquid aluminum sulfate plants are often located adjacent to a major purchaser in order to be able to move the liquid aluminum sulfate by pipeline.

In Puerto Rico, municipality contracts are of key importance to producers and importers of aluminum sulfate because they assure suppliers of business for a period of a year or more. The largest contract in Puerto Rico is for 5 years.

The quoting process for municipal contracts for dry or liquid aluminum sulfate is similar. After the municipality has determined the amount and specification of aluminum sulfate needed, it solicits quotes from several producers. After reviewing all bid and specification requirements, producers estimate the likely production costs for the aluminum sulfate. Bids are closed, but because all information is public, producers know who their competitors were and the amount of each firm's bid. They review the history of their bids and their competitors' bids for a given account in order to stay competitive.

U.S. producers and importers of aluminum sulfate were requested to provide information on all bids, won or lost, to municipalities in Puerto Rico for dry and liquid aluminum sulfate scheduled for shipment during the period 1986 through 1988, as well as bids made during 1986-88 for shipments scheduled for 1989. Information was also requested for spot sales to chemical distributors and to industrial users during the period 1986-88. The

1/ Dry Aluminum Sulfate from Sweden, conference transcript, pp. 50-53.

2/ Dry Aluminum Sulfate from Sweden ..., USITC Publication 2174, March 1989, p. A-21.

petitioner, General Chemical, and the sole importer of Venezuelan aluminum sulfate, were the only companies to provide price information.

According to General Chemical, the reason for its petition was the loss in August 1988 to Sulfatos of its contract to supply PRASA. The PRASA contract, which accounts for virtually 100 percent of liquid aluminum sulfate purchases and over 96 percent of all aluminum sulfate purchases in Puerto Rico, is for 5 years for an average annual quantity of 15,000 tons of liquid aluminum sulfate. It represents all of Puerto Rico's municipal purchases of aluminum sulfate. General Chemical bid \$168.40 per ton versus a bid of \$142 per ton by Sulfatos. 1/ Sulfatos was awarded the contract. The contract provides for an ***.

Prior to the loss of this contract, General Chemical had provided PRASA all its liquid aluminum sulfate since 1973. 2/ General Chemical's prior contracts with PRASA were also five years in duration and were automatically renewed. 3/ General Chemical's original 1973 contract with PRASA was for *** tons per year at *** per ton. In 1986, General Chemical provided PRASA *** tons at a total value of just over *** or *** per ton. During 1987, General Chemical provided PRASA *** tons, valued at almost *** or *** per ton.

General Chemical's total 1988 shipments to PRASA were *** tons, valued at nearly *** or *** per ton. By the end of August 1988, General Chemical had ceased supplying PRASA. From November 1988 onward, Sulfatos provided PRASA under its contract *** tons, valued at almost *** or *** per ton. During August and September 1988 Sulfatos also provided PRASA *** tons of aluminum sulfate ***, valued at nearly *** or *** per ton. This material was not subject to the terms of the contract. 4/

General Chemical also reported two bids to supply 600 tons each of dry aluminum sulfate to PRASA, one during February of 1986, and the other during April of 1988. General bid *** per ton in 1986 and *** per ton in 1988. It reported losing both bids to ***, which provided dry aluminum sulfate from ***.

1/ In addition, Calgon Interamerican, Inc., bid *** per ton and Ochoa Industrial Sales Corp., bid *** per ton.

2/ Before 1973, PRASA used dry aluminum sulfate. By 1973, PRASA had converted most of its facilities to use liquid aluminum sulfate.

3/ According to John Greenwald, counsel for the petitioner, between 1973 and 1988 there were no bids for the PRASA contract.

4/ Although Sulfatos won the contract to supply PRASA in August 1988, the actual provisions of the contract did not become effective until November 1. In the interim period Sulfatos' parent company ***.

Lost sales and lost revenues

No lost sales or lost revenues were reported except for the loss of the PRASA contract to Sulfatos.

Exchange rates

Venezuela employed a multiple exchange rate system, which was introduced in February 1983 and modified in February 1984, December 1985, and again in December 1986. From December 1986, a fixed official rate of 14.50 Bolivars (Bs) per U.S. dollar was applied to most commercial and financial transactions, to government capital transactions, and to new registered private capital flows. An exchange rate of 7.50 Bs per dollar applied to essential imports and related services, to trade and services of the state-controlled oil and iron ore sectors, and to servicing the external debt of public enterprises and registered private debt, provided an exchange rate guarantee premium was paid. A fluctuating free-market rate applied to tourism and nonregistered private capital flows. 1/ According to respondents, the dual exchange rate system was officially abolished on March 13, 1989. Sulfatos never made use of that system either in connection with any of its exports of aluminum sulfate to Puerto Rico or in connection with any of the raw materials utilized in its production. 2/

Quarterly data reported by the International Monetary Fund indicate that during the period January 1986 through November 1988 the nominal value of the Venezuelan Bolivar depreciated by 48.3 percent against the U.S. dollar (table 8). 3/ Much of the change in the nominal exchange rate occurred in the fourth quarter of 1986 when Venezuela devalued its currency to 14.5 Bolivars per U.S. dollar. This devaluation, combined with inflation of 82 percent in Venezuela from 1986 to November 1988 compared with inflation of 6.7 percent in the United States, resulted in a real-exchange-rate depreciation of 11.8 percent.

1/ International Financial Statistics, January 1989.

2/ Appendix C to the postconference brief of counsel for Sulfatos.

3/ International Financial Statistics, January 1989.

Table 8

U.S.-Venezuelan exchange rates: 1/ Nominal exchange rates of the Venezuelan Bolivar in U.S. dollars, real-exchange-rate equivalents, and producer price indexes in the United States and Venezuela, 2/ indexed by quarters, January 1986-December 1988

Period	U.S. Producer Price Index	Venezuelan Producer Price Index	Nominal- exchange- rate index	Real- exchange- rate index ^{3/}
	---US dollars/Bolivar---			
1986:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	98.2	102.1	100.0	104.0
July-September.....	97.7	104.3	100.0	106.8
October-December....	98.1	111.1	76.3	86.4
1987:				
January-March.....	99.2	122.0	51.7	63.6
April-June.....	100.8	138.4	51.7	71.0
July-September.....	101.9	153.0	51.7	77.6
October-December....	102.3	161.6	51.7	81.7
1988:				
January-March.....	102.9	164.0	51.7	82.4
April-June.....	104.8	167.8	51.7	82.9
July-September.....	106.2	175.8	51.7	85.6
October-December <u>4/</u>	106.7	182.0	51.7	88.2

1/ Exchange rates expressed in U.S. dollars per Bolivar.

2/ Producer price indexes--intended to measure final product prices--are based on average quarterly indices presented in line 63 of the International Financial Statistics.

3/ The indexed real exchange rate represents the nominal exchange rate adjusted for relative movements in producer price indexes in the United States and Venezuela. Producer prices in the United States increased 6.7 percent between January 1986 and November 1988 compared to an 82-percent increase in Venezuela during the same period.

4/ Data are derived from exchange rate and Producer Price Indexes reported for October-November.

Note.--January-March 1986=100.

Source: International Monetary Fund, International Financial Statistics, January 1989.

APPENDIX A

COMMERCE'S AND COMMISSION'S FEDERAL REGISTER NOTICES

Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of aluminum sulfate, provided for under subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (formerly provided for in item 417.16 of the Tariff Schedules of the United States), that are alleged to be subsidized by the Government of Venezuela, and sold in the United States at less than fair value. As provided in section 703(a), and section 733(a), the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by May 15, 1989.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 53 FR 33039 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: March 29, 1989.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on March 29, 1989, by General Chemical Corporation de Puerto Rico, Inc., Dorado, Puerto Rico.

Participation in the investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late

entry for good cause shown by the person desiring to file the entry.

Public service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited Disclosure of Business Proprietary Information Under a Protective Order and and Business Proprietary Information Service List

Pursuant to section 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on April 19, 1989 at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-252-1185) or Judith Zeck (202-252-1199) not later than April 17, 1989 to arrange for their appearance. Parties in support of the imposition of countervailing duties and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to

(Investigation No. 701-TA-299 (Preliminary) and Investigation No. 731-TA-431 (Preliminary))

Aluminum Sulfate From Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and a preliminary antidumping investigation and the scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-299 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and of antidumping investigation No. 731-TA-431 (Preliminary) under section 733(a) of the

make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before April 25, 1989, a written brief containing information and arguments pertinent to the subject matter of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than April 28, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: March 31, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-6107 Filed 4-4-89; 8:45 am]

SILING CODE 7020-02-M

International Trade Administration**[A-307-801]****Initiation of Antidumping Duty Investigation: Aluminum Sulfate from Venezuela****AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of aluminum sulfate materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 15, 1989. If that determination is affirmative, we will make a preliminary determination on or before September 5, 1989.

EFFECTIVE DATE: April 25, 1989.

FOR FURTHER INFORMATION CONTACT: Eleanor Shea, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0184.

SUPPLEMENTARY INFORMATION:**The Petition**

On March 29, 1989, we received a petition filed in proper form by General Chemical de Puerto Rico on behalf of a U.S. aluminum sulfate industry. In compliance with the filing requirements of 19 CFR 353.36, petitioner alleges that imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of a U.S. industry producing the product that is subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section

771(9) of the Act wishes to register support for, or opposition to, this petition, please file written notification with the Commerce officials cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

United States Price and Foreign Market Value

Petitioner's estimate of United States price (USP) is based on a delivered price per ton of aluminum sulfate imported from Venezuela. This price is set forth in a contract between a U.S. customer and the Venezuelan supplier named in the petition. USP was adjusted to account for inland freight to the liquification plant, liquification in Puerto Rico, inland freight in Puerto Rico from the liquification site to the customer, Venezuelan excise tax, packaging for ocean shipment, and ocean freight and insurance. Petitioner's estimate of foreign market value (FMV) is based on a f.o.b. plant price quote dated March 10, 1989. Petitioner made no adjustments to FMV. Based on a comparison of FMV to USP, petitioner alleges a dumping margin of 98.30 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on aluminum sulfate from Venezuela and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of aluminum sulfate from Venezuela are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make a preliminary determination by September 5, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The product covered by this investigation is aluminum sulfate from

Venezuela, which is used in water purification, in waste water treatment, and for other industrial applications. Prior to January 1, 1989, such merchandise was classifiable under item 417.1600 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under HTS item 2833.22.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 15, 1989, whether there is a reasonable indication that imports of aluminum sulfate from Venezuela materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

April 17, 1989.

Timothy N. Bergan,
Acting Assistant Secretary for Import Administration.

[FR Doc. 89-0802 Filed 4-24-89; 8:45 am]

BILLING CODE 3510-08-M

[C-307-802]

Initiation of Countervailing Duty Investigation; Aluminum Sulfate From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Venezuela of aluminum sulfate, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of aluminum sulfate from Venezuela materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, we will make our preliminary determination on or before June 22, 1989.

EFFECTIVE DATE: April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5414.

SUPPLEMENTARY INFORMATION:**The Petition**

On March 29, 1989, we received a petition in proper form from General Chemical de Puerto Rico, Inc., filed on behalf of a U.S. industry producing aluminum sulfate. In compliance with the filing requirements of § 355.12 of the Commerce Regulations (19 CFR 355.12), petitioner alleges that manufacturers, producers and exporters of aluminum sulfate in Venezuela receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). Since Venezuela is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Venezuela materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged it has standing to file the petition. Specifically, petitioner has alleged that it is an

interested party as defined under section 771(9)(C) of the Act and that it has filed the petition on behalf of a U.S. industry producing the product that is subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), (F) or (G) of section 771(d) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce official cited in the "FOR FURTHER INFORMATION CONTACT" section of this notice.

Initiation of Investigation

Under section 702(c) of the Act, we must make the determination on whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on aluminum sulfate from Venezuela and have found that most of the programs alleged in the petition meet these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Venezuelan manufacturers, producers, or exporters of aluminum sulfate, as described in the "Scope of Investigation" section of this notice, receive subsidies. However, we are not initiating an investigation on certain programs because they were determined not countervailable in *Final Affirmative Countervailing Duty Determination: Certain Electrical Conductor Aluminum Redraw Rod from Venezuela* (53 FR 24763, June 30, 1988) (*Redraw Rod*) and new facts or information on changed circumstances has not been provided. If our investigation proceeds normally, we will make our preliminary determination on or before June 22, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s).

The product covered by this investigation is aluminum sulfate from Venezuela, which is used in water purification, in waste water treatment, and for other industrial applications. Prior to January 1, 1989, such merchandise was classifiable under item 417.1600 of the *Tariff Schedules of the United States Annotated (TSUSA)*. This merchandise is currently classifiable under HTS item 2833.22.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Allegations of Subsidies

Petitioner lists a number of practices by the Government of Venezuela which allegedly confer subsidies on manufacturers, producers, or exporters of aluminum sulfate in Venezuela. We are initiating an investigation of the following programs:

1. Export Bond Program
2. Short-Term FINEXPO Financing
3. Other FINEXPO Programs
4. Preferential Tax Incentives
5. Financing Company of Venezuela Loans
6. Sales Tax Exemptions
7. Other Government Loans and Loan Guarantees
8. Preferential Pricing of Inputs

We are not initiating an investigation of the programs listed below. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for the imposition of a duty under sections 701(a) and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. For the programs listed below, the requirements of section 702(b) of the Act were not met.

1. Exchange of Export Earnings Under Multiple Exchange Rate System

Petitioner alleges that in allocating foreign exchange at preferential rates, the Venezuelan government favors companies that produce for export, produce to displace imports, or are otherwise engaged in activities assigned a priority status. Additionally, petitioner alleges that there is no assurance that the government requires SULFORCA to convert all of its foreign exchange earnings at a 14.50 Bolivares to the dollar exchange rate. This program was found not countervailable in *Redraw Rod*. We are not initiating on this program because petitioner has not alleged new facts or provided information on changed circumstances.

2. The Industrial Credit Fund (FONCREI)

Petitioner alleges that FONCREI provides long-term loans to industrial companies through commercial banks and financial societies. These loans are based on a

company's projected rate of return. This program was found not countervailable in *Redrow Rod*. We are not initiating on this program because petitioner has not alleged new facts or provided information on changed circumstances.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 15, 1989, whether there is a reasonable indication that imports of aluminum sulfate from Venezuela materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will be terminated; otherwise, this investigation will continue according to the statutory procedures.

This notice is published pursuant to section 702(c)(2) of the Act.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 18, 1989.

[FR Doc. 89-10025 Filed 4-26-89; 8:46 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF WITNESSES AT THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

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

Subject: Aluminum Sulfate from Venezuela

Invs. Nos. 701-TA-299 (Preliminary) and 731-TA-431 (Preliminary)

Date and time: April 19, 1989 - 9:30 a.m.

Sessions were held in connection with the investigations in room 100 of
the United States International Trade Commission, 500 E Street SW, Washington,
DC.

In support of the imposition of countervailing and/or antidumping duties

Wilmer, Cutler & Pickering--Counsel
Washington, DC
on behalf of

General Chemical de Puerto Rico

Phillip B. Reilly, Director of Marketing, General Chemical
Corp., Parsippany, NJ
Mario Gonzalez, Plant Administrator, General Chemical de
Puerto Rico
Colleen Farley, Controller, Water Chemicals Group
Bob Rosenberg, In-House Counsel, General Chemical Corp.

John D. Greenwald)--OF COUNSEL

In opposition to the imposition of countervailing and/or antidumping duties

Arnold & Porter--Counsel
Washington, DC
on behalf of

Sulfatos del Orinoco, C.A., Venezuela

Douglas A. Dworkin)--OF COUNSEL

APPENDIX C

COMMENTS RECEIVED FROM GENERAL CHEMICAL de PUERTO RICO ON THE
EFFECTS OF IMPORTS FROM VENEZUELA ON ITS GROWTH, DEVELOPMENT AND
PRODUCTION EFFORTS, INVESTMENT, AND ABILITY TO RAISE CAPITAL

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