

ALUMINUM SULFATE FROM VENEZUELA

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

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

ALUMINUM SULFATE FROM VENEZUELA

Determinations

On the basis of the record ¹ developed in the subject investigations, the Commission determines, ² pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act), 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 (previously under item 417.16 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce to be subsidized by the Government of Venezuela. The Commission also determines, ² pursuant to section 735(b) of the Act (19 U.S.C. § 1673d(b)), that an industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted the countervailing duty investigation effective October 25, 1989, following a final determination by the Department of Commerce that imports of aluminum sulfate from Venezuela were being subsidized within the meaning of section 705(a) of the Act (19 U.S.C. § 1671d(a)). The antidumping investigation was instituted by the Commission

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

² Chairman Brundsdale dissenting. . . .

effective August 9, 1989, following a preliminary determination by the Department of Commerce that imports of aluminum sulfate from Venezuela were being sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. § 1673d(a)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register of August 24, 1989 (54 F.R. 35256) and October 30, 1989 (54 F.R. 43998). The hearing was held in Washington, DC, on October 26, 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 final investigations, we determine that a domestic regional industry in the United States is materially injured by reason of imports from Venezuela of aluminum sulfate which are both subsidized and sold at less than fair value (LTFV). 2/ 3/

I. Like product and domestic industry.

To determine in a title VII investigation whether a U.S. industry is materially injured or is threatened with material injury by reason of LTFV or subsidized imports the Commission must first define 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. . . ." 4/

The Commission's decision regarding like product is essentially a factual determination, made on a case-by-case basis. 5/ The Commission usually considers a number of factors when determining what product is "like" the product subject to investigation, including: (1) physical

1/ Chairman Brunsdale dissenting, see her Dissenting Views.

2/ 54 Fed. Reg. 43438 (Oct. 25, 1989) and 54 Fed. Reg. 43440 (Oct. 25, 1989).

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

4/ 19 U.S.C. § 1677(10).

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

characteristics and uses, (2) interchangeability, (3) channels of distribution, (4) common manufacturing facilities and production employees, (5) customer or producer perceptions, and (6) price. 6/ 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 dividing lines between like products 7/ because minor distinctions are an insufficient basis for finding separate like products. 8/

Aluminum sulfate is a solid chemical compound used primarily for water purification, wastewater and sewage treatment, and in the production of paper. Aluminum sulfate attracts and coagulates certain aquatic contaminants, allowing them to settle or be filtered out of the treated water. It also removes phosphorus by chemical precipitation. 9/

The Department of Commerce made a final determination of sales at LTFV and subsidization by the Government of Venezuela of the imported aluminum sulfate subject to these investigations on October 25, 1989. In these determinations Commerce defined the scope of the investigations as:
"aluminum sulfate from Venezuela, liquid or dry . . ." 10/ The aluminum

6/ 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.

7/ Certain Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan, Inv. Nos. 731-TA-426 - 428 (Preliminary), USTIC Pub. 2156 (February 1989) at 4 n.4 (citing ASOCOLFLORES, 693 F. Supp. at 1170 n.8).

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

9/ See Report at A-5.

10/ 54 Fed. Reg. 43438 (October 25, 1989) and 54 Fed. Reg. 43440 (October 25, 1989). In its notice of initiation, Commerce defined the scope of the
 (continued...)

sulfate subject to these investigations is produced in Venezuela by Sulfatos del Orinoco, C.A. (SULFORCA) and Ferro Alumino, C.A. (FERRALCA). All exports to the United States of Venezuelan aluminum sulfate are shipped in dry form to Puerto Rico. Upon arrival in Puerto Rico, most of the Venezuelan exports are liquified before delivery to a single aluminum sulfate purchaser, the Puerto Rican Sewer and Aqueduct Authority (PRASA), because SULFORCA's contract with PRASA calls for the delivery of liquid aluminum sulfate. 11/

In our preliminary determination regarding aluminum sulfate from Venezuela, we defined the like product to include dry and liquid aluminum sulfate, whether of standard, low-iron, or iron-free grade. 12/ During the course of these final investigations, neither the parties nor the record have indicated that we should revisit our preliminary like product

10/ (...continued)
investigations as "aluminum sulfate from Venezuela, which is used in water purification, in waste water treatment, and for other industrial applications." 54 Fed. Reg. 17082 (April 25, 1989) and 54 Fed. Reg. 18131 (April 27, 1989). We note that ITA has changed from a use-based definition of aluminum sulfate to a product description definition of aluminum sulfate. While such a definitional change might appear to broaden the scope of the investigation, the change had no effect on the Commission's collection of data in these final investigations because the original definition, based on end-users, included all "other industrial applications" and there does not appear to be any significant use for aluminum sulfate that would fall outside Commerce's original definition.

11/ See Report at A-13, A-14, A-18 n.67, and A-28.

12/ Aluminum Sulfate from Venezuela, Invs. Nos. 701-TA-299 and 731-TA-431 (Preliminary), USITC Pub. 2189 (May 1989) at 5-6. The Commission addressed the aluminum sulfate like product issue in Dry Aluminum Sulfate from Sweden, Inv. No. 731-TA-430 (Preliminary), USITC Pub. 2174 (March 1989), wherein we found the domestic like product to include all three grades of liquid and dry aluminum sulfate. Id. at 8-9.

determination. 13/ Accordingly, we continue to find a single like product that includes all three grades of dry and liquid aluminum sulfate. Further, we define the domestic industry to be U.S. producers of aluminum sulfate. 14/

II. Regional industry

The central issue in these final investigations is whether the Commission should consider the impact of imports of aluminum sulfate from Venezuela on a regional industry basis. Petitioner in these investigations asserts that a regional aluminum sulfate industry exists in the Commonwealth of Puerto Rico, the location of its liquid aluminum sulfate production facility. Respondent contends that appropriate circumstances do not exist for the Commission to analyze aluminum sulfate production in Puerto Rico on a regional basis. Instead, respondent urges the Commission to analyze the aluminum sulfate industry on a national basis.

13/ For a more detailed discussion of aluminum sulfate like product issues, see Dry Aluminum Sulfate from Sweden, Inv. No. 731-TA-430, (Preliminary), USITC Pub. 2174 (March 1989) at 5-10.

14/ 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).

Section 771(4)(C) of the Tariff Act of 1930 15/ 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 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. 16/ 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/

15/ 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).

16/ Vice Chairman Cass interprets the statute to require that the Commission determine whether one or more regional industries exist by examining only the first two criteria. In his view, the third criterion pertains only to whether the Commission may make a determination of material injury with respect to the producers in a specific region. See Additional Views of Vice Chairman Cass infra at 21.

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
(continued...)

However, the Court of International Trade and the Commission have cautioned against "[a]rbitrary or free handed sculpting of regional markets." 18/ The Commission has defined appropriate circumstances on several occasions, focusing on whether an isolated or separated geographic market exists, 19/ whether the market is isolated and insular, 20/ and on whether the particular region accounts for a significant share of production and consumption. 21/

We made our preliminary determinations in these investigations using a regional industry analysis. First, we found that all three regional industry statutory criteria were satisfied. Then, we determined that appropriate circumstances existed to analyze the aluminum sulfate industry as a regional industry with boundaries defined by the Commonwealth of Puerto

17/ (...continued)

Potatoes from Canada, Inv. No. 731-TA-124 (Final), USITC Pub. 1463 (December 1983) at 7; Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (January 1986) at 5; Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987) at 10.

18/ Atlantic Sugar, Ltd. v. United States, 2 CIT 18, 21, 519 F. Supp. 916, 920 (1981); Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108 and 109 (Preliminary), USITC Pub. 1310 (November 1982) at 11 n.30.

19/ E.g., Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Preliminary), USITC Pub. 2235 (November 1989) at 7; Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (January 1986) at 9-10.

20/ E.g., Cut-to-Length Carbon Steel Plate from the Republic of Germany, Inv. No. 731-TA-147 (Preliminary Remand), USITC Pub. 1550 (July 1984) at 8.

21/ See Certain Steel Wire Nails from the Republic of Korea, Inv. No. 731-TA-26 (Final), USITC Pub. 1088 (August 1980) at 10. Vice Chairman Cass does not believe that a finding of appropriate circumstances need ever rest on such a finding or that such a finding is required by the statute. See Additional Views of Vice Chairman Cass infra at 21. Commissioner Rohr notes that he has questioned the regional analysis in the Steel Wire Nails determination recently. See Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Preliminary), USITC Pub. 2235 (November 1989) at 7 n.15 ("Commissioner Rohr believes that this requirement has limited applicability beyond the facts of the cited case").

Rico. 22/ In these final investigations, we again find that the regional industry statutory criteria are satisfied and determine that a regional industry analysis is appropriate.

A. Statutory criteria.

The data collected in these final investigations continue to show that all three section 771(4)(C) statutory criteria necessary to a regional industry analysis are present in the region defined as Puerto Rico. First, during 1988, nearly all of Puerto Rican demand for aluminum sulfate was supplied by the one domestic producer located in Puerto Rico and by imports into Puerto Rico of dry aluminum sulfate from Venezuela, Mexico, and Jamaica. 23/ Second, all of the subject imports in the United States are exported to and consumed in Puerto Rico. 24/

The only criterion arguably at issue is whether all or almost all of General Chemical's production of aluminum sulfate production is sold within Puerto Rico. Resolution of this question depends on the definition of "domestic producer" as it is used in section 771(4)(C)(i): whether "domestic producer" refers to General Chemical de Puerto Rico, or whether it refers to General Chemical de Puerto Rico's sister corporation, General Chemical Corporation headquartered in New Jersey. Once again respondent has argued that the real petitioner in interest is General Chemical Corporation because it supervises production activity at General Chemical de Puerto Rico. Consequently, respondent asserts that General Chemical fails to meet

22/ Aluminum Sulfate from Venezuela, Invs. Nos. 701-TA-299 and 731-TA-431 (Preliminary), USITC Pub. 2189 (May 1989) at 6-10.

23/ See Report at A-18.

24/ See id. at A-19.

the statutory requirement in these investigations 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. 25/

In our preliminary determination we wrote:

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." [Citing 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.] 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. 26/

We continue to believe that this view is correct and consistent with prior Commission practice. The Commission has never stated that the producers within a region must be independent of enterprises or business entities outside the region. The language quoted above from Platform Jackets and several other Commission opinions indicate that such independence is not required. In Sugars and Sirups from Canada, the Commission implicitly found that commonly owned production facilities outside the region did not prevent the Commission from analyzing injury on a regional basis. 27/ Further, in

25/ Respondent's prehearing brief at 14-15.

26/ Aluminum Sulfate from Venezuela, Invs. Nos. 701-TA-299 and 731-TA-431 (Preliminary), USITC Pub. 2189 (May 1989) at 8.

27/ Sugars and Sirups from Canada, 731-TA-3 (Final) USITC Pub. 1047 (March 1980) at Report A-17 (Maryland, Delaware and the District of Columbia left out of the investigation because original Amstar petition did not allege injury to its operations in this area). See also Atlantic Sugar, Ltd. v. (continued...)

Portland Hydraulic Cement from Australia and Japan, 28/ the Commission analyzed the cement industry on a regional basis even though producers within the region operated other cement production facilities outside the region. 29/

Accordingly, we again find General Chemical de Puerto Rico to be the producer for purposes of applying section 771(4)(C) of the statute. Thus, General Chemical de Puerto Rico sells all its production of aluminum sulfate in Puerto Rico. Combined with our findings that almost all of Puerto Rican demand for aluminum sulfate was supplied by the domestic industry within Puerto Rico, in combination with imports from the Caribbean Basin, and that 100 percent of Venezuelan imports are exported to Puerto Rico, we find that petitioner satisfies the three criteria of the regional industry statute.

B. Appropriate circumstances.

Having established that the required statutory criteria are again met, we also find that appropriate circumstances continue to exist for the Commission to apply a regional industry analysis in these final investigations. The Puerto Rican aluminum sulfate industry is sufficiently geographically isolated from the rest of the national aluminum sulfate

27/ (...continued)

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).

28/ Invs. Nos. 731-TA-108 and 109 (Final), USITC Pub. (1983) at 12.

29/ We further note that the most recent investigation of cement, Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Preliminary), USITC Pub. 2235 (November 1989) (Commissioner Newquist recused) presented the same scenario, although the single production site issue was not specifically raised in that investigation. In that case, the Commission unanimously analyzed the industry on a regional basis even though several cement producers within the region operated multiple cement production facilities outside the region.

industry to be analyzed as a separate region because aluminum sulfate shares the low value-to-weight ratio of other products so analyzed. 30/ Thus, shipment of liquid aluminum sulfate from the mainland is not economically possible and shipment of dry aluminum sulfate from the mainland in large quantities is not economically viable.

Problems in handling and the costs of ocean transport effectively prohibit the shipment of liquid aluminum sulfate across large bodies of water. 31/ Although respondent correctly states that shipment of dry aluminum sulfate from the mainland to Puerto Rico is possible, respondent's argument is misleading for two reasons. First, Puerto Rico currently is nearly exclusively a liquid aluminum sulfate market because PRASA, the largest customer, is primarily a liquid aluminum sulfate user. Second, for the last 15 to 20 years U.S. mainland dry aluminum sulfate producers have generally not been price competitive with aluminum sulfate producers located in the Caribbean Basin. 32/ Contracts to supply PRASA with its relatively small dry aluminum sulfate needs during the period of investigation were uniformly awarded to importers with sources of supply in the Caribbean Basin. 33/ During the 1988 bidding for PRASA's liquid contract, no mainland

30/ Aluminum Sulfate from Venezuela, Invs. Nos. 701-TA-299 and 731-TA-431 (Preliminary), USITC Pub. 2189 (May 1989) at 9. See also Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (January 1986) at 6-10 (existence of an isolated or separated geographic market examined); Cut-to-Length Carbon Steel Plate from the Republic of Germany, Inv. No. 731-TA-147 (Preliminary Remand), USITC Pub. 1550 (July 1984) at 8 (whether the market was isolated and insular).

31/ See Report A-12.

32/ See id. at A-13.

33/ See id. at A-45, Table 14. Caribbean Basin suppliers may have a cost advantage over domestic producers due to shipping prices. The Jones Act, 46 (continued...)

suppliers submitted a responsive bid. 34/ Therefore, although mainland domestic producers could ship their dry aluminum sulfate to Puerto Rico, they evidently do not choose to do so at the price PRASA is willing to pay. 35/

Even respondent's actions demonstrate the insularity of the Puerto Rican aluminum sulfate market. SULFORCA apparently is trying to meet its contractual obligations with PRASA by providing PRASA with liquid aluminum sulfate produced at the newly operational Puerto Rican Alum Corporation, located in Puerto Rico. 36/ It is evident that neither respondent, nor any other supplier, could meet all of PRASA's demands for liquid aluminum sulfate by supplying liquified dry aluminum sulfate as a long-term proposition because it is difficult to consistently liquify dry aluminum sulfate in the quantities required under PRASA's contract. 37/ Further, since August 1988, it has been impossible for Alchem, the Puerto Rican

33/ (...continued)

U.S.C. § 883, requires that merchandise shipped between U.S. ports must be shipped on U.S. vessels. Higher labor costs on these vessels increases the cost of shipping U.S. products between U.S. ports as compared to goods shipped from or between foreign ports.

34/ See id. at A-43.

35/ We note, however, that some U.S. producers ship small amounts of dry aluminum sulfate to purchasers in Puerto Rico other than PRASA. In these sales the small quantities of aluminum sulfate purchased renders the mainland producer's price less of an barrier to purchase than it is in large quantity sales. See id. at A-18.

36/ See id. at A-16 and A-32.

37/ SULFORCA's dry aluminum sulfate did not fully or permanently dissolve when reliquified. The aluminum sulfate sediment in the liquified product supplied by SULFORCA and Alchem has created technical problems for PRASA and has led to dissatisfaction among PRASA engineering employees. See id. at A-10; petitioner's posthearing brief at appendix E.

importer, to consistently supply PRASA with all the liquid aluminum sulfate it needs due to these liquification difficulties. 38/

Respondent also asserted that a regional analysis is inappropriate when applied to a region with only one domestic producer. As we have previously noted, this fact does not preclude us from using a regional analysis where all the statutory requirements are met. 39/

For these reasons, we find that appropriate circumstances exist in these final investigations to analyze the aluminum sulfate industry as a regional industry whose boundaries are defined by those of the Commonwealth of Puerto Rico. 40/

38/ See id. at A-10 and A-28.

39/ Aluminum Sulfate from Venezuela, Invs. Nos. 701-TA-299 and 731-TA-431 (Preliminary), USITC Pub. 2189 (May 1989) at 10. 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).

40/ SULFORCA and the Industrial Chemical Corporation jointly own the Puerto Rican Alum Corporation (PRAC). Apparently PRAC began limited production of liquid aluminum sulfate in Peñuelas, Puerto Rico on October 26, 1989. See Hearing Transcript at 69; respondent's posthearing brief (Responses to the Commission's Inquiries at the Hearing). While PRAC might theoretically be considered a domestic producer of aluminum sulfate, PRAC had only been in production, if at all, for four weeks at the time of the Commission's vote. Whether the Commission should consider PRAC a domestic producer of aluminum sulfate, and the corresponding question of whether PRAC should be excluded from the domestic industry as a related party, are moot questions because the data do not include information on PRAC's production activities.

III. Condition of the Domestic Industry 41/

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. 42/ The period of these investigations covers the years 1986 through the first half of 1989. 43/

The condition of the regional domestic industry has not changed since our preliminary determinations. Thus our description of its condition remains essentially the same. During the period of investigation, apparent consumption of aluminum sulfate in Puerto Rico increased. 44/ Although

41/ Vice Chairman Cass joins this discussion and the discussion of material injury only to the extent that they provide information relevant to his analysis of injury to the regional industry by reason of unfairly traded imports. He believes that the statute under which the Commission conducts title VII investigations does not contemplate that the Commission will make a separate legal finding respecting the condition of the domestic industry. While he believes the condition of the domestic industry is relevant to assessing whether the effect of the LTFV and subsidized imports has been "material," that information has relevance only is assessing material injury by reason of the LTFV and subsidized imports. See Digital Readout Systems and Subassemblies Therefor from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (1989) at 95-113 (Dissenting Views of Commissioner Cass); Additional Views of Vice Chairman Cass infra at 21.

42/ 19 U.S.C. § 1677(7)(C)(iii).

43/ Within the region of Puerto Rico, petitioner is the only domestic producer of aluminum sulfate from whom the Commission received data. Accordingly, the Commission obtained permission from petitioner's counsel to characterize the trends of the business proprietary information it submitted to the Commission under the administrative protective order.

44/ See Report at A-35 and A-36, Table 12.

regional capacity and production also increased from 1986 to 1987, 45/ production fell in 1988 to a level below that in 1986 and capacity utilization fell throughout the period of investigation. 46/ The loss of the PRASA contract, and the subsequent near idling of the regional producer's plant, resulted in a dramatic decline in regional shipments of aluminum sulfate from 1987 to 1988. 47/ The number of production and related workers producing aluminum sulfate declined significantly from 1987 to 1988, 48/ as did the hours worked by production and related employees, and compensation paid to production and related workers. 49/

Operating income of the regional producer of aluminum sulfate decreased significantly from 1987 to 1988. 50/ Operating income as a percentage of net sales similarly declined during this period. 51/ Therefore, based on the economic and financial condition of the regional producer, we conclude that the regional aluminum sulfate industry in Puerto Rico is suffering material injury. 52/

45/ See id. at A-20, Table 1.

46/ See id.

47/ See id. at A-20 and A-21.

48/ See id. at A-20.

49/ See id.

50/ See id. at A-23 and A-24, Table 2.

51/ See id. at A-24, Table 2.

52/ We note that the paucity of verified information on the record about PRAC's operations prevents the Commission from including PRAC's operations in its material injury evaluation. See discussion supra at note 40.

IV. Material injury by reason of LTFV and subsidized imports

In addition to finding material injury to the regional domestic industry in these final antidumping and countervailing duty investigations, we must also determine whether this material injury is "by reason of" the imports subject to investigation. 53/ In making this determination, the Commission is required to consider, inter alia, the volume of the imports subject to investigation, the effect of such imports on domestic prices, and the impact of such imports on the domestic industry. 54/ Evaluation of these elements involves a consideration of, among other factors: (1) whether the volume of imports, or increases in volume is significant, (2) whether there has been significant price underselling by the imported products, and (3) whether imports have otherwise depressed prices to a significant degree, or have prevented price increases. 55/

The Commission must evaluate relevant economic factors bearing on the industry, such as actual and potential changes in profits, productivity, capacity utilization, and investment. 56/ The Commission may take into account information concerning other causes of harm to the domestic injury,

53/ 19 U.S.C. §§ 1673d(b)(1), 1671d(b)(1).

54/ Id. at § 1677(7)(B).

55/ Id. at § 1677(7)(C)(i-ii).

56/ Id. at § 1677(7)(C)(iii).

but it is not to weigh causes. 57/ The imports need only be a cause of material injury. 58/

We find that the aluminum sulfate industry in Puerto Rico has suffered material injury as a direct result of the unfairly traded imports from Venezuela. There is essentially one buyer in this regional market, PRASA. PRASA's consumption of aluminum sulfate traditionally accounts for nearly 98 percent of regional sales of aluminum sulfate. In August 1988, PRASA awarded this contract to SULFORCA, the Venezuelan exporter whose bid was below the regional industry's comparable bid, instead of continuing its contractual relationship with the domestic industry within the region. We find that the Venezuelan imports significantly undersold the domestic product and that this underselling resulted in the loss of the regional industry's single most vital sale. 59/

Consequently, the regional industry has been nearly idled. During interim period 1989, the regional industry produced a small percentage of its interim 1988 output. 60/ Production has decreased from one batch per

57/ "Current law does not...contemplate that the effects from the [LTFV] imports be weighed against the effects associated with other factors (e.g., the volume and prices of imports sold at fair value, 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).

58/ LMI-La Metalli Industriale, S.p.A. v. United States, 13 CIT ___, 712 F. Supp. 959, 971 (1989); 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); British Steel Corp. v. United States, 8 CIT 86, 96-97, 593 F. Supp. 405, 413 (1984); S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979).

59/ See Report at A-43.

60/ See id. at A-31.

day of aluminum sulfate to one batch per month, 61/ and the regional producer has laid off one half its labor force. 62/ Since winning the PRASA contract in August 1988, Venezuelan import penetration has increased almost precisely as much as domestic production has declined, replacing the regionally produced aluminum sulfate formerly supplied by the domestic industry. 63/

Therefore, in light of the reliance of the regional industry on one large municipal contract, the poor condition of the regional industry after PRASA's award of that liquid aluminum sulfate contract to SULFORCA, and the resulting rising import volume and market penetration by Venezuelan imports, we find that the domestic regional industry located in Puerto Rico is materially injured by reason of Venezuelan imports of aluminum sulfate, which are both subsidized and sold at less than fair value. 64/

61/ See id. at A-20.

62/ See id. at A-22.

63/ See id. at A-59, Table 12.

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

NONCONFIDENTIAL VERSION

ADDITIONAL VIEWS OF VICE CHAIRMAN RONALD A. CASS

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

I join my colleagues in these final investigations in finding that an industry in the United States has been materially injured by reason of both dumped (less than fair value) and subsidized imports of aluminum sulfate from Venezuela. I also join their finding that the relevant like product consists of domestically produced dry and liquid aluminum sulfate, whether of standard, low-iron, or iron-free grade. Further, I concur that the Commission should employ a regional industry analysis in these investigations based on a region consisting of the Commonwealth of Puerto Rico. Finally, I join the discussion of the condition of the domestic industry and the discussion of causation of material injury by the subject imports to the extent that they accurately summarize information relevant to my disposition of these investigations. I offer these Additional Views in order to explain my approach, which differs from that of my colleagues, to the definition of a regional industry and to the analysis of material injury, both in general and in the regional industry context.

I. DEFINITION OF A REGIONAL INDUSTRY

As I recently explained in my Additional Views to the Commission's preliminary determination in Gray Portland Cement and Cement Clinker from Mexico ("Cement"),¹ I interpret the statutory criteria governing

¹ Inv. No. 731-TA-451 (Preliminary), USITC Pub. 2235 (Nov. 1989).

identification of a regional industry and analysis of injury to that industry somewhat differently than my colleagues. Although the primary regional industry issue in these final investigations, as in the preliminary, concerns our interpretation of the statutory requirement that the "producers" within an isolated market sell all or almost all of their production in that market,² it might be useful to discuss the statutory criteria for identifying a regional industry and for analyzing injury to it before addressing the appropriate definition of regional producers. As noted below, the treatment we give to the predicate issues respecting regional industries affects the analysis of the issues contested in these investigations.

The statute tells us that "in appropriate circumstances" we may divide the U.S. market for particular products into two or more markets and treat the producers in each market as a separate industry.³ The only criteria for finding such "regional" industries is that (i) the producers within each market sell all or almost all of their production of the like product in that market, and (ii) demand in that market is not supplied to any substantial degree by producers located outside of the market area.⁴ The statute then tells us that we may find injury to "an industry even if the domestic industry as a whole . . . is not injured" if (i) the subject imports are concentrated in "such an isolated market" and (ii) the producers of all or almost all of the production within that market are materially injured by reason of the subject imports.⁵

² 19 U.S.C. § 1677(4)(C)(i).

³ 19 U.S.C. § 1677(4)(C).

⁴ Id.

⁵ Id.

The Commission in this and prior opinions has conflated the requirement that imports be concentrated in a particular region, which relates to whether the Commission may find material injury, with the requirement that domestic production and consumption be isolated into discrete markets, which relates to whether the Commission may find one or more regional industries.⁶ This telescoping of the analysis that the statute directs the Commission to undertake arguably affects nothing more than the order in which the Commission discusses factors relevant to analyzing the proper disposition of regional industry claims; after all, the concentration of imports is a requirement for granting relief in such cases. I believe, however, that by combining these two separate bases for analysis into one, the Commission has created confusion regarding a number of questions that arise in the context of regional industry analysis, including the questions of whether a region may consist of a single producer and whether producers may be affiliated with entities outside the region.

The text of the statute focuses our attention first on the degree to which a given market within the United States is isolated from other markets for U.S. producers of the like product. It asks us to look for situations where the markets in which domestic goods are produced and sold are truly

⁶ See Fall-Harvested Round White Potatoes from Canada, Inv. No. 731-TA-124 (Final), USITC Pub. 1463 (December 1983) at 7, 20; Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final), USITC Pub. 1047 (March 1980) at 4, 8, 11, 14. Sugars and Sirups was the first case in which the Commission found a regional industry under the Trade Agreements Act of 1979, which added the regional industry provision to the Tariff Act of 1930. In that case the Commission found "appropriate circumstances" for the identification of a regional industry and, without analysis of the statutory language, indicated that these circumstances included a concentration of imports in the potential region. The Commission has adopted the three prong test in subsequent determinations without further analysis.

isolated because in such circumstances the market mechanisms through which the effects of dumped or subsidized imports on U.S. producers are mediated cannot accurately be represented by the operation of an integrated nationwide market. Looking at import concentration to define markets can lead to outcome-oriented market definitions by directing our attention instead toward situations in which, because imports (for whatever reason) are concentrated in one geographic area, defining that area as a discrete market for our inquiry necessarily makes an injury finding more likely. Under the statute, in contrast, if U.S. producers sell their product within discrete markets, each discrete market constitutes a region, and the U.S. producers who produce in and sell to that market constitute a regional industry, regardless of whether imports are concentrated in any of these regions. Defining the regions in this fashion, in other words, might or might not enhance the probability of finding injury to a domestic industry by reason of dumped or subsidized imports.⁷ We are, in short, told by law to look for segregated markets and not for concentrated effects. Having identified such markets, we then are separately instructed as to the effects from unfairly traded imports that will justify duties. If imports are concentrated in one region as required for an injury determination, their effects, too, are likely to be concentrated in that region, but one does not follow inexorably from the other.

Plainly, the statute authorizes the Commission to find any number of isolated regional markets. We may find injury on the basis of a regional

⁷ See Cement for a discussion of the manner in which the delineation of various possible regional industries may affect whether the Commission, in the final investigation, will be able to make an injury determination with respect to an industry in any region in light of the apparently much broader area into which Mexican cement is imported.

analysis, however, only with respect to a market in which the subject imports are concentrated, and then only if all or nearly all of the producers of the domestic like product in this market are injured by these imports. The language of the statute, in separately specifying injury criteria for a regional industry, appears to contemplate that only one of the many possible separate markets will meet both of the injury criteria. This reading of the statute leads to the conclusion that the great bulk, indeed all or nearly all, of the subject imports must be sold in a particular region before the Commission may find injury to the regional domestic industry. If something less were required to meet the concentration requirement, the Commission could possibly find injury in two or more regions, each of which absorbed only a portion of the subject imports, or could find injury in one region and not another into which a significant volume of imports was sold, and on which duties might be levied under a national imposition of antidumping or countervailing duties. These scenarios present the possibility that the statutory provision for relief from unfairly traded imports based on a regional industry analysis might lower the effective threshold for showing injury from dumped or subsidized imports, which would violate the GATT.

Clearly regional injury analysis should not result in duties on imports to all parts of the United States when there is a showing simply of harm to any producers in any part of the United States. Rather, it must address the situation of GATT-cognizable injury to a discrete set of producers materially injured by imports are targeted on a segregated market within the United States. Thus understood, the statute implicitly answers several questions that have been raised in these or other investigations.

Respondent in these investigations expressed concern that U.S.

production is not sufficiently concentrated in the proposed region, raising the risk that duties will be imposed based on a regional analysis when the majority of domestic producers are not injured by the subject imports and consumers may actually be injured by the duties. This risk is eliminated by the requirement that the Commission find injury only if imports are concentrated in a single region. While the statute provides that there may be many isolated markets, and therefore more than one regional industry for a particular product, the concentration requirement ensures that duties will not be imposed to the detriment of consumers outside the region and also that duties will not be imposed when non-regional producers of the like product directly compete with the subject imports and are not injured. Once such a market is identified, the question of how many producers exist in the market and their share of total domestic production becomes unimportant.

This argument is not Respondent's principal concern, but the statute also strongly suggests an answer to the question most vigorously pressed by Respondent in these investigations, whether it is fully consistent with the framework provided by GATT and Title VII of the Tariff Act of 1930 for the Commission to treat Petitioner's aluminum sulfate sales as separate from those of its sister companies for the purposes of determining whether Petitioner, until recently the only domestic manufacturer in Puerto Rico, is one of the "producers within such market" that sells all or almost all of its aluminum sulfate production in the proposed region. Under Title VII, we are looking first at a localization of production and sales within a discrete region, isolated from the market forces that would more generally regulate the effects of dumped and subsidized imports in a national market, and second at the distribution and magnitude of the effects of unfairly traded goods.

concentrated within that region. These effects cannot be trivial and cannot be imposed upon merely a subset of the U.S. producers operating in that region. These statutory inquiries, however, do not suggest that we have any concern with the identity of actual investors in the regional producer or in the degree to which those producers are related to other U.S. enterprises.

For that reason, the Commission is correct in rejecting Respondent's argument against treatment of Petitioner as a producer that sells all or almost all of its production in Puerto Rico based on the sales of aluminum sulfate in other parts of the United States by Petitioner's sister companies. As discussed in the Views of the Commission, we have not previously required that producers in a proposed region be independent from business entities outside the region, even though we have not carefully articulated the rationale for that position. In practice, such a requirement would unnecessarily limit the Commission's use of regional analysis to those few industries that have remained untouched by the maelstrom of corporate expansion and diversification that characterizes the current business environment. If production of a subsidiary of RJR-Nabisco, for example, were isolated in a regional market, would we truly be required to consider that firm as if it operated in a larger national market simply because it is owned by a corporate giant? If Haagen-Daz produced and sold ice cream to an isolated (New England, say) market, would we be instructed to disregard that fact because it is a subsidiary of Pillsbury, other subsidiaries of which sell their wares in other parts of the U.S. (perhaps even selling other brands of ice cream)? For that matter, would such treatment imply, in turn, that Pillsbury's operations should be treated as foreign because it is owned by a U.K. enterprise, Grand Metropolitan? There is no evidence that these are the

questions Title VII would have us address.

In addition, insisting that producers be separate firms in fact as well as in law, as opposed to mere subsidiaries of larger firms, would involve the Commission in examinations of the corporate organization of each entity and possibly prompt determinations based not on the isolation of the market and the impact of imports in that market, but on the legal structure of each industry. Upon reflection in these final investigations, I continue to believe, as I suggested in these preliminary investigations, that such emphasis on the corporate structure of the domestic industry directs our attention to matters well outside our ken and diverts the Commission from the issues posed by the statutory provision on regional industries. Those issues focus on the sort of trade and domestic industry questions commonly referred to this Commission, asking whether, due to the peculiar markets through which particular, unfairly traded imports transmit their effects, U.S. businesses producing and selling goods in an isolated market -- the employees who work there and the investors whose capital is in some measure located there -- are injured by a concentration of unfairly traded imports from a particular source. This impact is not especially influenced by the legal organization of the production facilities.

The Commission could, of course, conduct a case-by-case evaluation of whether each affiliation of each producer makes inappropriate the use of regional analysis in each investigation in which it is proposed. This exercise, however, would be utterly wasteful of the time and money of both the Government and the parties to our investigations. Refusing, after such an inquiry, to recognize as regional the sales of a facility that is part of a larger, non-regional entity, would presume that such a facility draws

resources (principally capital) from its affiliates, and that this sharing of capital alters the facility's operation so as to make it part of an industry broader than the market area in which its sales are confined. A national market analysis may appear necessary in such an instance because, if the Commission is to evaluate material injury to producers from unfair trade practices, that inquiry may be thought to require analysis of the impact on those investors who contribute capital to the venture; and where investment takes place at the level of the corporate parent, as it must for a wholly-owned subsidiary, those investors are affected by overall corporate returns, not by returns just on capital allocated to the subsidiary.

There are two reasons that this argument must be dismissed as specious. First, the argument abstracts heroically from the language of the statute under which we are to identify regional industries. The law by its own terms addresses the extent to which sales of local production are confined to a particular area, and the extent to which demand for the like product in a particular market area is met by local producers. The statute does not address the extent to which the producers whose sales are so circumscribed may obtain capital or production inputs from outside that market area, presumably because this is not relevant to our identification of regional industries or our assessment of injury to a regional industry in which imports are concentrated. The fact that certain regional producers may obtain capital infusions from affiliated entities may ameliorate the impact of imports on specific regional facilities, but as with facilities that must borrow or otherwise raise capital, these infusions must generate a return for the facility to survive. Nowhere in the statute are we told that we should distinguish between domestic producers' sources of capital in assessing harm

due to imports.

Moreover, in my view this "piercing-the-corporate-veil" interpretation of the statute not only strains the linguistic bounds but threatens to undermine entirely this provision of the law, preventing regional industry analysis in circumstances, like those in this case, in which investors and employees suffer material injury by reason of unfairly traded imports that are concentrated in an isolated market. To return to an analogy suggested above, it is true that returns on investment in Grand Metropolitan include the earnings of the Haagen-Daz division of its Pillsbury division. But that does not mean that dumping or subsidization of ice cream imports could not affect Haagen-Daz employees without affecting all Grand Metropolitan employees. It does not even mean that capital committed to ice cream making plants and equipment could not be lost or its value significantly impaired without affecting all parts of the company. If such a requirement, of company-wide or conglomerate-wide harm, were read into the statute, all our definitions of like product and domestic industry -- throughout Title VII, not just in regional industry cases -- would have to be revisited.

Further, this potentially radical revision of Title VII appears predicated on doubtful premises about the operation of capital markets. Such a revision must posit that where specific investment is not harmed, no injury exists, and that specific investment cannot be harmed if only one aspect of it (one of several loci of the investment's tangible manifestations) is injured. Does that mean that any investment in a broad, market-based fund (not specific to a single enterprise) is not injured when one industry sector, comprising only a small portion of fund investments, is hurt? Would we have to examine the degree to which investors actually diversify away from the risk at issue?

And, if so, could injury ever be found, given the prevalence of diversified investment vehicles?

Alternatively, the corporate-veil approach might rest on the belief that being part of a larger firm lowers capital costs to a subsidiary, which therefore is less readily harmed by competitors. While some imperfections, perhaps great imperfections, exist in our capital markets, there is no basis for belief that conglomerates invariably enjoy lower-cost capital. Even the most casual empiricism should negate that blithe assumption. Turning away from bald assumption, we must see that agglomeration has not prevented dislocations in regional markets. Note that despite its affiliation with its New Jersey sister, which manages its operations, there is a real chance that Petitioner in these investigations will close its doors if it does not receive renewed orders from PRASA or some other consumer located in Puerto Rico. I believe that it is exactly this situation that the regional industry provision is designed to address, regardless of whether the production facilities that are harmed are part of a larger business entity or account for a significant proportion of total domestic production measured on a national scale.

In these investigations, once the treatment of Petitioner's production is resolved, the statutory criteria are met and appropriate circumstances exist for finding that aluminum sulfate is produced in Puerto Rico by a regional industry. The domestic producers of liquid aluminum sulfate in Puerto Rico, Petitioner and now PRAC, sell all of their aluminum sulfate production there. Exports to alternative markets, while possible, are unlikely due to prohibitive transportation costs and other difficulties in

handling liquid aluminum sulfate.⁸ Although shipment of dry aluminum sulfate is more feasible, the liquid aluminum sulfate produced in Puerto Rico would have to be dried before shipment, making it uncompetitive with production in the continental United States.⁹ Correspondingly, aluminum sulfate, either liquid or dry, cannot be shipped economically from the U.S. mainland in large quantities and since the construction of Petitioner's plant, shipments in anything but minute quantities have not occurred.¹⁰ As noted in the Views of the Commission, these are the circumstances in which the Commission has found the requisite market isolation in prior cases.

II. MATERIAL INJURY FROM DUMPED AND SUBSIDIZED IMPORTS

As I have argued at length in many previous opinions, I read Title VII of the Tariff Act of 1930, as amended, to require the Commission to assess the effects of dumped and subsidized imports on the domestic industry by comparing the current condition of the domestic industry to its probable condition had the subject imports not been unfairly traded in the United States.¹¹ The statute requires that we then determine whether the evidence indicates that the changes in the circumstances of the industry attributable to dumping and

⁸ Report at A-12.

⁹ Report at A-12 and A-37.

¹⁰ Report at A-17-18.

¹¹ See, e.g., New Steel Rails from Canada, Inv. Nos. 701-TA-297 and 731-TA-422 (Final), USITC Pub. 2217 (Sept. 1989) (Dissenting Views of Vice Chairman Cass) 125-159 ("New Steel Rails Final"); Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (Jan. 1989) (Concurring and Dissenting Views of Commissioner Cass) at 98-108 ("Digital Readout Systems"); 3.5" Microdisks and Media Therefor from Japan, Inv. No. 731-TA-389 (Preliminary), USITC Pub. 2076 (Views of Commissioner Cass).

subsidization constitute material injury.¹²

In evaluating whether imports have materially injured the domestic industry I undertake the three-part inquiry suggested by the statute.¹³ First, the statute directs us to consider the volume of allegedly dumped and subsidized imports. In the context of our inquiry into the effects of unfairly traded imports, this entails not only an assessment of the absolute volume of such imports and the extent of their market penetration, but also an evaluation of the extent to which the volumes, and correlatively the prices, of the subject imports have been affected by the unfair trade practices. Second, we must examine the effects of the unfairly traded imports on the prices, and concomitantly the sales, of the domestic like product. Evidence relevant to this effect includes the share of the domestic market held by the imported product, and the degree to which consumers see the foreign and domestic products as substitutes and switch their purchases between these products in response to changes in their relative prices. Finally, we must examine the impact of these changes in the prices and sales of the domestic product on the domestic industry as reflected in employment and investment in that industry. In this investigation we also must ask two additional questions in respect of the regional industry: whether the subject imports are concentrated in this region and whether all or nearly all of the producers within the region have been materially injured by the unfairly traded imports.

These investigations present uniquely clear answers to these statutory questions. All of Venezuela's exports enter the United States in Puerto

¹² New Steel Rails at 19-31.

¹³ 19 U.S.C. § 1677(7).

Rico.¹⁴ In addition, until very recently Petitioner was the only domestic producer in the market. Because there is only one large consumer in the market, PRASA, which fills the vast majority of its demand on a contractual basis from one supplier, PRASA's substitution of imports for domestic production was an immediately discernable act that produced a sharp drop in all of Petitioners's financial and production indicators.

Before we may find material injury by reason of unfairly traded imports, however, we must still examine the extent to which the unfair trade practices found by Commerce, in the context of the domestic market, were responsible for the harm to the domestic industry, in this case Petitioner. As discussed briefly below, it appears that these practices were responsible for Respondent's ability to underbid Petitioner for the PRASA contract. In light of the record evidence that we are faced with price competition between very similar products, and specifically that PRASA awarded the contract on the basis of price, as opposed to differences between bidders in product quality or service considerations, I conclude that the dumping and subsidization of Respondent's aluminum sulfate has injured Petitioner and that this injury is material.

A. Volumes and Prices of Dumped and Subsidized Imports

Importation of aluminum sulfate from Venezuela began in 1988 with shipments amounting to [***] pounds valued at \$ [***], rising during the first half of 1989 to approximately [***] pounds valued at \$ [***].¹⁵ Based on the

¹⁴ Report at A-19.

¹⁵ Report at A-34, Table 9. Imports are likely to be negligible in 1990 because imports from SULFORCA are being replaced by domestic product produced by the Puerto Rican Alum Corporation, a Puerto Rican company owned by SULFORCA and Industrial Chemical Corp.

award of the PRASA contract to SULFORCA, imports immediately captured [***] percent of the market, and during the first half of 1989 held approximately [***] percent.¹⁶ Commerce found dumping margins for SULFORCA and all other producers of 259.17 percent and net subsidies of 19.03 percent for SULFORCA and 38.4 percent for FERRALCA.¹⁷

With regard to dumping, the record evidence suggests that dumping significantly lowered the price, and thereby increased the volume, of Venezuelan aluminum sulfate imported into the United States. In cases in which the dumping margins reflect a comparison of home market and U.S. prices (though in this case the comparisons are very rough and based on the "best information available"), the actual decrease in the U.S. price of the subject imports (compared to what that price would have been absent dumping) will not be equivalent to the full percentage of the dumping margin. The extent to which the dumping computed by the dumping margin results in decreased prices for sales to the U.S. is in large measure a function of the importance of each market (home and U.S.) to the foreign producers, with the price decrease consequent to dumping growing as the importance of the U.S. market relative to the exporter's home market declines.

Normally an accessible indicator of the relative importance of these markets is the proportion of its total sales in both of these markets that the producer makes in its home market.¹⁸ In this investigation, however,

¹⁶ Report at A-36.

¹⁷ Report at A-3-5.

¹⁸ See, e.g., Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (March 1989) (Additional Views of Commissioner Cass) at 58-60.

In reality, an estimate of the decrease in the price of the dumped product
(continued...)

SULFORCA, which began operations in September of 1988, appears to have been formed as a joint venture between the Venezuelan government and a Venezuelan petrochemical company primarily to perform the PRASA contract, which it was awarded in August of 1988.¹⁹ SULFORCA sold only around [***] percent of its production in Venezuela during the period Oct. 1988 through June 1989.²⁰ Despite this importance of the U.S. market to SULFORCA, the extremely high dumping margins for SULFORCA's U.S. sales found by Commerce indicate that dumping significantly lowered the price of SULFORCA's product in the U.S. market and enabled it to win the PRASA contract.

With respect to the impact of subsidies on import prices and volumes, it is important to understand that the Department of Commerce does not calculate the amount by which foreign subsidies lowered the U.S. sales price of the imports nor the corresponding increase in the volume of imports sold. Commerce calculates only the amount of the foreign subsidy. This subsidy calculation, while essential to determining the subsidies' effect on import volumes and prices in the United States, cannot be taken uncritically as equivalent to a determination of the effect of the foreign subsidies on the U.S. price of the foreign imports. As Congress recognized in directing the

¹⁸(...continued)

that is derived in this fashion will be somewhat overstated as it represents an approximate upper bound of that decrease. For a thorough explication of this subject, see R. Boltuck, Office of Economics, Assessing the Effects on the Domestic Industry of Price Dumping, USITC Memorandum EC-L-149 at 1, n. 1, 13, 19-21 (May 10, 1988). A more accurate statement of the effects of dumping on import prices also may require some adjustment to reflect the fact that dumping margins are calculated on an ex-factory, rather than a final sales price, basis. This adjustment almost inevitably will reflect a reduced effect from that calculated here.

¹⁹ Report at A-32.

²⁰ Id.

Commission to consider the type of subsidy at issue in evaluating threat of material injury,²¹ different types of subsidies will have different effects on the price and volume of the subsidized product. Some subsidies may be direct payments to exporters based on the amount of the subject product exported, while others may be payments for production regardless of the market for which the product is produced. Still other subsidies may be payments for the use of particular inputs to production, including subsidies based on the location of the manufacturing operation. In each case a careful evaluation of the manner in which the subsidy operates is necessary to determine its price and volume effects.²²

The government of Venezuela subsidizes SULFORCA by selling it alumina hydrate, one of the two major raw materials used to manufacture aluminum sulfate, at preferential rates.²³ Input subsidies of this type either lower the producer's total costs, or allow the producer to purchase greater volumes of inputs and increase output at the same cost. Either scenario results in decreased prices for the final product in some proportion of the subsidy. The amount of the subsidy reflected in the price decrease depends on the nature of market-wide supply and demand for the final product. In these investigations, as already noted, a unique situation exists in that PRASA accounts for almost all purchases and these are set by contract with a single supplier. In this investigation we can therefore assume that at least a portion of the subsidy

²¹ 19 U.S.C. § 1677(7)(E)(i).

²² See New Steel Rails from Canada, Inv. No. 701-TA-297 (Preliminary), USITC Pub. 2135 (November 1988) at 42 (Additional Views of Commissioner Ronald A. Cass); Fresh, Chilled, or Frozen Pork from Canada, Inv. No. 701-TA-298 (Final), USITC Pub. 2218 (September 1989) at 64-67 (Dissenting Views of Chairman Brunsdale and Vice Chairman Cass); New Steel Rails Final.

²³ Report at A-3.

is reflected in the price of the imports.

B. Prices and Sales of the Domestic Like Product

Analysis of the impact of imports on the prices and sales of the domestic like product includes consideration of (i) the share of the domestic market held by the subject imports, (ii) the degree of substitutability between the subject imports and the domestic like product, and (iii) the degree to which domestic consumers change their purchasing decisions regarding the domestic and imported products based on variations in these products' absolute and relative prices. Generally, imports have the greatest impact on domestic like product sales and revenues when they are available in significant volumes relative to the domestic product, when consumers are unwilling to purchase more of the category of goods to which imports and the like product belong even if the prices of these goods go down, and when, in addition, consumers view the imported and like products as close substitutes. In this situation a decrease in the price of the import will most likely result in direct substitution of the import for the domestic like product, rather than increased overall purchases of the product.

This case provides a particularly dramatic example of the direct substitution by consumers of imports for domestic production. At the time PRASA awarded the contract, imports could be supplied in amounts sufficient to supply the entire regional market and PRASA treated the domestic like product and the imports as complete substitutes, though PRASA has since had difficulty with the reliquified imported product.²⁴ PRASA's demand for aluminum sulfate, which traditionally accounts for 98 percent of total demand in Puerto Rico, is

²⁴ Report at A-10.

derived directly from the amount of sediment in the Puerto Rican water supply and the volume of water demanded by its customers.²⁵ In light of the absence of viable substitutes for aluminum sulfate, the Commission staff estimates that the demand for aluminum sulfate in Puerto Rico is highly inelastic.²⁶ As a result, imports have captured almost the entire regional market and the domestic industry, as represented by Petitioner, currently makes only a minute fraction of its former sales.

C. Investment and Employment

The evidence of record, as discussed in the Views of the Commission, indicates that Petitioner's plant essentially has been idled, resulting in a corresponding decline in employment and return on investment.²⁷ This evidence clearly comports with a finding of material injury by reason of the dumped and subsidized imports from Venezuela.

CONCLUSION

For the foregoing reasons, I believe that the record evidence in these investigations demonstrates material injury to the regional domestic industry in Puerto Rico producing aluminum sulfate by reason of dumped and subsidized sales of aluminum sulfate from Venezuela.

²⁵ Economic Memorandum INV-M-120, November 27, 1989 at 12.

²⁶ Id.

²⁷ Report at A-17-27.

DISSENTING VIEWS OF CHAIRMAN ANNE E. BRUNSDALE

ALUMINUM SULFATE FROM VENEZUELA
Inv. Nos. 701-TA-431 and 731-TA-239 (Final)

December 6, 1989

In the preliminary phase of these investigations, I dissented from the Commission's affirmative determinations based on my view that the regional industry provision was not applicable in this case and that no reasonable indication existed that an industry national in scope was materially injured or threatened with material injury by reason of the subject imports.¹ At the hearing in these investigations, counsel for petitioner directed a substantial portion of his remarks to my views on the regional industry issues. He invited me to revisit this issue in the final determinations. I am happy to accept that invitation, but reconsideration has led me to the same result. I set forth a fuller exposition of my views.

Background

Aluminum sulfate, also known as alum, is used primarily in the treatment and purification of water. The largest consumers of alum in the United States are municipal water authorities and paper manufacturers.² Because alum is the product of a simple chemical

¹ Aluminum Sulfate from Venezuela, Inv. Nos. 701-TA-299 and 731-TA-431 (Final), USITC Pub. 2189 (May 1989) ("Preliminary") at 25-33 (Dissenting Views of Chairman Anne E. Brunsdale).

² Report at A-5.

process involving bauxite and sulfuric acid, the value added in the final production is not great. Manufacturers therefore generally produce alum in small plants at or near the locus of demand -- water treatment facilities or paper manufacturing plants. For example, General Chemical Corporation (General), has 29 plants located throughout the country.

This case arose out of a contract to supply alum to the Puerto Rican Aqueduct and Sewer Authority (PRASA). Prior to 1973, PRASA purchased alum from sources on the mainland.³ In 1973 PRASA granted a five-year supply contract to General. General established a production facility on the island to produce the alum to be supplied under the contract. The contract was extended for two five-year terms, without competitive bidding, through 1988.⁴

The alum plant in Puerto Rico is formally owned and managed by General Chemical de Puerto Rico (General P.R.), a company affiliated with General Chemical through common ownership of both companies. Officers of General are also officers of the General P.R. and have substantial, if not complete, authority over the Puerto Rican company's affairs. According to its counsel, General established the separate subsidiary because tax treatment of Puerto Rican entities, certain Puerto Rican minimum-wage and equal-opportunity requirements, and differences in language and culture

³ Report at A-15, n.51.

⁴ Report at A-14, A-41-42.

between Puerto Rico and the mainland made the establishment of a separate corporation expedient.⁵

In 1988, PRASA solicited bids for a new five-year supply contract. The award went to a Venezuelan firm, SULFORCA, which not only submitted the lowest price but also agreed to build an alum facility in Puerto Rico and to supply all of the alum called for under the contract from that facility.⁶ The record reveals that SULFORCA's facility in Puerto Rico is on line or will be in the very near future.

The construction of the SULFORCA plant creates an unusual record in this case. Imports of the product under investigation have ceased or are practically certain to cease in the near future. Ironically, the alum produced in SULFORCA's plant will [*** **
**** ***** ***** ***** *** ***** *** *****].⁷

I cannot agree with respondent, however, that these circumstances render the case moot, or even that the SULFORCA plant constitutes an expansion of the industry. The dumping and countervailing duty statutes are written in the present tense. We must decide whether an industry is materially injured or is threatened with material injury by reason of the subject imports. Whether one views the relevant date as the date of the petition,

⁵ Report at A-15; Petitioner's Post-Hearing Brief at 12-13.

⁶ Report at A-16; Respondent's Posthearing Brief at 5-6. General contested the award of the contract to SULFORCA, but the award was upheld in the Puerto Rican courts.

⁷ Report at A-17 & n.61.

or the date of the Commission's vote, or the date the Commission issues its final determinations, the circumstances of this case do not support respondent's view.⁸

Regional Industry Analysis

Turning to the dispositive issue in these investigations, I continue to be of the view that the manufacturers of alum in Puerto Rico do not constitute a regional industry as that term is defined in the governing statute. I reach this conclusion based on my reading of the statutory language, Commission precedent, and the record in these proceedings.

The regional industry provision, section 771(4)(C) of the Tariff Act of 1930,⁹ that regional industry analysis is

⁸ The situation does, however, constitute an interesting use of the trade laws. The petitioner's stake in the case is not the protection of its business, which is already lost. Rather, the issue is whether SULFORCA will be forced to relinquish the bond it posted on the alum imported during the past few months.

⁹ 19 U.S.C. § 1677(4)(C). The provision states:

Regional Industries. In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the products 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

appropriate if (1) producers in the region sell all or almost all of their product within the region, (2) demand within the region is not supplied to any substantial degree from outside the region, and (3) the subject imports are concentrated within the region.¹⁰ Even where all of these criteria are met, however, regional industry analysis is still discretionary and must be limited to "appropriate circumstances."

The gravamen of petitioner's argument is that Puerto Rico should be treated as a separate region and General P.R. as a producer within that region. I disagree with both of these points. In my view, General, not General P.R., should be the proper focus of our attention. In addition, Puerto Rico does not satisfy the prerequisites for regional industry treatment in this case. Finally, I cannot agree that the record in this case presents the "appropriate circumstances" for application of the regional industry analysis.

Regional Producer. I based my negative determination in the preliminary investigation on the fact that, under the statute, General Chemical de Puerto Rico does not constitute a "producer"

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 with material injury . . . by reason of the subsidized or dumped imports.

¹⁰ See, e.g., Certain Welded Carbon Steel Pipes and Tubes from Taiwan, inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987).

whose injury can be treated separately from injury to its larger, national affiliate, General. I pointed out that the term "producer" in the regional industry provision is more properly read as constituting a firm than a plant within a firm.

Specifically, the definitional provision of Title VII uses the word producer in a way in which substitution of the term "firm" would be appropriate but substitution of the term "plant" would not. Within subsection 771(4) -- the same subsection that contains the regional industry provision, Congress defined the term "related parties" as "producers [that] are related to the exporters or importers."¹¹ An "interested party" with standing to participate in Commission proceedings can be a "producer."¹² An exporter may be "the person by whom or for whose account the merchandise is imported into the United States if such person is the agent or principal of the . . . producer."¹³ Only a juridical person -- that is, an individual or a firm, and not a mere plant or facility -- could have the attributes ascribed to the term producer in these portions of the statute. Nothing in the statute or legislative history suggests that a different meaning is contemplated in the regional industry provision.

Treatment of the Puerto Rican company as a separate entity elevates the form of corporate independence over the substance of

¹¹ Section 771(4)(B), 19 U.S.C. § 1677(4)(B) (emphasis added).

¹² Section 771(13)(A), 19 U.S.C. § 1677(13)(A).

¹³ Section 771(9)(A), 19 U.S.C. § 1677(9)(A).

economic realities. The Commission routinely looks beyond the formalities of incorporation to focus on the domestic interests with a true stake in the case. I see no reason now to reverse field and give undue weight to corporate formalities simply because the regional industry provision is invoked.

The only learning on this point that I have found in prior decisions is in a case cited by petitioner, Sugar and Sirups from Canada.¹⁴ That tortuous investigation ultimately resulted in the Commission's finding a regional industry in the northeastern United States. With respect to one company, the Commission could not easily disaggregate the production data for the firm's two plants within the region from the one, smaller plant outside the region and considered the case based on the aggregate data. The Court of International Trade remanded the case to the Commission on the ground that disaggregation of the data on the plants within the region was required by the statute.¹⁵

Although the Commission complied with the Court of International Trade's order and thus did not raise the disaggregation issue in the Federal Circuit, the latter court in an unusual dictum stated its view that a firm-wide analysis was appropriate, if not preferable to what the court called the

¹⁴ Inv. No. 731-TA-3, USITC Pub. 1047 (March 1980).

¹⁵ *Atlantic Sugar v. United States*, 553 F. Supp 1055 (Ct. of Int'l Trade 1982).

"piecemeal approach."¹⁶ Although the Federal Circuit considered the case on the basis of the disaggregated data, the circumstances of that case clearly reveal that material injury to the production facilities within the region would have constituted material injury to the firm notwithstanding the existence of facilities outside the region. The contrast between that case and the one at bar, involving as it does only one of General's 29 facilities responsible only for approximately *** percent of General's production, could not be more plain.¹⁷

Isolated Region. Regional industry analysis centers on the degree to which the putative region is isolated from shipments into the region originating in other parts of the country. Thus, "The statute sets out the criteria of economic insularity by which producers in a portion of the United States may be treated as a

¹⁶ Atlantic Sugar Co. v. United States, 744 F.2d 1556. 1562 & n.27 (Fed. Cir. 1984).

¹⁷ With regard to injury to General, the issue is unclear. Petitioner's claims that loss of the contract has had [* ***** ** *** *****] are born out on the record. Indeed, while the actual data are confidential, the imports from Venezuela as a percentage of General's production [*** *** ****] than the imports from Sweden are of national production; however, the impact on General's bottom line is not nearly so great as [*** ***** ***** ***** ** * ***** ** ***** **** *****]. Yet nine months ago the Commission reached a unanimous negative preliminary determination in Dry Aluminum Sulfate from Sweden, Inv. No. 731-TA-430 (Preliminary), USITC Pub. 2174 (March 1989). I discuss the Sweden case in greater detail below.

separate industry."¹⁸ The controlling question is not whether such shipments have historically entered the region -- though that history may be material evidence -- but whether shipments from outside the region could compete with the regional product. The issue, therefore, is whether economic barriers prevent interregional competition.

Producers located in close proximity to their customers will always have a competitive advantage over more distant producers. This relationship was understood by the Commissioners who originally introduced the regional industry approach over 25 years ago.¹⁹ Regional industry analysis is therefore appropriate at some point along the continuum between mere competitive advantage and completely economic isolation. That point has not been precisely defined in Commission decisions.

For several reasons, I do not agree with the Commission majority that the Puerto Rico alum market is beyond the point of economic insularity at which a regional industry analysis is appropriate. By all accounts, the alum industry is structured such that producers and consumers enter into supply contracts based on which firms establish production facilities of the appropriate size in near proximity to their customer. "New alum facilities are usually constructed or plants shut down to accommodate changing

¹⁸ *Atlantic Sugar v. United States*, 511 F. Supp. 819, 820 n.1 (Ct. of Int'l Trade 1981).

¹⁹ *Hot Rolled Carbon Steel Wire Rod from Belgium*, AA1921-27, TC Pub. 93 (June 1963).

locations of paper or paperboard production, or changing regional needs for water and waste treatment."²⁰ Thus General and other U.S. producers have dozens of factories all over the country.²¹

In the case of Puerto Rico, PRASA sourced all of its alum on the mainland until 1973. At that point, PRASA granted General a 5-year supply contract (that they subsequently renegotiated through 1988 without competitive bidding). On the basis of that supply contract, General built a plant on the island, which General P.R. operated. Since General P.R. lost the contract to SULFORCA, the latter too has built a plant on the island. I do not see why General's Puerto Rican facility should be treated differently from any other alum plant that services its immediate environs.

In this regard, the majority's decision in this case stands directly counter to the Commission's negative preliminary determination in Aluminum Sulfate from Sweden,²² decided just nine months ago. In that case the imports from Sweden entered into just two ports, East St. Louis, Illinois, and Claymont, Delaware. The Commission stated in that case:

The effect of dry aluminum sulfate imports on prices of aluminum sulfate in the United States is minimized by the limited range of distribution of aluminum sulfate from its point of production or importation. . . . The impact of the Swedish imports, therefore, is confined to the areas served by these two points of distribution. For

²⁰ Chemical Products Synopsis, June 1988 (quoted in Report at A-18).

²¹ Report at A-15.

²² Inv. No. 731-TA-430 (Preliminary), USITC Pub. 2174 (March 1989).

this reason, much of the domestic market and industry appears to be beyond the reach of the imports.²³

Despite these observations, the Commission unanimously agreed that a regional injury approach was inappropriate in that case. The Commission reached the conclusion that the alum market was not segregated beyond the point necessary to apply the regional industry provision. Following Aluminum Sulfate from Sweden, I do not see how the majority can reach the result it reaches here.

My conclusion here is not, as petitioner's counsel has suggested,²⁴ a mere visceral reaction to the fact that petitioner here was the respondent arguing against regional treatment in the prior case. Rather, my problem rests on the fact that the records in the two cases regarding the distribution of alum are so different. In March, we heard that aluminum sulfate is shipped from Sweden to Delaware and Illinois. The Delaware imports are distributed throughout the mid-Atlantic states and the Illinois imports in Iowa, Kansas, Kentucky, and Ohio.²⁵ Yet we are told in this case that such transport is prohibitively expensive. The two cases do not jibe. I am inclined to believe the fact of actual distribution established in the Sweden case than I am the hypothetical insulation of regional markets offered to us in these investigations.

²³ Aluminum Sulfate from Sweden, USITC Pub. 2174 at 18.

²⁴ Transcript at 18.

²⁵ Aluminum Sulfate from Sweden, USITC Pub. 2174 at 13-14.

Petitioner's counsel's only explanation of this anomaly is that "the facts in the earlier case did not support a regional approach to industry, the facts in this case demand it."²⁶

I disagree. The record in this case does not establish the prerequisites for regional industry analysis.

Appropriate circumstances. As the regional industry provision is framed, satisfaction of the specified criteria is a necessary, but not a sufficient, prerequisite for regional industry treatment. Once the specified criteria are satisfied, the Commission still must decide whether application of the regional industry provisions is appropriate. This matter is left to the Commission's discretion, to be decided based on the policies and interests underlying Title VII.

The parties to these investigations have debated whether the regional industry approach should, as a policy matter, embody a de minimis exception, i.e., whether regional industry analysis should be afforded to a region whose output is inconsequential relative to the national industry as a whole. Respondent cites a case

²⁶ Transcript at 15. We are told that the Jones Act 46 U.S.C. 883, makes water transport of aluminum sulfate from the mainland prohibitively expensive. Id. at 19. However, the Jones Act would also on its face apply to the up-river transport of alum to East St Louis, Illinois. As petitioner's counsel argued, regional industry analysis was inappropriate in the Sweden case because "there was no regional market in a well-defined segment of the eastern United States or of the Gulf Coast, and they were then shipped up-river, through various points of the United States." Id. Thus, the Jones Act would appear to have been implicated in the Sweden case, too. At the very least, the record here is insufficient to reach a conclusive determination.

decided soon after the regional industry provision was enacted, Certain Steel Wire Nails from Korea.²⁷ In that decision, the Commission majority announced that "implicit in the notion of appropriate circumstances" lies the requirement that "a particular region should account for a significant share of domestic consumption and production."²⁸ Petitioner counters by noting that the "significant share" rule was adopted so that trade to the entire nation would not be disrupted to the entire nation because of a dumping order based on a conclusion involving only a very small.²⁹ Petitioner's view is that the broader, national concern is irrelevant in this case because imports from Venezuela enter the United States only in Puerto Rico.³⁰ The Commission has not directly considered this issue since Wire Nails.

I believe that the history of the regional industry provision supports respondent's view. Regional industry analysis first appeared in the early 1960s as a Commission-created doctrine. The courts quickly commented on the new approach. In Ellis K. Orlowitz v. United States,³¹ the Customs Court approved of the Commission's treatment of California as a separate region in a dumping investigation. On appeal, however, the Court of Customs and Patent

²⁷ Inv. No. 731-TA-26 (Final), USITC Pub. 1088 (August 1980).

²⁸ Id., USITC Pub. 1088 at 9.

²⁹ Id., USITC Pub. 1088 at 10.

³⁰ Post-Hearing Brief at 4.

³¹ 200 F.Supp. 302 (Cust. Ct. 1961).

Appeals (CCPA), a predecessor court of the Federal Circuit, provided a different reading of the doctrine. Specifically disapproving of the lower court's reasoning,³² the court affirmed the Commission's determination on the ground that "the Commission considered the nationwide effect its determination would have."³³ The court held that the impact on the region could, however, be considered in determining whether an industry in the United States was injured.³⁴

The Orlowitz decision influenced the direction of the regional industry approach. The Commission found injury where it concluded, for example, that imports "greatly disrupt[ed] and depress[ed] prices in a major United States market."³⁵ The Commission would specifically address the degree to which the impact of the imports on the region affected the national industry.³⁶ At its most extreme, regional industry analysis still took the national industry into account: "If some domestic producer or producers are injured by imports at less than fair value, it follows that the

³² The court stated: "We think that the existence or nonexistence of competition, per se, between producers of a particular commodity in various geographic sections of the country is not a conclusive factor in determinations such as this." *Ellis K. Orlowitz v. United States*, 50 CCPA 36, 42 (1963).

³³ Id., 50 CCPA at 42.

³⁴ Id.

³⁵ *Chromic Acid from Australia*, Inv. No. AA1921-32, TC Pub. 121 (February 1963) at 4 (emphasis added).

³⁶ See, e.g., *Elemental Sulfur from Canada*, Inv. No. AA1921-127, TC Pub. 617 (October 1973).

national industry may be materially injured because such producers are a part of a national industry. An injury to a part is an injury to the whole."³⁷ In sum, the regional impact was considered as part of the Commission's analysis of injury to the domestic industry.

In 1974, Congress commented on the Commission's practice without passing any legislation. The Senate Finance Committee reported:

A hybrid question relating to injury and industry arises when domestic producers of an article are located regionally and serve regional markets predominately or exclusively and the less-than-fair-value imports are concentrated in a regional market with resultant injury to the regional domestic producers. A number of cases involved this consideration, and where the evidence showed injury to the regional producers, the Commission has held the injury to a part of the domestic industry to be injury to the whole domestic industry. The Committee agrees with the geographic segmentation principle in antidumping cases. However, the Committee believes that each case may be unique and does not wish to impose inflexible rules as to whether injury to regional producers always constitutes injury to an industry.³⁸

The statement makes clear Congress' approval of the Commission's consideration of the regional industry in terms of injury to the domestic industry rather than injury solely to the regional producers.

The Commission did not change its practice following release of the congressional statement. If anything, the Commission's

³⁷ White Portland Cement from Japan, Inv. No. AA1921-38, TC Pub. 129 (July 1964) (Dissenting Views).

³⁸ S. Rep. 1298, 93d Cong. 2d Sess. 180-81 (1974).

treatment of regional analysis as a factor to be considered in finding injury to a national industry became more explicit. For example, in Hollow or Cored Ceramic Tile from Canada,³⁹ the Commission based its determination, centering on the Pacific Northwest, on the fact that the region consumed a majority of the subject brick in the United States.⁴⁰ Commissioner Leonard, in a concurring statement, noted:

The concept of looking at the impact of LTFV imports upon a particular marketing area of a national industry supplied by domestic producers located regionally and supplying predominantly such marketing area in order to see if a national industry has been injured has been followed by the Commission for over a decade.⁴¹

In that same case, Vice Chairman Minchew stated:

The Commission is required to consider the industry as a national industry but may consider a regional segment of an industry for purposes of evaluating injury. The rationale behind this approach is that an injury to a regional segment may constitute injury to the entire industry. I generally accept this view but think that a showing of injury to a regional segment, in itself, is not sufficient to show an injury to the national industry. It will be necessary to show that any injury to a regional segment has the effect of injuring the national industry before it can find in the affirmative.⁴²

Plainly following Commission precedent and the congressional understanding of Commission practice, the Commission considered the regional industry approach as a tool to assess injury to the entire industry.

³⁹ Inv. No. AA1921-155, USITC Pub. 785 (July 1976).

⁴⁰ Id., USITC Pub. 785 at 4-5.

⁴¹ Id., USITC Pub. 785 at 10-11.

⁴² Id., USITC Pub. 785 at 15.

The last expression of Commission intent prior to the enactment of the regional industry provision occurred in Certain Steel Pipes from Taiwan.⁴³ Appended to that decision is a memorandum from the General Counsel's Office which states: "The Commission has determined on numerous occasions, when it found the facts to so warrant, that an industry is being or is likely to be injured as a result of injury to a particular geographic area."⁴⁴ Two Commissioners at that time expressed the view that the Commission should consider in such cases "Whether the region under consideration is significant enough to constitute an industry under the Antidumping Act."⁴⁵

The regional industry approach was codified in the Trade Agreements Act of 1979.⁴⁶ The legislative history of the regional industry provision is sparse and does not address the issues previously addressed in 1974 by the Senate Finance Committee.⁴⁷ Significantly, the Wire Nails decision, which contained language

⁴³ Inv. No. AA1921-197, USITC Pub. 970 (May 1979).

⁴⁴ Id., USITC Pub. 970 at A-59.

⁴⁵ Id. at 23 (Additional Views of Commissioners Bill Alberger and Paula Stern With Respect to Regional Industry).

⁴⁶ Pub. L. 96-39, § 101, 93 Stat. 177 (1979).

⁴⁷ S. Rep. 249, 96th Cong., 1st Sess. 83 (1979); H. Rep. 317, 96th Cong., 1st Sess. 73 (1979). Petitioner refers to language in the Senate Report to the effect that, if the regional industry constitutes a "major" portion of the national industry, then regional analysis is unnecessary. Post-Hearing Brief at 11. This is so by definition. It does not, however, respond to whether the region, though not "major," must or must not be more than of de minimis importance to the national industry.

requiring that the region be significant in relation to the national industry, is consistent with prior Commission practice and followed directly on the heels of the 1979 statute. Such a clear expression of prior practice deserves considerable respect.

Even with the passage of time, I believe that a region responsible for a de minimis share of domestic production does not present the "appropriate circumstances" for regional treatment. Our primary function under the law is to determine whether a domestic industry -- defined nationally -- is materially injured or threatened with material injury. The regional industry provision is an exception to that, a special treatment in a certain specified class of cases. I do not think that the regional industry should be read so broadly as to subvert the injury function. The understanding of the regional industry approach as originally crafted by the Commission, as described by Congress in 1974, and as practiced both before and after the adoption of the regional industry provision in 1979, suggests that a de minimis exception is entirely appropriate.

On these grounds, I conclude that treatment of this industry on a national basis is required.

Injury or Threat of Injury

The regional industry issue having been decided, the case is easily resolved. In the years 1988 and 1989, the only years in which there have been imports from Venezuela, the market share of

such imports has not reached * percent.⁴⁸ There is no evidence of any material impact of those imports on the domestic industry. Petitioner's only allegation in this regard is that its Puerto Rican contract is important even on a national basis.⁴⁹ Even if true, the figures cited by petitioner still center on its own interests, not those of the national industry. Taking petitioner's figures and applying them to the national industry renders the impact on the industry immaterial.

With regard to threat, as discussed above the imports from Venezuela have or will shortly cease as SULFORCA's Puerto Rican plant begins production.

For the foregoing reasons, I conclude that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

⁴⁸ Report at A-36.

⁴⁹ Prehearing Brief at 18.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

Following a preliminary determination by the U.S. Department of Commerce that imports from Venezuela of aluminum sulfate ¹ are being, or are likely to be, sold in the United States at less than fair value (LTFV), the U.S. International Trade Commission (Commission), effective August 9, 1989, instituted investigation No. 731-TA-431 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry in the United States is materially retarded, by reason of such imports. Effective October 25, 1989, Commerce made a final affirmative LTFV determination for its investigation concerning aluminum sulfate from Venezuela (54 F.R. 43438). ² Also effective October 25, 1989, Commerce made a final determination that benefits which constitute subsidies are being provided to producers or exporters of aluminum sulfate from Venezuela (54 F.R. 43440). ³ Accordingly, on October 25, 1989, the Commission instituted a corresponding final countervailing duty investigation (inv. No. 701-TA-299 (Final)) under the applicable provision of the Tariff Act of 1930. ⁴

Notice of the institution of the investigations and of a hearing to be held in connection therewith was given by posting copies of notices in the Office of the Secretary, U.S. International Trade Commission, Washington DC,

¹ The product covered by Commerce's determination is "aluminum sulfate," which includes all grades of aluminum sulfate, whether liquid or dry. The product is classifiable in Harmonized Tariff Schedule (HTS) subheading 2833.22.00; such aluminum sulfate was formerly classified in item 417.16 of the Tariff Schedules of the United States (TSUS).

² A copy of Commerce's notice of its final LTFV determination is presented in app. A.

³ A copy of Commerce's notice of its final subsidy determination is presented in app. A. Commerce had preliminarily determined that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Venezuela of aluminum sulfate (54 F.R. 27195, June 28, 1989). Effective Aug. 14, 1989, Commerce, at the request of the petitioner, aligned its countervailing duty investigation of aluminum sulfate from Venezuela with its LTFV investigation of such imports (54 F.R. 33254).

⁴ Although Venezuela is not a member of the General Agreement on Tariffs and Trade (GATT), it is entitled to an injury determination since Venezuela qualifies as a "Country under the Agreement" for purposes of 19 U.S.C. 1671(a)(1) (see par. 1(b) of the Presidential Determination Regarding Acceptance and Applications of Certain International Trade Agreements (44 F.R. 74781)).

and by publishing notices in the Federal Register of August 24, 1989 (54 F.R. 35256) and on October 30, 1989 (54 F.R. 43998).⁵ A hearing for the Commission's countervailing duty and antidumping investigations was held in Washington DC, on October 26, 1989.⁶ The Commission's vote on the investigations was held on November 29, 1989.

Background

The investigations result from a petition filed by General Chemical Corporation de Puerto Rico, Inc., Dorado, PR, on March 29, 1989, alleging that subsidized and 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 or threatened with material injury by reason of such imports. In response to that petition, 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)). On May 15, 1989, the Commission determined that there is a reasonable indication that a regional industry in the United States is threatened with material injury by reason of such imports.⁷

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, Dry Aluminum Sulfate from Sweden . . ., March 1989.

Nature and Extent of Subsidies

On October 25, 1989, Commerce published in the Federal Register its final determination that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters of aluminum sulfate in Venezuela (54 F.R. 43440). For the final determination, the period for which Commerce measured subsidization (i.e., the review period) was calendar year 1988 (except where data were available only on a company fiscal year basis).

Commerce found that during the review period two producers of aluminum sulfate in Venezuela exported to the United States: Sulfatos del Orinoco, C.A. (SULFORCA) and Ferroaluminio, C.A. (FERRALCA). The estimated net subsidy

⁵ Copies of the Commission's notices of institution are presented in app. B.

⁶ A list of witnesses who appeared at the hearing is presented in app. C.

⁷ Aluminum Sulfate from Venezuela . . ., USITC Publication 2189, May 1989.

is 38.40 percent ad valorem for FERRALCA and 19.03 percent ad valorem for all other companies.⁸

Calculation of estimated net subsidy for FERRALCA

Because FERRALCA did not respond to Commerce's questionnaires, Commerce determined that the country-wide rate calculated in its final affirmative countervailing duty determination on certain electrical conductor redraw rod from Venezuela (the most-recently completed Venezuelan countervailing duty investigation) is the "best information available" and, therefore, utilized that rate when estimating the net subsidy for FERRALCA.

Calculation of estimated net subsidy for SULFORCA

Commerce determined that a subsidy was being provided to SULFORCA under a preferential pricing program for alumina hydrate.⁹ SULFORCA purchased alumina hydrate from Interamericana de Alumina, C.A. (INTERALUMINA), an integrated aluminum reserve owned by the Government of Venezuela, at a price lower than that charged to FERRALCA, the only additional customer in Venezuela.¹⁰ Commerce further determined that the price charged to FERRALCA was not preferential and thus was the appropriate benchmark price to use when calculating the subsidy provided to SULFORCA.

Programs determined not to confer subsidies, determined not to be used, or determined not to exist

Commerce determined that subsidies were not being provided to manufacturers, producers, or exporters of aluminum sulfate under the following programs: (1) "Preferential Pricing of Sulfuric Acid" and (2) "Preferential Pricing of Electricity." In addition, Commerce determined that SULFORCA did

⁸ Commerce was unable to calculate a weighted-average country-wide rate because it could not obtain export statistics for FERRALCA. Therefore, the rate for all other manufacturers, producers, or exporters in this investigation is the rate calculated for SULFORCA.

⁹ Alumina hydrate, together with sulfuric acid, are the major raw materials used by SULFORCA in the manufacture of aluminum sulfate.

¹⁰ The price paid by SULFORCA for alumina hydrate was established in a long-term contract entered into between INTERALUMINA and SULFORCA in August 1988. INTERALUMINA officials explained that SULFORCA was charged a lower price because of (1) the expectation that it will purchase larger quantities of alumina hydrate than FERRALCA and (2) SULFORCA's status as a new company in a developing industry.

not utilize a preferential multiple exchange rate system ¹¹ and that a sales tax exemption for manufacturers, producers, or exporters of aluminum sulfate in Venezuela does not exist.

Nature and Extent of Sales at LTFV

Commerce's LTFV investigation involved SULFORCA, the manufacturer which accounted for a substantial portion of the exports from Venezuela to the United States during the period of investigation (August 1, 1988 through March 31, 1989). ¹² The dumping margins are 259.17 percent ad valorem for SULFORCA and 259.17 percent ad valorem for all other companies. The LTFV margin for SULFORCA was based on the "best information available," pursuant to section 776(c) of the Act. ¹³ As best information available, Commerce used the estimate of United States price provided in the petition ¹⁴ and the foreign market value contained in an amendment to the petition. ¹⁵ Commerce converted SULFORCA's home market price to U.S. dollars based on the official exchange rate of 14.5 bolivars to 1 U.S. dollar. ¹⁶

¹¹ From Oct. 19, 1988 to March 13, 1989 (when the dual exchange rate system was officially abolished), exporters who waived benefits under an export bond program could purchase imports at the official fixed rate of 14.50 bolivars to the dollar but exchange export earnings at the free-market rate of approximately 39.50 bolivars to 1 U.S. dollar. Commerce verified that SULFORCA did not purchase imports, exchange export earnings, or repay foreign debt obligations at the fixed rate from October 1988 through December 1988. (SULFORCA, in fact, did not exchange any export earnings until May 1989, when the free-market rate was the only available rate in Venezuela.)

¹² FERRALCA, the only other firm known to produce aluminum sulfate in Venezuela, * * *.

¹³ Because SULFORCA did not furnish a complete response to Commerce's antidumping questionnaire, Commerce did not conduct a verification. Thus data on the quantity and value of sales examined and on the amount of sales found to be at LTFV are not available.

¹⁴ Petitioner's estimate of U.S. price is based upon the adjusted price per ton in 1988 of aluminum sulfate from Venezuela supplied by SULFORCA to the Puerto Rican Aqueduct and Sewer Authority (PRASA), the major purchaser in Puerto Rico.

¹⁵ Petitioner's estimate of foreign market value is based on an ex-factory price submitted in the public version of a response made by SULFORCA. It is reportedly the price SULFORCA charged its largest home market customer.

¹⁶ For its preliminary determination, where margins were estimated at 96.30 percent, the dumping margin was calculated by Commerce using the free-market exchange rate of 39.5 bolivars to 1 U.S. dollar. Commerce used the 14.5 bolivar to 1 U.S. dollar exchange rate for its final determination since it was the rate in effect in Venezuela during the period under investigation for

(continued...)

The Product

Description and uses

The imported article subject to the petitioner's complaint is aluminum sulfate (or "alum")--a solid chemical compound used primarily for water purification and wastewater and sewage treatment. It is characterized by its ability to attract and coagulate certain aquatic contaminants, allowing them to settle and/or be filtered out of the water, and by its ability to remove phosphorus¹⁷ by chemical precipitation.¹⁸ Accordingly, it is used in water wherever such treatment is demanded, such as drinking water, municipal and industrial wastewater, and lakes and reservoirs. Large amounts are used for water treatment by municipalities (where clarity of water is of prime importance) and by the paper industry (where the production of certain paper grades requires high-quality water). Aluminum sulfate is also used as an agent in the production of paper (for sizing¹⁹ and waterproofing paper and paperboard) and, to a lesser extent, in the production of such products as textiles, food, cosmetics, dyes, leather, and petrochemicals. The

¹⁶ (...continued)

converting dollar-denominated export earnings to bolivars. Although SULFORCA alleged that it converted the dollars earned from sales to Puerto Rico at the free-market rate, Commerce was not able to verify the accuracy of SULFORCA's statements and submissions since SULFORCA did not respond fully to Commerce's questionnaire. Additional information on the multiple exchange rate system used in Venezuela is presented in the section of this report entitled "Exchange rates."

¹⁷ Phosphorus is a major source of nutrients for algae, whose presence can impart an undesirable odor and taste to water. Also, an overabundance of algae consumes oxygen necessary for marine life.

¹⁸ Precipitation is part of the process of extracting solids from solutions.

¹⁹ Sizing is a process wherein aluminum sulfate (or another agent) is used to precipitate clay and dissolved resin into pulp to form a substance which fills the pores of paper products. Paper is sized primarily to make it resistant to penetration by water or other liquids. Paper bags, in addition, must resist moisture absorption in order to retain their strength.

distribution of end uses in the United States, in 1988, is shown in the following tabulation (in percent): ²⁰

Water and waste treatment:	
Potable water (by municipalities).....	23
Waste and sewage (by municipalities and industries)...	20
Water treatment (by pulp and paper manufacturers).....	16
Subtotal.....	59
Sizing (by pulp and paper industry).....	37
Other uses.....	4
Total.....	100

Manufacturing process

To produce aluminum sulfate, aluminum ore--usually bauxite, bauxite clays, or alumina hydrate--is mixed with sulfuric acid and water in a digester to yield liquid aluminum sulfate, i.e., aluminum sulfate dissolved in water. (There are no byproducts or coproducts produced in the process.) The production process is illustrated in figure 1.

More than 90 percent of the aluminum sulfate sold in the United States is sold in liquid form. ²¹ The removal of the water by evaporation yields dry aluminum sulfate, which is cooled, 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--approximately 40 to 60 percent higher than the liquid form in the continental United States. Dry aluminum sulfate may be reconverted into liquid form by mixing it with water, ²² 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, the major portion of which is reconverted into liquid form in Puerto Rico by Alchem Corp., Ponce, PR, a subsidiary of a Venezuelan producer (SULFORCA). Except for the additional processing to dry and reliquify the imported product, the technology used by the petitioner and the respondent to produce aluminum sulfate is believed to be identical.

Virtually all of the liquid and dry aluminum sulfate produced and imported in the United States falls within three generally recognized grades

²⁰ Source: Chemical Products Synopsis, a reporting service of Manneville Chemical Products Corp., June 1988.

²¹ The petitioner's plant in Puerto Rico produces the liquid form only.

²² Liquid aluminum sulfate is equivalent to about a 50-percent water solution of the dry product.

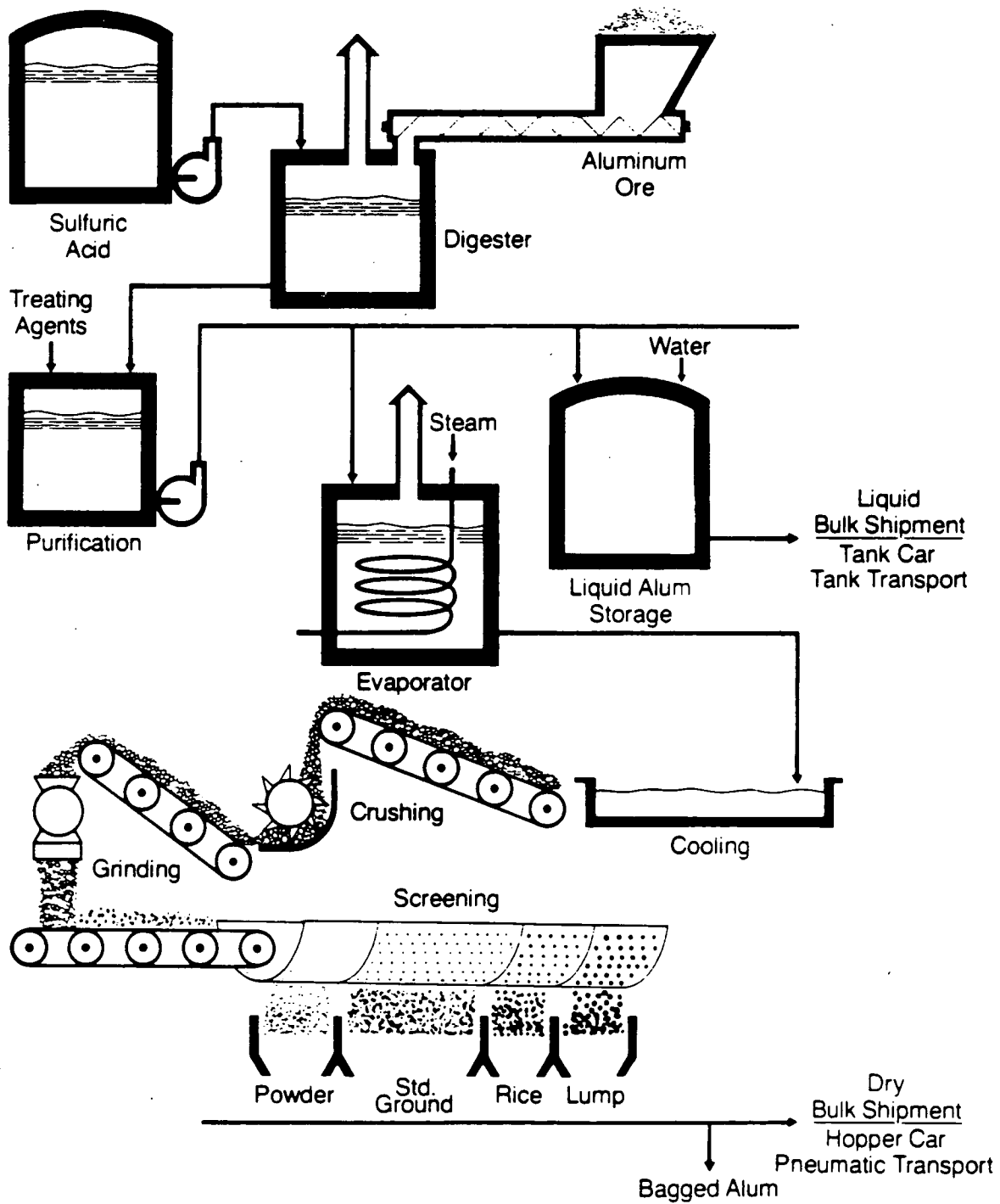


Figure 1.--**Essential steps in the manufacture of aluminum sulfate**

Source: Petition, Annex A.

of purity: "standard," "low iron," and "iron free." ²³ Grade is determined by the amount of alumina, ²⁴ 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 determined by 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. Because of the corrosive effect of sulfuric acid on production equipment, 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. ²⁵ 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. ²⁶ All of the product imported from Venezuela is manufactured from alumina hydrates and is classified as either low-iron or iron-free. The product produced at the petitioner's plant is manufactured from bauxite and is classified as standard.

Liquid and dry aluminum sulfate

The decision to purchase liquid or dry aluminum sulfate is generally a matter of handling capability--i.e., the facilities the buyer has 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 potentially attractive transition in view of the price differential--would require a capital outlay on the order of \$10,000

²³ 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." Aluminum sulfate used by municipalities for water purification, however, must meet specifications set by the American Water Works Association. These standards can be met by the "standard" grade of purity.

²⁴ The term "alumina," as used here, refers to excess aluminum compound which did not bond with sulfuric acid during the production process.

²⁵ Excess iron, for example, can lead to staining or discoloration of the end-product containing the aluminum sulfate.

²⁶ The iron contained in the standard or low-iron grades is believed to actually assist in the coagulation process when used in water treatment.

to \$1 million or more, depending on the size of the user's system.²⁷ 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.²⁸ The major use for dry aluminum sulfate is purification of potable water by numerous small-volume municipalities.

Use of aluminum sulfate in Puerto Rico

The major purchaser of aluminum sulfate in Puerto Rico, and the sole purchaser of the imported product, is the Puerto Rican Aqueduct and Sewer Authority (PRASA). PRASA is a government agency of the Commonwealth of Puerto Rico, which provides water and sewer service to all communities on the island. Aluminum sulfate is almost exclusively used by PRASA to purify potable water. At PRASA's water treatment plants, aluminum sulfate in liquid form is added to water pumped from storage dams in order to accelerate the sedimentation process, thus controlling turbidity (i.e., the measure of the amount of suspended particles or sediment in the water). During this purification process, lime (to control acidity) and chlorine (to remove bacteria) are also added. It is necessary to reduce turbidity both for appearance for proper disinfection of the water by the chlorine. Proportionately more aluminum sulfate is required during rainy seasons since increased rainfall leads to increased sediment that must be removed from the unprocessed water. Most of the systems currently operated by PRASA require liquid aluminum sulfate.^{29, 30}

²⁷ Conversion of a small system could require installing a 7,500-gallon tank and pump (for a cost of \$10,000); conversion of a larger system could require the installation of a 40-ton silo with pneumatic handling capability (for a cost of \$1 million or more). Conference transcript, inv. No. 731-TA-430, Dry Aluminum Sulfate from Sweden.

²⁸ As stated in an attachment to the petition, "Some of the advantages responsible for the trend toward liquid alum are lower manufacturing cost and selling price due to reduced energy consumption, reduced handling and storage costs, and savings realized through more efficient and precise use of alum in the liquid form." (Petition, Annex A.)

²⁹ Over 50 PRASA water treatment plants use liquid aluminum sulfate; approximately 30 plants continue to use the dry product. However, under normal conditions, the total consumption of dry aluminum sulfate by PRASA is insignificant. The plants that use dry aluminum sulfate are not large and are generally located in rural areas. Prior to 1974, when General Chemical de Puerto Rico built a liquid aluminum sulfate plant in Puerto Rico, PRASA used only dry aluminum sulfate. Mario Gonzalez, business manager of General Chemical de Puerto Rico, stated at the hearing that PRASA experienced difficulties in bringing the dry material to the island. (Hearing transcript, p. 42.)

³⁰ The majority, if not all, of PRASA's water treatment plants have feeders that permit dry aluminum sulfate to be fed into a mixer and liquified before being used to treat water. * * *. However, the use of dry aluminum sulfate (continued...)

Quality considerations concerning aluminum sulfate delivered to PRASA

Mario Gonzalez, business manager of General Chemical de Puerto Rico, testified at the hearing that there is dissatisfaction among operations personnel at PRASA with the quality of the imported liquified aluminum sulfate. ³¹. ³² * * *. * * *. * * *. ³³ * * *. ³⁴

In an attachment to its posthearing brief, petitioner submitted copies of published newspaper articles, one of which refers to an investigation by the Environmental Protection Agency (EPA), criticizing the quality and supply of aluminum sulfate to PRASA. ³⁵

Substitute products

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

³⁰ (...continued)

in a plant designed for liquid is highly inefficient. Such plants do not have proper conveying equipment or storage facilities for the dry product, * * *. * * *. (Staff notes, Oct. 17, 1989.)

³¹ As noted earlier, the major portion of the imports from Venezuela (which are imported dry) are liquified by Alchem, a subsidiary of SULFORCA, prior to delivery to the customer in Puerto Rico.

³² Hearing transcript, p. 34.

³³ * * *. * * *.

³⁴ Respondent notes that * * *. (Alchem's importer questionnaire.)

³⁵ * * *, EPA, confirmed that the EPA has asked PRASA to investigate the quality of the Venezuelan aluminum sulfate, but that, to date, PRASA has not reported any findings. * * * stated that * * * had complained to the director of PRASA concerning the quality of the aluminum sulfate obtained through the Venezuelan contract. (The quality of the aluminum sulfate provided by General Chemical de Puerto Rico was characterized as "excellent" by * * *). (Conversation of Nov. 17, 1989.)

during construction, such systems will very often lower overall operation and maintenance costs.³⁶

In the paper-making industry, aluminum sulfate faces increased competition from the use of alkaline polymers as sizing agents. Alkaline sizing is a technology that is popular in Europe and is growing in use in the United States. Paper or paperboard products that have been sized using alkaline polymers do not deteriorate with age as quickly as those sized using aluminum sulfate. Alkaline sizing systems pose fewer corrosion or environmental problems than do aluminum sulfate systems. Also, less paper pulp is needed to produce a given amount of paper with alkaline sizing systems (in contrast to sizing with aluminum sulfate)--an economically advantageous cost saving when the price of pulp is high.³⁷

There is no paper-making industry in Puerto Rico. Although polymers are used on a limited scale in Puerto Rico (primarily by specialized industrial users), Dr. Baus, President of Alchem, * * *. (* * *.)³⁸

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, both liquid and dry. The column 1 general (most-favored-nation) rate of duty for this subheading, applicable to imports from Venezuela, is free.³⁹

³⁶ In addition, many areas of the world, notably developing countries, do not utilize municipal surface water systems for potable water, but rely on individual roof-catchment systems where rainwater is collected on rooftops and transferred for storage to aboveground or underground tanks. Such water is not treated prior to use, except perhaps by the addition of common household bleach. Much of the Caribbean, including the U.S. Virgin Islands, relies on this type of system. (The water supply in the U.S. Virgin Islands is also supplemented by a desalinization plant. Aluminum sulfate is not used with desalinated water in the U.S. Virgin Islands; chlorine is the only chemical additive employed.) (Conversation with the * * * of the U.S. Virgin Islands Water and Power Authority, Sept. 14, 1989.)

³⁷ Chemicalweek, Mar. 22, 1989.

³⁸ Staff notes, Oct. 16, 1989.

³⁹ Pursuant to the Omnibus Budget Reconciliation Act of 1986, a user fee is charged on most U.S. imports to cover the cost of U.S. Customs Service's processing of imports. The user fee is currently 0.17 percent ad valorem.

The U.S. Market

Demand for aluminum sulfate

Market forecasts predict that overall demand for aluminum sulfate in the United States will remain level for the next several years.⁴⁰ According to the Chemical Marketing Reporter, "Rising raw material costs and stagnant growth in end-use markets both threaten aluminum sulfate. Supplies of compounds bearing the metal are tight and controversy has erupted over a possible link between Alzheimer's disease and the use of alum in potable water. Large-volume producers consider alum a stable commodity and expect it to weather its current challenges."⁴¹

Industry officials in the paper-making industry, however, project increased use of alkaline sizing systems in this country, thus reducing the requirement on the part of paper mills for aluminum sulfate. A vice president of International Paper, an industry leader in converting mills to alkaline sizing, anticipates that 70 percent of all white paper will be alkaline within 10 years. (Currently about 20 percent of white paper is alkaline.)⁴²

As noted previously, demand for aluminum sulfate in Puerto Rico is somewhat dependent upon the amount of rainfall. Hurricane Hugo, in the fall of 1989, led to a sharp, but temporary, increase in demand for the product.
* * *. * * *^{43, 44}

Market areas and suppliers in the continental United States

Aluminum sulfate's bulk and corresponding high transportation costs effectively limit 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 600 miles beyond a plant's location is typical for dry aluminum sulfate; also, transportation of the dry product by water carrier is relatively easy.⁴⁵

⁴⁰ Chemical Products Synopsis, a reporting service of Manneville Chemical Products Corp., June 1988.

⁴¹ Chemical Marketing Reporter, Apr. 3, 1989.

⁴² Chemicalweek, Mar. 22, 1989.

⁴³ Staff notes, Oct. 17, 1989.

⁴⁴ Respondent states that * * *. (Posthearing brief, affidavit of Bernard V. Baus.)

⁴⁵ Additional information on the transportation of aluminum sulfate is presented in the section on pricing.

According to the Chemical Products Synopsis, "Aluminum sulfate supply and demand must be evaluated on a regional or local basis since nearby production is generally necessary to economically deliver liquid alum of 50 percent water solution. New alum facilities are usually constructed or plants shut down to accommodate changing locations for paper or paperboard production or changing regional needs for water and waste treatment." ⁴⁶, ⁴⁷ According to the industry analyst who prepared the synopsis, (* * *), the U.S. market for liquid aluminum sulfate can practically be divided into 10 to 12 regions. ⁴⁸, ⁴⁹ Small municipal districts or other users that are not located within 200 to 300 miles of a plant producing liquid aluminum sulfate are forced either to buy the dry product or to use a substitute, such as ferric chloride.

The market in Puerto Rico

Puerto Rico, the location of the petitioner's plant and the sole destination of exports from Venezuela into the United States during 1986-88, 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 mainland dry producers, while not subject to the same handling limitations, have generally not been competitive with other sources in the Caribbean basin area. Since 1986, virtually all of Puerto Rico's needs for aluminum sulfate have been served by General Chemical de Puerto Rico, by * * *

⁴⁶ Chemical Products Synopsis, a reporting service of Manneville Chemical Products Corp., June 1988.

⁴⁷ In its guide for its customers, General Chemical Corp. invites operators planning new paper mills and water treatment plants to discuss their needs for aluminum sulfate with General Chemical Corp. The guide states that "a number of the Company's present liquid alum plants were built following such discussions of a customer's needs and a study of other potential consumption in his area." (Petition, Annex A.)

⁴⁸ His analysis was confirmed by * * * for Stauffer Chemical Co. and * * * of Delta Chemical. Regional markets for liquid aluminum sulfate identified included (with some overlap) the following areas of the continental United States: (1) New England; (2) mid-Atlantic; (3) North and South Carolina, Georgia, and Tennessee; (4) Louisiana, Alabama, and Mississippi; (5) Florida; (6) upper Midwest; (7) Rocky Mountain States; (8) Texas and Oklahoma; (9) Southwest; (10) Oregon and Washington; (11) northern California; and (12) southern California. There is point-to-point competition for sales of liquid aluminum sulfate between companies with plants located within each area to end users located in the region. In contrast, both * * * and * * * stated that a national market for dry aluminum sulfate can be said to exist. Conversations with * * *, Manneville Chemical Products Corp., Oct. 24, 1989 and Nov. 7, 1989; * * *, Stauffer Chemical Co., Nov. 7, 1989; and * * *, Delta Chemical, Nov. 8, 1989.

⁴⁹ * * *.

in Venezuela, and, to a lesser extent, by producers in Jamaica and Mexico.⁵⁰ PRASA, the Puerto Rican Aqueduct and Sewer Authority, traditionally accounts for all but 2 or 3 percent of this consumption. Most of PRASA's needs are for liquid aluminum sulfate, which have been supplied by General Chemical de Puerto Rico under the terms of 5-year contracts initiated in 1973⁵¹ and successfully renegotiated thereafter until 1988 when the contract was lost to SULFORCA.⁵² Since August 1988, SULFORCA has supplied the bulk of PRASA's liquid aluminum sulfate needs--after reconvertng the major portion of the dry material it ships to Puerto Rico into liquid form. For dry aluminum sulfate, PRASA primarily has relied 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 has imported dry aluminum sulfate from Mexico. Although PRASA 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 basin area, and none have been successful at winning contracts or orders.^{53, 54}

SULFORCA is supplying PRASA under the terms of a 5-year contract 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 readjusted at the beginning of each year. The contract was awarded to SULFORCA in August 1988; shipments were scheduled to begin on November 1, 1988. The Venezuelan product is imported into Puerto Rico in dry form by Alchem, Ponce, PR--a firm wholly owned by SULFORCA and jointly operated by SULFORCA and another Puerto Rican firm, Industrial Chemical Corp., Ponce, for the express purpose of converting SULFORCA's dry aluminum sulfate into liquid form.

⁵⁰ Shipments of dry aluminum sulfate have been made from the mainland United States into Puerto Rico during the period covered by the investigations by * * *. Information on such shipments is presented in the section of this report on "Consideration of Alleged Material Injury."

⁵¹ Prior to 1974 (when shipments began under the contract), PRASA purchased dry aluminum sulfate from a series of U.S. manufacturers and distributors.

⁵² Following the award of the 1988 bid for liquid aluminum sulfate to SULFORCA, General Chemical de Puerto Rico filed suit against PRASA, alleging unfair competition and denial of its rights under a Puerto Rican preferential treatment law. The Superior Court of San Juan sustained the decision of the PRASA bid board.

⁵³ Prior to the opening of the 1988 bid process, PRASA sent a solicitation for bids to approximately *** firms (mainly distributors), whose headquarters were primarily located in Puerto Rico and, to a lesser extent, on the mainland United States and off-shore. * * *. * * *.

⁵⁴ * * *. * * *. * * *.

U.S. producers

Currently, there are about 27 firms producing liquid aluminum sulfate at approximately 90 plant locations throughout the United States. Of these firms, five 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 two plants, in Bastrop, LA, and Houston, TX; Delta Chemical Corp.--at one plant in Baltimore, MD; Holland Chemical Co.--at one plant in Adams, MA; Koch Chemical Co.--at one plant in Rosemount, MN; and General Chemical Corp.--at three plants, in Atlanta, GA, East St. Louis, IL, and Pittsburg, CA. General Chemical Corp., headquartered in Parsippany, NJ, operates a total of 28 plants and is the largest U.S. producer of aluminum sulfate. Approximately 75 percent of all U.S.-made aluminum sulfate is produced by General Chemical Corp., Stauffer Chemical Co., and American Cyanamid Co. The largest producers are generally concentrated by geographical area: General Chemical Corp.'s plants are largely located in the east; American Cyanamid Co. (some of whose production is for captive consumption) is also located in the eastern United States; plants owned by Stauffer Chemical Co. (now a subsidiary of Rhone-Poulenc) are in the southwestern and western U.S. markets. In addition there are numerous small producers which operate only 2 or 3 plants and at least 10 municipalities and paper companies that produce aluminum sulfate for captive consumption.

General Chemical Corp. and General Chemical de Puerto, the petitioner, were commonly owned by a series of holding companies during the period under investigation.^{55, 56} General Chemical de Puerto Rico operates one plant in

⁵⁵ Both firms are now owned by * * *, which (* * *) is owned by * * *. General Chemical Corp. and General Chemical de Puerto Rico are (and, during the period of investigation, were) separate corporations. General Chemical de Puerto Rico is managed by General Chemical Corp. Key management personnel from General Chemical Corp. also hold executive positions with General Chemical de Puerto Rico. According to * * *, the Puerto Rican firm is responsible for its daily business decisions, including the solicitation and pricing of orders and contracts, negotiation and purchase of supplies (excluding bauxite), and hiring and termination of plant personnel. Additional information on the relationships among General Chemical de Puerto Rico, General Chemical Corp., and * * * is presented in the section on "Financial experience of producers in Puerto Rico and the continental United States."

⁵⁶ In addressing the rationale for the establishment of General Chemical de Puerto Rico as a separate corporation, counsel for petitioner notes that ". . . when there are plants established abroad, it is the norm to create separate companies in those overseas locations. This is the preferred basis for doing business and the most efficient way to respond to the different legal requirements presented by such foreign operations . . . Although Puerto Rico is a commonwealth of the United States and enjoys U.S. status in many important respects, there are significant differences that lend themselves to the establishment of a separate and independent corporate entity on this island. These include disparities in tax law, minimum wage and equal

(continued...)

Vega Alta, Puerto Rico, the only plant on the island which has produced aluminum sulfate.⁵⁷ 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 generally idle since August 1988, consequent to PRASA's contract with SULFORCA.

An additional plant which will also produce liquid aluminum sulfate is in the final phases of construction in Peñuelas, Puerto Rico. That plant, which began production runs on October 26, 1989,⁵⁸ is owned and operated by a newly formed company, the Puerto Rico Alum Corporation (PRAC).⁵⁹ PRAC, in turn, is jointly owned by SULFORCA and Industrial Chemical Corp. Aluminum sulfate produced by PRAC will be shipped to PRASA under the SULFORCA contract. In its letter of June 7, 1988, that accompanied its bid to PRASA, SULFORCA committed itself to building a U.S. production facility noting that it would supply Puerto Rico from Venezuela during the first year. (See the section on "Operations of Alchem and PRAC" for additional information on PRAC.)

Manufacturers of aluminum sulfate frequently 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. Many companies also manufacture the sulfuric acid used in the production process; for such manufacturers production of aluminum sulfate permits utilization of excess capacity to produce sulfuric acid. * * *.⁶⁰ * * *.

⁵⁶ (...continued)
opportunity requirements, language, and culture." (Posthearing brief, p. 13.)
* * *.

⁵⁷ The Commission may also wish to evaluate whether the operations of Alchem, the firm in Puerto Rico which liquifies the dry aluminum sulfate imported from SULFORCA, are such that it should be considered a U.S. producer. Available information on its operations is presented in the sections of this report entitled "U.S. importers" and "Operations of Alchem and PRAC."

⁵⁸ Respondent states that: "PRAC has encountered no significant problems in the start-up of its plant and anticipates that it will have no difficulty in meeting PRASA's requirements under the SULFORCA contract." (Respondent's posthearing brief, Responses to the Commission's Inquiries at the Hearing, p. 1.) * * *.

⁵⁹ Respondent notes that: "With the construction of the PRAC plant, Puerto Rico now has two alum production plants rather than only one. PRASA, an instrumentality of the Puerto Rican Government, is thus assured of a steady supply of fairly priced alum, even in emergencies." (Prehearing brief, p. 7.) Petitioner, however, testified that, should the current market situation continue, a decision to close its plant will have to be made by the end of 1989. (Hearing transcript, pp. 34-35.)

⁶⁰ * * *. * * *.

U.S. importers

The major importer of record and consignee for the U.S. imports from Venezuela is Alchem--a firm wholly owned by SULFORCA and jointly operated by SULFORCA and a Puerto Rican firm, Industrial Chemical Corp., Ponce, PR, for the express purpose of converting SULFORCA's dry aluminum sulfate into liquid form until PRAC could begin operations. The operation is located at an existing facility owned by Industrial Chemical Corp. in Peñuelas. The dry aluminum sulfate is transported in bags to the facility where it is mixed with warm water * * * until it reaches a certain density.⁶¹ The liquified aluminum sulfate is then pumped by gravity into tankers and Alchem arranges for its distribution to PRASA's water treatment sites throughout the island. PRASA is invoiced by Alchem for its purchases. (See the section of this report entitled "Operations of Alchem and PRAC" for additional information.)

Channels of distribution

U.S. producers of aluminum sulfate sell either directly to end users or to distributors, which store the chemical and supply end users on an as-needed basis. The principal end users are municipalities and paper producers, the larger of which generally purchase the product directly from manufacturers under annual contracts.⁶² Municipal contracts are determined through a formal competitive bid process where the contract is awarded to the lowest bidder. Paper producers have a less formal bid process where informal price quotes are requested, which are then negotiated by the parties. Distributors generally buy in the spot market on an as-needed basis. By buying in volume, they are often able to sell aluminum sulfate to end users with small requirements at a lower price than the end users would receive in a direct sale from a producer.⁶³

Consideration of Alleged Material Injury

The petition alleges that production of aluminum sulfate in Puerto Rico meets the requirements established for a regional industry by the Tariff Act of 1930. U.S. producers on the mainland have not been price competitive with suppliers in the Caribbean basin area and have made only minimal shipments to

⁶¹ * * * . * * * .

⁶² Users with relatively small requirements (e.g., end users in the food industry and firms producing fire retardants) may also make purchases directly from aluminum sulfate producers.

⁶³ Small municipalities may buy from distributors.

the region. Shipments of aluminum sulfate from the United States to Puerto Rico are shown by year in the following tabulation: ⁶⁴

	<u>1986</u>	<u>1987</u>	<u>1988</u>
Quantity (1,000 pounds).....	131	275	690
Value (1,000 dollars).....	56	56	154
Unit value (dollars per short ton)..	\$855	\$407	\$446

The 1988 increase in mainland shipments reflects emergency solicitations made by PRASA to cover a shortfall of aluminum sulfate within Puerto Rico that largely resulted from the cessation of shipments by General Chemical de Puerto Rico in August 1988 before shipments produced by SULFORCA could be received. ⁶⁵ PRASA reported purchases of *** pounds of dry aluminum sulfate from * * *, a U.S. mainland producer, in September 1988 at a relatively high price. ^{66, 67}

Because of the nature and extent of the transactions between the mainland U.S. and Puerto Rican markets, the impact of the allegedly dumped imports on U.S. producers may be confined to U.S. producers in Puerto Rico. ⁶⁸ Pursuant

⁶⁴ Data for 1986, 1987, and (preliminary) 1988 are from publication FT 800 of the U.S. Department of Commerce.

⁶⁵ In its postconference brief, the respondent stated that when PRASA requested that General Chemical de Puerto Rico continue to supply it with aluminum sulfate during the period between the expiration of General Chemical de Puerto Rico's contract (in August 1988) and the start of SULFORCA's contract (in November 1988), General Chemical de Puerto Rico "flatly refused to do so." (Respondent's postconference brief, p. 9.) Petitioner * * *. (* * *.) * * *. * * *. General Chemical de Puerto Rico * * * did ship 2 million pounds of aluminum sulfate to PRASA during and after the emergency conditions of Hurricane Hugo in September and October of 1989 and, more recently, agreed to supply another 2 million-pound shipment. (Petitioner's posthearing brief, pp. 10-11, and conversation with * * *, Sept. 28, 1989.)

⁶⁶ * * * also ships a * * * amount, about *** pounds annually, of dry, iron-free aluminum sulfate to * * *, Puerto Rico, for use in a specialty end-product. (Conversation with * * *, Oct. 2, 1989.) * * * also reported shipping *** pounds of dry iron-free aluminum sulfate in 1988 to a customer in Puerto Rico for use in industrial wastewater treatment. * * *. * * * estimates that it will ship *** pounds to Puerto Rico in 1989. (Conversation on Oct. 24, 1989.)

⁶⁷ Additional supplies were provided by * * * and * * *.

⁶⁸ When analyzing the two areas, it is important to recognize that Puerto Rico is almost exclusively a liquid aluminum sulfate market (reflecting the needs of PRASA, the largest customer) and that, as confirmed by the respondent at the hearing (transcript, p. 75), it is only feasible to ship the dry product into it. Dry aluminum sulfate must be re-liquified before PRASA can, with its current equipment, use it on a long-term basis.

to section 771(4)(C) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(C)) the Commission has discretion to treat the producers in the region of the United States as a separate industry if the following three requirements are met: (1) producers within the region sell "all or almost all" of their production of the like product within that market; (2) demand within the market is not supplied to any substantial degree by producers located elsewhere in the United States; and (3) there is a concentration of dumped or subsidized imports into the regional market. In this investigation, the petitioner is the only producer of aluminum sulfate in Puerto Rico, and all its shipments have been confined to Puerto Rico; ⁶⁹ with *** exceptions, the buyers in Puerto Rico--primarily PRASA--have purchased either from the petitioner, from * * * in Venezuela, or from importers of the product from Jamaica and Mexico; ⁷⁰ and all of the Venezuelan material shipped to the United States is consumed in Puerto Rico.

Accordingly, data in the following sections are shown separately for General Chemical de Puerto Rico and, where available, for the aluminum sulfate industry as a whole. ⁷¹ Separate data on the operations of General Chemical Corp. are presented in appendix D. ⁷²

⁶⁹ General Chemical de Puerto Rico stated at the hearing that it has never bid on any contract to supply aluminum sulfate to the continental United States. (Hearing transcript, p. 47.)

⁷⁰ Shipments from the mainland (as reported by Commerce) represented *** percent of aluminum sulfate consumption in Puerto Rico in 1986, *** percent in 1987, and *** percent in 1988. There may be underreporting of such shipments in 1988: shipments, as reported by * * * to the Commission, represented *** percent of consumption in 1988.

⁷¹ For liquid aluminum sulfate, all quantity data presented in this report refer to its equivalent dry weight. Quantity data for total aluminum sulfate, liquid and dry, are a simple addition of equivalent dry weight (for the portion that is liquid) with the weight of the dry product.

⁷² Production by General Chemical de Puerto Rico during 1986-88 represented about *** percent of the combined production of General Chemical Corp. and General Chemical de Puerto Rico. Production of General Chemical Corp., in turn, represented about *** percent of total U.S. production of aluminum sulfate during 1986-88.

U.S. production, capacity, and capacity utilization

Data on General Chemical de Puerto Rico's aluminum sulfate operations 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.⁷³ 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, decreasing from *** percent in 1986 to *** percent in 1988.⁷⁴ Since losing its contract to supply PRASA in August 1988, General Chemical de Puerto Rico's plant has been generally idle during the period under investigation. In January-June 1989, General Chemical de Puerto Rico produced *** pounds of aluminum sulfate--in contrast to *** pounds produced during January-June 1988. 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. The PRASA 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. Because PRASA has traditionally accounted for all but 2 or 3 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. The plant suffered minimal damage from Hurricane Hugo in September 1989.

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 employees, hours worked by such employees, total compensation paid to such employees, hourly compensation, and productivity, 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	1988	Jan.-June-- 1989
------	------	------	------	------	---------------------

* * * * *

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

⁷³ * * * , * * * .

⁷⁴ During the period under investigation, capacity utilization for General Chemical Corp. ranged from *** percent in * * * to *** percent in * * * . Complete data for the firm's operations are shown in app. D.

In contrast with General Chemical de Puerto Rico's experience, overall production of aluminum sulfate in the United States increased from 1986 to 1988. According to official data of the U.S. Department of Commerce, U.S. production of all aluminum sulfate increased from 2.67 billion pounds in 1986 to 2.85 billion pounds in 1987 and 2.93 billion pounds in 1988,⁷⁵ an overall increase of 9.9 percent (based on unrounded data). (General Chemical de Puerto Rico's production represented about *** percent of total U.S. production during 1986-88.) Although there are no nationwide capacity data available, according to the Chemical Products Synopsis (June 1988), "there is presently adequate US alum production capacity to satisfy future overall demand." Although some small producers have left the business, new production plants have also begun operating.

U.S. producer's 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 unit values of its shipments * * * from 1986 through 1988, reflecting its contract price with PRASA. The reported 1989 unit value is for shipments made on the spot market.

The petitioner's shipments in 1986-87 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 2.56 billion pounds, valued at \$143.9 million, in 1986 to 2.72 billion pounds, valued at \$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 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. Shipments of partial-year data are not published by Commerce.

⁷⁵ Commerce data for 1988 are incomplete. The figure shown is an estimate based upon Commerce's official estimate for commercial grade (i.e., standard and low-iron) aluminum sulfate, which was further adjusted by the Commission to include estimated production of iron-free aluminum sulfate. Commerce's estimate of commercial grade aluminum sulfate reflects actual data that is no more than 70 percent of that reported by the same establishments in 1987, which, based on the 2.6-percent growth rate of reporting producers, was adjusted upward to impute the missing 1988 production. The Commission estimated production of iron-free aluminum sulfate in 1988 by applying the same 2.6-percent growth rate to 1987 production of the iron-free grade.

U.S. production of commercial grade (i.e., standard and low-iron) aluminum sulfate decreased from 1.31 billion pounds in January-June 1988 to 1.19 billion pounds in January-June 1989, a decline of more than 9 percent (based on unrounded data). Partial year data are not available for iron-free grade; during 1986-88 iron-free aluminum sulfate accounted for slightly more than 10 percent of all aluminum sulfate produced in the United States.

* * *. Exports of the product from the entire United States are minimal, representing slightly more than 0.2 percent of U.S. production during 1986-88. Exports, as reported by the U.S. Department of Commerce, decreased from 6.1 million pounds in 1986 to 4.1 million pounds in 1987, then rose to 7.7 million pounds in 1988. Exports again decreased from 2.4 million pounds in January-June 1988 to 1.4 million pounds in January-June 1989. In 1988, almost 75 percent of U.S. exports were to Canada and Mexico; over 14 percent were to Belgium.

As shown in table 1, General Chemical de Puerto Rico's end-of-period inventory levels * * * while the plant was in full operation, ranging from *** to *** percent of shipments. Inventory levels changed roughly according to shipments.⁷⁶ Inventories for all U.S.-produced aluminum sulfate are not available.

Employment and productivity

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 * * * its work force by about *** percent, or by about *** workers. (There are no other products produced at the plant to which workers' time may be allocated.) The hours worked and total compensation paid to such workers * * * from 1986 to 1988 by *** percent and *** percent, respectively (table 1). From January-June 1988 to January-June 1989, the hours worked * * * by *** percent and the total compensation paid * * * by *** percent. Hourly compensation ranged between \$*** in *** and \$*** in January-June 1989 when the work force included a higher percentage of salaried employees. Productivity * * * from *** pounds per hour in 1986 to *** pounds per hour in 1987, then * * * to *** pounds per hour in 1988. * * *.⁷⁷

⁷⁶ End-of-period inventory levels for General Chemical Corp. ranged between *** percent of shipments and *** percent of shipments during the period under investigation. Complete data for the firm's operations are shown in app. D.

⁷⁷ Hourly wages for General Chemical Corp. ranged between \$*** per hour and \$*** per hour during the period under investigation. Productivity ranged between *** pounds per hour and *** pounds per hour. Complete data for the firm's operations are shown in app. D. Direct comparison of these data with those of General Chemical de Puerto Rico is difficult since employment data for General Chemical de Puerto Rico include hours worked and wages paid for all firm employees, including salaried workers. All employees of General Chemical de Puerto Rico, including those assigned administrative responsibilities, are directly involved in the production of aluminum sulfate.

Financial experience of producers in Puerto Rico and the continental United States

General Chemical de Puerto Rico, Inc., representing * * * aluminum sulfate production in Puerto Rico in 1988, submitted financial data. General Chemical de Puerto Rico is * * *. General Chemical Corp., accounting for approximately *** percent of total U.S. production of aluminum sulfate in 1988, also provided financial data. General Chemical Corp. is * * *. Although there have been numerous mergers, acquisitions, and spinoffs during the reporting period, General Chemical de Puerto Rico and General Chemical Corp. * * *. On * * *, * * * became a wholly-owned subsidiary of * * * through a stock acquisition and merger plan. * * * became a public corporation on December 21, 1987, as the result of a spinoff from The Henley Group, Inc. The Henley Group, Inc. had gone public on May 27, 1986, as the result of a spinoff from Allied-Signal, Inc.

* * * * *

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 * * * by *** percent, from \$*** in 1986 to \$*** in 1987, then * * * by *** percent to \$*** in 1988. Operating income trends were * * *, * * * by *** percent from \$*** in 1986 to \$*** in 1987, and then * * * by *** percent to \$*** in 1988. After * * * from *** percent in 1986 to *** percent in 1987, the firm's operating income margin * * * to *** percent in 1988.

Net sales for the 1989 interim period were \$***, a * * * of *** percent from interim 1988 sales of \$***. Operating income was \$*** in interim 1988. * * *. The * * * in sales and operating income in 1988 and the interim period of 1989 are the result of * * *. General Chemical de Puerto Rico is still servicing the aluminum sulfate requirements of * * *.

Aluminum sulfate operations accounted for *** percent of the firm's sales in 1986 and 1987 and for *** percent of sales in 1988--the company sold \$*** worth of * * * in 1988 and \$*** in interim 1989 as a distributor. The sales and related expenses of * * * are not included in table 2.

General Chemical de Puerto Rico purchases bauxite through * * *. These purchases amounted to approximately \$*** in 1986, \$*** in 1987, and \$*** in 1988. Shipments are made by the supplier (* * *) directly to General Chemical de Puerto Rico and * * *. Purchases are made in large quantities, normally twice a year, resulting in large inventory quantities on hand. Bauxite consumed in 1988 represented approximately *** percent of the total cost of raw materials consumed by General Chemical de Puerto Rico.

General Chemical de Puerto Rico's income-and-loss experience on an average per-ton basis is shown in table 3. Net sales * * * at \$*** per ton * * *. Cost of goods sold * * * at \$*** per ton in 1986 and 1987, but * * * by *** percent to \$*** per ton in 1988. Similarly, general, selling, and

Table 2

Income-and-loss experience of General Chemical de Puerto Rico on its operations producing aluminum sulfate, accounting years 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	January-June--	
				1988	1989

* * * * * * *

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, January-June 1988, and January-June 1989

(Per ton)					
Item	1986	1987	1988	January-June--	
				1988	1989

* * * * * * *

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

administrative expenses were * * * at \$*** and \$*** per ton in 1986 and 1987, respectively, but * * * by *** percent to \$*** per ton in 1988. Operating income * * * during * * * at approximately \$*** per ton as a result of * * *. In 1988, however, operating income * * * by *** percent as a result of * * *.

Net sales on an average per-ton basis * * * from approximately \$*** per ton in interim 1988 to \$*** per ton in interim 1989. However, the company realized * * * of \$*** per ton in interim 1989, due to * * *, compared with an * * * of \$*** per ton in interim 1988.

General Chemical Corp. operates 28 aluminum sulfate plants in the United States. The income-and-loss experience of these plants is shown in table 4.

Table 4

Income-and-loss experience of General Chemical Corp. on its operations producing aluminum sulfate, accounting years 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	January-June--	
				1988	1989
	*	*	*	*	*

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

Net sales of aluminum sulfate by General Chemical Corp. * * * from \$*** in 1986 to \$*** in 1987, and then * * * to \$*** in 1988. Operating income * * * from \$*** in 1986 to \$*** in 1987, and then * * * to \$*** in 1988. The operating income margin was *** percent in 1986, *** percent in 1987, and *** percent in 1988.

Net sales for General Chemical Corp. were * * * the interim periods of 1988 and 1989. Operating income was \$*** in interim 1989 compared to \$*** in interim 1988. The operating income margin was *** percent in interim 1988 and *** percent in interim 1989. General Chemical Corp.'s income-and-loss experience on an average per-ton basis is shown in table 5. Net sales * * * from \$*** per ton in 1986 to \$*** in 1987 and * * * to \$*** in 1988. The operating income on an average per-ton basis * * *, * * * from \$*** per ton in 1986 to \$*** in 1987 and * * * to \$*** in 1988.

Table 5

Income-and-loss experience (on an average per-ton basis) of General Chemical Corp. on its operations producing aluminum sulfate, accounting years 1986-88, January-June 1988, and January-June 1989

(Per ton)					
Item	1986	1987	1988	January-June--	
				1988	1989
	*	*	*	*	*

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

Net sales on an average per-ton basis were \$*** in interim 1989 compared with \$*** in interim 1988. Operating income on an average per-ton basis was \$*** in interim 1989 and \$*** in interim 1988.

The net sales per ton for General Chemical de Puerto Rico were \$*** to * * * than the net sales per ton for General Chemical Corp. for the periods of 1986, 1987, and 1988, and the costs of goods sold for General Chemical de Puerto Rico were * * * in 1986 and * * * in 1987. The * * * net sales per ton coupled with * * * cost of goods sold resulted in * * * operating income margins for General Chemical de Puerto Rico compared with General Chemical Corp. until the loss of the PRASA contract in August 1988.

* * * * *

Net sales, operating income, and operating income margins are shown in table 6 separately for General Chemical de Puerto Rico and General Chemical Corp., and for both companies combined. The effect of General Chemical de Puerto Rico's * * * on the combined operations of both companies is * * * percentage point for each period compared with the operating income margin of General Chemical Corp.

Table 6

Net sales, operating income or loss, and the operating income margins of General Chemical de Puerto Rico and General Chemical Corp. on their operations producing aluminum sulfate, accounting years 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	January-June--	
				1988	1989
	*	*	*	*	*

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

Capital expenditures.--Capital expenditures for land, buildings, and machinery and equipment used in the manufacture of aluminum sulfate are shown in the following tabulation for each company (in thousands of dollars):

Item	1986	1987	1988	January-June--	
				1988	1989
	*	*	*	*	*

Value of plant, property, and equipment.--End-of-period investment in facilities producing aluminum sulfate and the annual return on those investments are shown in the following tabulation for each company (in thousands of dollars):

<u>Item</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
-------------	-------------	-------------	-------------

*	*	*	*	*	*	*
---	---	---	---	---	---	---

Research and development expenses.--General Chemical de Puerto Rico reported * * * research and development expenses. General Chemical Corp. reported its research and development expenses to be \$*** in 1986, \$*** in 1987, \$*** in 1988, \$*** in January-June 1988, and \$*** in January-June 1989.

Impact of imports on capital and investment.--The Commission requested that General Chemical de Puerto Rico and General Chemical Corp. describe and explain the actual or anticipated negative effects, if any, of imports of aluminum sulfate from Venezuela on their growth, development and production efforts, investment, and ability to raise capital. Their comments are presented in appendix E.

Operations of Alchem and PRAC

Available information on Alchem is presented in table 7.⁷⁸ Data on shipments by Alchem in 1988 include the quantity and value of aluminum sulfate manufactured by * * * and supplied to PRASA through Alchem. Reported unit values of shipments do not equal the SULFORCA-PRASA contract price of \$*** per ton for either 1988 or January-June 1989: the data include shipments of dry aluminum sulfate priced at \$*** per ton (after November 1, 1988) and shipments of aluminum sulfate made prior to the beginning of the contract (before November 1, 1988, when the liquid product was priced at \$*** per ton and the dry product at \$*** per ton.) * * * of the shipments made to PRASA were outside the contract: over *** percent of shipments were outside the contract in 1988 (including August-October when the contract was not in effect) and almost *** percent of shipments to PRASA in January-June 1989 were dry aluminum sulfate not covered by the contract.⁷⁹

Total operating costs for Alchem cannot be determined precisely from the information submitted to the Commission--its operations are * * *.⁸⁰ However, the following (selected) cost estimates per ton were provided by Dr. Baus, president of Alchem, in response to the Commission's importer questionnaire and in follow-up questions of October 16, 1989:

C.i.f duty-paid value of imports.....	\$***
Transportation from ports to Alchem.....	***
Liquification.....	***
Electricity and water.....	***
Transportation to PRASA's plants.....	***
Total.....	***

With the addition of the new PRAC plant, there are now two production facilities on the island, with a corresponding increase in the capacity to produce. Should General Chemical de Puerto Rico, in fact, shut down its plant, average annual capacity in Puerto Rico will decrease over *** percent from its pre-PRAC level. * * *.

⁷⁸ Data on the amount actually imported by Alchem are reported as "imports from Venezuela" in the section of this report entitled "U.S. imports." There is * * * between reported imports and reported shipments (as invoiced): imports from 1988 to June 1989 exceeded shipments (as invoiced) by *** percent. Alchem attributes the discrepancy to inventories (reportedly small), shipments not yet invoiced, and product that was lost or destroyed prior to delivery.

⁷⁹ Alchem's importer questionnaire.

⁸⁰ * * *. * * *.

Table 7

Aluminum sulfate: Alchem's and PRAC's production, capacity, capacity utilization, domestic shipments, average number of production and related workers, and capital expenditures, 1988 and January-June 1989

Item	Alchem		PRAC
	1988	January-June 1989	
Production (1,000 pounds).....	1/	1/	2/ ***
Capacity (1,000 pounds).....	1/	1/	2/ ***
Capacity utilization (percent).....	3/	3/	2/ ***
Domestic shipments: 4/			
Quantity (1,000 pounds).....	***	***	3/
Value (1,000 dollars).....	***	***	3/
Unit value (per ton) 5/.....	\$***	\$***	3/
Average number of production and related workers producing aluminum sulfate.....	6/ ***	6/ ***	7/ ***
Capital expenditures (1,000 dollars)..	8/	8/	***

1/ Alchem liquified and shipped up to *** pounds of aluminum sulfate per week (a potential annual maximum of *** pounds).

2/ Projected.

3/ Not available.

4/ Reported data are for the quantity and value of aluminum sulfate invoiced to PRASA. Actual shipments were * * *: *** pounds in 1988 and *** pounds in January-June 1989. (Reported shipments are thus * * *.) Of the total invoiced, approximately *** percent in 1988 and *** percent in January-June 1989 was dry aluminum sulfate.

5/ Pricing is generally expressed in short tons.

6/ Ranged between *** and *** workers.

7/ Anticipate *** to *** workers once the plant is in full operation.

8/ Reported capital investment of \$*** includes * * *. * * *.

Source: Compiled from data submitted by respondent to the U.S. International Trade Commission.

Consideration of the Question of
Threat of Material Injury

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors ⁸¹--

(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,

⁸¹ Section 771(7)(F)(ii) of the act (19 U.S.C. 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

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

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

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.⁸²

The 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 imports of the subject merchandise and the alleged material injury," and information on the effects of imports of the subject merchandise on U.S. producers' existing development and on production efforts (item (X)) is presented in appendix E. Information on subsidies found by Commerce (item (I) above) is presented in the section of this report entitled "Nature and extent of subsidies." Available information on U.S. inventories of the subject products (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.

⁸² 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."

The aluminum sulfate industry in Venezuela and its ability to generate exports

There are two known producers of aluminum sulfate in Venezuela: SULFORCA (Sulfatos del Orinoco, C.A.) and FERRALCA (Ferro-Aluminio, C.A.). SULFORCA, which began operations in September 1988, is a joint venture between Industriais Venoco, C.A. (a petrochemical firm) and the Government of Venezuela. Data on the production, capacity, capacity utilization, shipments, and end-of-period inventories of SULFORCA and FERRALCA are presented in table 8.

Table 8

Aluminum sulfate: Production, average capacity, capacity utilization, shipments, and end-of-period inventories of producers in Venezuela, 1986-88, January-June 1989, and projected data for 1989 and 1990

Item	1986	1987	1988	Jan.- June 1989	Projected 1989	Projected 1990
	*	*	*	*	*	*

Source: Data for FERRALCA were compiled from its response to an inquiry by the U.S. Embassy in Venezuela; data for SULFORCA were provided by counsel in its letter of Oct. 12, 1989 to the Commission.

SULFORCA, which won the contract to supply PRASA in August 1988, did not begin commercial production in Venezuela until the last quarter of 1988. The following tabulation lists (in percent) SULFORCA's shipments, by destination, since operations began (i.e., from the last quarter of 1988 through June 1989) and projected for 1990:

	Oct. 1988- June 1989	Projected 1990
To Puerto Rico (PRASA).....	***	***
To customers within Venezuela...	***	***
Other.....	***	***
Total.....	100.0	100.0

SULFORCA has no plans to export to the United States in the future and, indeed, has never bid on any contract in the continental United States.⁸³ (Alchem received its last shipment from SULFORCA on * * *.) As stated

⁸³ Respondent's posthearing brief, Responses to the Commission's Inquiries at the Hearing, p. 3.

earlier, SULFORCA, working with Industrial Chemical, has constructed a plant in Puerto Rico for the production of liquid aluminum sulfate. Production has begun, and Alchem anticipates that full operations will soon be underway. In any case, SULFORCA 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, with production at about *** percent of capacity. As shown in table 8, * * *. ⁸⁴

SULFORCA projects that its total production will * * * in 1990 from what is projected for 1989. The major part of its 1990 production is slated for * * *.

According to SULFORCA, there are no dumping findings on aluminum sulfate in existence in any third-country markets.

U.S. inventories of aluminum sulfate from Venezuela

All of SULFORCA's shipments of aluminum sulfate to Puerto Rico are intended to satisfy its contract with PRASA, and it reportedly maintains only enough inventory to ensure that deliveries can be made to PRASA's treatment sites as needed. (Actual data on inventories are not available * * *.)

Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury

U.S. imports

Sweden and Canada have been by far the largest foreign suppliers of aluminum sulfate to the United States during the period covered by the investigations (table 9). 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. Such imports accounted for *** percent of total U.S. imports in 1988, and *** percent in January-June 1989. The only other sources of imports into Puerto Rico are Jamaica and Mexico. Imports into Puerto Rico are shown separately in table 10.

⁸⁴ * * *. * * *.

Table 9

Aluminum sulfate: U.S. imports, by principal sources, 1986-88, January-June 1988, and January-June 1989

Source	1986	1987	1988	Jan.-June-- 1988	1989
	Quantity (1,000 pounds)				
Sweden.....	***	***	***	***	***
Canada.....	43,315	41,271	56,464	27,895	25,867
Venezuela.....	***	***	***	***	***
All others 1/.....	2,340	1,998	4,308	1,730	1,195
Total.....	***	***	***	***	***
	Value, c.i.f. duty-paid (1,000 dollars)				
Sweden.....	***	***	***	***	***
Canada.....	1,928	1,952	2,264	1,143	1,078
Venezuela.....	***	***	***	***	***
All others 1/.....	337	228	444	169	380
Total.....	***	***	***	***	***
	Unit value (per ton) 2/				
Sweden.....	\$***	\$***	\$***	\$***	\$***
Canada.....	89	95	80	82	83
Venezuela.....	***	***	***	***	***
All others 1/.....	288	228	206	195	636
Average.....	\$***	\$***	\$***	\$***	\$***

1/ Excludes a relatively large amount of imports from the Netherlands in Jan.-June 1989. The importer of record for the imports is located in * * *. A representative of the firm stated that it has never imported any aluminum sulfate and indicated that the recorded imports are probably * * *. Customs has verified that the invoices did in fact describe the imports as * * * and has requested samples of the shipments for chemical analysis.

2/ Unit values calculated from rounded data.

Source: Annual 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; all imports from Venezuela and imports from Sweden for January-June of 1988 and 1989 are compiled from data submitted in response to questionnaires of the Commission in the instant investigations; all other imports compiled from official statistics of the U.S. Department of Commerce, except as noted in footnote 1.

Table 10

Aluminum sulfate: U.S. imports into Puerto Rico, by sources, 1986-88, January-June 1988, and January-June 1989

Source	1986	1987	1988	Jan.-June-- 1988	1989
Quantity (1,000 pounds)					
Venezuela.....	***	***	***	***	***
Jamaica.....	***	***	***	***	***
Mexico.....	***	***	***	***	***
Total.....	***	***	***	***	***
Value, c.i.f. duty-paid (1,000 dollars)					
Venezuela.....	***	***	***	***	***
Jamaica.....	***	***	***	***	***
Mexico.....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value (per ton) 1/					
Venezuela.....	\$***	\$***	\$***	\$***	\$***
Jamaica.....	***	***	***	***	***
Mexico.....	***	***	***	***	***
Average.....	\$***	\$***	\$***	\$***	\$***

1/ Unit values calculated from rounded data.

Source: Imports from Venezuela compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; 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 11, increased by *** percent from 1986 to 1988, then decreased by *** percent from January-June 1988 to January-June 1989. 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 from 1986 to 1988 (by *** percent in terms of quantity) and increased again during the interim periods (by *** percent in terms of quantity), as shown in table 12.

Table 11

Aluminum sulfate: Apparent U.S. consumption and ratio of imports to consumption, 1986-88, January-June 1988, and January-June 1989

(In thousands of pounds)				
Period	Apparent U.S. con- sumption 1/	Ratio (percent) of imports to consumption		
		For Venezuela	For all other countries	Total
1986.....	***	***	***	***
1987.....	***	***	***	***
1988.....	***	***	***	***
Jan.-June--				
1988 2/.....	***	***	***	***
1989 2/.....	***	***	***	***

1/ Domestic production plus imports minus exports.

2/ Data on U.S. production of iron-free grade is not available. Thus, apparent U.S. consumption is understated and the ratio of imports to consumption is overstated.

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.

Table 12

Aluminum sulfate: Apparent consumption in Puerto Rico and ratio of imports to consumption, 1986-88, January-June 1988, and January-June 1989

Period	Apparent	Ratio (percent) of imports to consumption		
	consumption in Puerto Rico 1/	For Venezuela	For all other countries	Total
Quantity (1,000 pounds)				
1986.....	***	***	***	***
1987.....	***	***	***	***
1988.....	***	***	***	***
Jan.-June--				
1988.....	*** 2/	***	***	***
1989.....	*** 2/	***	***	***
Value (1,000 dollars)				
1986.....	***	***	***	***
1987.....	***	***	***	***
1988.....	***	***	***	***
Jan.-June--				
1988.....	*** 2/	***	***	***
1989.....	*** 2/	***	***	***

Footnotes appear on the following page.

Footnotes for table 12.

1/ Domestic shipments plus imports.

2/ Shipments into Puerto Rico by mainland U.S. producers were not available for the interim periods and are thus excluded.

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.

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. During January-June 1989, aluminum sulfate from Venezuela accounted for *** percent of total U.S. consumption and *** percent of consumption in Puerto Rico. At the same time, U.S. producers' share of Puerto Rican consumption declined from *** percent in 1986 to approximately *** percent in January-June 1989.

Prices

The price of aluminum sulfate varies depending on whether it is sold in liquid or dry form, whether it is sold in bulk shipments or (in the case of the dry product) packaged in bags, and on the level of iron or other impurities it contains. Dry aluminum sulfate is generally more expensive than the liquid aluminum sulfate from which it is produced, reflecting the added processing costs. Liquid aluminum sulfate is priced on a dry-equivalent basis, i.e., the price per ton reflects the ton of dry aluminum sulfate contained in the liquid solution.⁸⁵ In 1988, the price of standard dry aluminum sulfate in the continental United States was typically double or more the price of standard liquid aluminum sulfate.⁸⁶ Dry aluminum sulfate shipped in bags is more expensive than that shipped in bulk, primarily because of the smaller quantities involved and additional packaging expenses. Price is also inversely related to iron content, with iron-free aluminum sulfate commanding higher prices.

The demand for aluminum sulfate is directly related to the requirements of its two major customers--pulp and paper manufacturers and municipal water treatment facilities. Municipalities and chemical distributors are the primary purchasers of dry aluminum sulfate, while municipalities and the pulp and paper industry are the primary purchasers of liquid aluminum sulfate. Shifts in demand between dry and liquid aluminum sulfate have occurred as some

⁸⁵ Liquid aluminum sulfate solution is approximately 50 percent water and 50 percent dry aluminum sulfate.

⁸⁶ Dry Aluminum Sulfate from Sweden . . ., USITC Publication 2174, March 1989, p. A-21.

major municipal accounts have switched from dry to liquid.⁸⁷ Ninety percent of total U.S. production is now sold in liquid form.⁸⁸

The demand for aluminum sulfate in Puerto Rico depends upon the level of sediment in the Puerto Rican water supply and the volume of water demanded by its customers. * * *.

Transportation costs.--The market areas of aluminum sulfate producers are limited by shipping costs. Dry aluminum sulfate is shipped in bulk in pneumatic transports⁸⁹ with nominal capacities of 20 tons or by hopper cars with a capacity of 50 tons. Although it is possible to ship dry aluminum sulfate anywhere in the United States, plants close to the customer have a significant competitive advantage over those that are more distant. In general, dry aluminum sulfate is shipped within a 400- to 600-mile radius of a plant. Prices may be quoted on either a delivered or f.o.b. basis depending upon customer preference.⁹⁰

Because transportation costs for liquid aluminum sulfate are even greater than for the dry product, producers are unlikely to transport liquid aluminum sulfate more than 200 miles. In general, liquid aluminum sulfate is produced in somewhat smaller plants located relatively close to users consuming large quantities. Liquid aluminum sulfate is shipped in tank truck transports with up to a 5,000 gallon capacity and by tank railcars with capacities from 8,000 to 18,000 gallons. Aluminum sulfate plants located adjacent to a major purchaser may move the liquid aluminum sulfate by pipeline.⁹¹ Prices of liquid aluminum sulfate are generally quoted on a delivered basis.⁹²

As a rule, transport costs increase with distance, although they vary from one location to another. Transportation costs for liquid aluminum sulfate in the continental United States are presented for selected mileage ranges in the following tabulation (in average dollars per ton):

⁸⁷ Dry Aluminum Sulfate from Sweden, conference transcript, pp. 50-53.

⁸⁸ For many years aluminum sulfate was sold primarily in the dry form, which is easier to handle and more economical to ship. Prior to its 1973 contract with Allied Chemical (now General Chemical Corp.), PRASA used dry aluminum sulfate. By 1974, when General Chemical began shipping to it under the contract, PRASA had converted most of its facilities to use liquid aluminum sulfate.

⁸⁹ Pneumatic transports are trucks into which dry aluminum sulfate is loaded and unloaded through tubes by the force of compressed air as opposed to gravity alone.

⁹⁰ Conversation with * * *, General Chemical Corp., Sept. 22, 1989.

⁹¹ * * *.

⁹² Conversation with * * *, General Chemical Corp., Sept. 22, 1989.

30 - 45 miles.....	***
50 - 60 miles.....	***
over 118 miles.....	***

In its questionnaire response, General Chemical Corp. reported transportation costs for dry aluminum sulfate in the continental United States that range from \$*** to \$*** per ton.

General Chemical de Puerto Rico's transportation costs to PRASA's 54 locations around Puerto Rico averaged approximately \$*** per ton during 1986-88. Seventy percent of PRASA's consumption of aluminum sulfate is by three PRASA facilities located on the north and northeastern part of Puerto Rico, the same part of the island where General Chemical de Puerto Rico's plant is located. The importer's liquification facility at Peñuelas on the southwestern part of the island is, on average, 60 miles away from PRASA's consuming facilities. Transportation costs from the importer's liquification plant to these facilities average from \$*** to \$*** per ton.⁹³ Transportation charges for shipping the imported dry aluminum sulfate from the port in Puerto Rico to Alchem's location are approximately \$*** per ton.

As a result of the Jones Act of 1920, the cost of transporting dry aluminum sulfate directly from the U.S. mainland to Puerto Rico is most likely higher than the cost of transporting it from Venezuela, Jamaica, Mexico, or other foreign ports in the Caribbean. This Act requires that cargo merchandise transported between two points in the United States, including its districts, territories and possessions, be shipped on carriers that are U.S. built, owned, and documented. These U.S. carriers charge higher rates for bulk freight than foreign carriers.⁹⁴ In addition, Puerto Rican transportation regulations require that shipments to and from the continental United States that involve local public agencies be made on vessels owned by Naviera de Puerto Rico, another government agency. Shipping by this carrier also fulfills the Jones Act requirement.⁹⁵

Contracts and bids.--Aluminum sulfate is sold both under contract and on the spot market. Municipalities generally purchase the bulk of their aluminum sulfate needs under contract. Bids are solicited from several producers, after determining the amount and specification of aluminum sulfate needed. The producers first review all the bid requirements to ensure that they can meet the specification requirements and then estimate their costs of production. Although municipal bids are closed, information on previous bids is publicly available and provides producers with a list of the most likely competitors as well as previous bids. This information allows producers to identify their competitors and attempt to analyze what the competitors will bid. To arrive at a competitive bid price, purchasers evaluate this information along with data on their fixed and variable costs. According to

⁹³ Staff notes, Oct. 16, 1989.

⁹⁴ Conversation with * * *, U.S. Department of Transportation, Maritime Administration, Sept. 20, 1989.

⁹⁵ Posthearing brief, General Chemical de Puerto Rico, p. 15.

General Chemical Corp., * * *. ⁹⁶ * * *. On the few occasions when a purchaser asks a producer to refine a bid, the purchaser usually wants to buy from the producer because of such factors as quality, deliverability, and service, but wants the producer to meet the competition in terms of price. ⁹⁷ Municipalities are usually required to select the lowest bidder. ^{98, 99} Contracts generally are for one year at a fixed price after which time they may be renewed; PRASA's contracts with both General Chemical de Puerto Rico and SULFORCA have been for a period of five years.

PRASA also reported in its questionnaire that it sets the specifications of the product and the terms and conditions of the contract in its bid documents. Prices are set through bids which are requested to include all transportation and delivery charges. Terms of payment are usually net 30 days. * * *. PRASA cited * * *, * * *, and * * *, in order of importance, as the three major factors considered in making a purchase. ¹⁰⁰ * * * were cited as secondary considerations. The aluminum sulfate from Venezuela was described as being of * * * quality * * * the U.S. product in its questionnaire to the Commission. ¹⁰¹ The marketing efforts of the domestic and Venezuelan suppliers were cited as * * *.

Paper mills also purchase aluminum sulfate under contract, but do not generally have a formal bid process like municipalities. ¹⁰² Instead of bids, producers are asked to submit quotes which, unlike bids, are not sealed documents with accompanying documentation. Information on competitors is usually not available but the paper mill will typically negotiate with producers. Paper mills are not required to take the lowest bidder and at times may choose a supplier on the basis of factors such as quality and deliverability rather than price. Contracts to supply aluminum sulfate to paper mills are typically for one year, although some of the larger mills are

⁹⁶ Questionnaire submitted by General Chemical Corp. to the U.S. International Trade Commission.

⁹⁷ Questionnaire submitted by General Chemical Corp. to the U.S. International Trade Commission in connection with inv No. 731-TA-430 (Preliminary), Dry Aluminum Sulfate from Sweden.

⁹⁸ Conversation with * * *, General Chemical Corp., Sept. 18, 1989.

⁹⁹ According to PRASA it is an internal policy to * * *. (Staff notes, Oct. 16, 1989.)

¹⁰⁰ However, as previously noted, PRASA has stated that it has an internal policy of * * *. (Staff notes, Oct. 16, 1989.)

¹⁰¹ As discussed earlier in the report, since entering into the contract with SULFORCA, PRASA has * * *.

¹⁰² There is no pulp or paper-making industry in Puerto Rico.

now reportedly looking for two- to three-year contracts.¹⁰³ Contracts that are longer than one year will typically contain an escalation clause.

Distributors are less formal in their purchases than municipalities or paper producers, preferring to solicit producers for specific quantities as they need them. Other end users such as producers of food products and flame retardants also tend to make purchases directly from aluminum sulfate producers on the spot market.

According to the Chemical Products Synopsis, aluminum sulfate prices are discounted depending on geographic location. This publication reports that the proliferation of small independent producers has contributed to overcapacity and price erosion. In addition, the substitution of polymers and ferric type coagulants has put pressure on prices of aluminum sulfate used in water treatment. However, shortages of raw material inputs in 1988, specifically chemical grade alumina trihydrate and sulfuric acid, have led to higher aluminum sulfate prices in some areas.¹⁰⁴

Prices in Puerto Rico.--Information on prices was requested from General Chemical Corp., General Chemical de Puerto Rico, Alchem Corp., and PRASA.¹⁰⁵

According to General Chemical de Puerto Rico, the reason for its petition was the loss in August 1988 of its contract to supply liquid aluminum sulfate to PRASA. General Chemical de Puerto Rico had provided PRASA with all of its liquid aluminum sulfate since 1974.¹⁰⁶ The contract, which was awarded in February 1973, was for an annual volume of *** tons at a delivered price of \$*** per ton and covered a five-year period. * * *.¹⁰⁷ The contract also specified a * * *. General Chemical de Puerto Rico's subsequent contracts

¹⁰³ Conversation with * * *, General Chemical Corp., Sept. 18, 1989.

¹⁰⁴ Chemical Products Synopsis, a reporting service of Manneville Chemical Products Corp., June 1988.

¹⁰⁵ General Chemical Corp. was requested to provide information on prices for both contractual and spot sales made in the continental United States for comparison with prices charged by General Chemical de Puerto Rico. Prices reported by General Chemical Corp. are presented in appendix F.

¹⁰⁶ As stated previously, PRASA had purchased dry aluminum sulfate prior to 1974. By 1974, PRASA had converted most of its facilities to use liquid aluminum sulfate. General Chemical de Puerto Rico provided the technical assistance and capital required for this conversion. PRASA repaid General Chemical de Puerto Rico by means of a surcharge.

¹⁰⁷ * * *. * * *.

with PRASA were for five years and were automatically renewed. No formal bid process was initiated in either 1978 or 1983. ¹⁰⁸

According to PRASA, by December 1974, the price charged by General Chemical had increased by *** percent to \$*** per ton, \$*** higher than the original 1973 contract price. ¹⁰⁹ From 1974 to 1986, the prices paid by PRASA to General Chemical de Puerto Rico increased at an average annual rate of *** percent, with an overall increase of *** percent. Until October 1, 1984, PRASA was also assessed a surcharge by General Chemical de Puerto Rico to repay it for the cost of converting PRASA's facilities from dry to liquid aluminum sulfate production. This surcharge, which varied slightly over the contract period, was \$*** per ton in 1984.

During the period of investigation, the PRASA contract accounted for *** percent of General Chemical de Puerto Rico's sales of liquid aluminum sulfate. The quantity, delivered value, and unit value of General Chemical de Puerto Rico's sales to PRASA for this period are shown in the following tabulation:

<u>Year</u>	<u>Quantity</u>	<u>Value</u>	<u>Unit value</u>
1986.....	***	\$***	\$***
1987.....	***	***	***
1988.....	***	***	***

Actual contract prices as reported by PRASA fluctuated over the period of investigation, as shown in the following tabulation:

1/1/86.....	\$***	1/1/87.....	\$***	1/1/88.....	\$***
4/1/86.....	***	4/1/87.....	***	4/1/88.....	***
7/1/86.....	***	7/1/87.....	***	7/1/88.....	***
10/1/86.....	***	10/1/87.....	***		

With the exception of the first two quarters of 1988, these prices exhibit a seasonal variation of declines in the first and third quarter and increases in the second and fourth quarter of each year. These variations are due to changes in transportation costs which result from seasonal changes in demand. During the first and third quarters of the year, consumption of aluminum sulfate declines due to lower rainfall, and General Chemical de Puerto Rico makes "split" deliveries. That is, during these periods a shipment is delivered to more than one site, raising transportation costs.

¹⁰⁸ According to John Greenwald, counsel for the petitioner, there were no bids for the PRASA contract between 1973 and 1988. (Preliminary investigation report, p. A-18.)

¹⁰⁹ A large part of this escalation in price was likely due to an increase in bauxite prices. Although no price information is available for chemical grade bauxite used to produce aluminum sulfate, information is available on the prices of imported dried bauxite used at U.S. alumina plants. These prices increased from \$14.84 per long ton in 1973 to \$23.21 in 1974, an increase of 56 percent. (Metals and Minerals Yearbook, 1974, U.S. Bureau of Mines, Washington, DC.)

These higher costs are reflected in higher prices in the quarters following the split deliveries.

PRASA issued a bid solicitation on April 25, 1988, and certified bids were accepted on June 7th. Four companies responded to this solicitation--General Chemical de Puerto Rico, SULFORCA, Ochoa Industrial Sales Corp., and Calgon Corp (table 13). ¹¹⁰ General Chemical de Puerto Rico submitted two alternative bids--one for a delivered price of \$*** per ton, * * *, and one for a delivered price of \$*** per ton * * *. ¹¹¹ SULFORCA won the contract with a bid of \$*** per ton, * * *. Future prices are tied to the * * *. SULFORCA's bid was below General Chemical de Puerto Rico's comparable bid of \$*** by *** percent. ¹¹² According to PRASA, the price clause connected to General Chemical de Puerto Rico's low bid was considered to be * * *. ^{113, 114}

Table 13

Liquid aluminum sulfate: Bid prices for the PRASA contract in 1988

Bidding company	Bid price per ton	Description of escalation clause
SULFORCA.....	\$*** <u>1/</u>	* * *.
General Chemical Corp.....	***	* * *.
General Chemical de Puerto Rico.....	***	* * *.
Ochoa Industrial Sales Corp. <u>2/</u>	***	<u>3/</u>

1/ Winning bid.

2/ According to PRASA, * * *.

3/ Not available.

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

¹¹⁰ Calgon Corp. submitted a bid to supply *** tons of * * *, the equivalent of *** tons of aluminum sulfate, at \$*** per ton.

¹¹¹ * * *.

¹¹² * * *.

¹¹³ * * *.

¹¹⁴ * * *. * * *. * * *. * * *. * * *.

General Chemical de Puerto Rico stopped shipping aluminum sulfate to PRASA by the end of August 1988.¹¹⁵ However, in the aftermath of Hurricane Hugo General Chemical de Puerto Rico made two spot sales to PRASA on October 17 and November 3, 1989. Each of these sales was for 1,000 tons of liquid aluminum sulfate priced at \$*** per ton on a delivered basis.¹¹⁶ General Chemical de Puerto Rico's remaining sales over the period of investigation, which were all made on the spot market to purchasers other than PRASA, were *** tons in 1986, *** in 1987, *** in 1988, and *** in January-June 1989. During 1986-88, all spot market sales were priced at \$*** per ton; in May 1989 the price was increased to \$*** per ton.¹¹⁷

In addition to losing the contract to supply PRASA with liquid aluminum sulfate, General Chemical de Puerto Rico did not win three PRASA purchase orders, each for dry aluminum sulfate (table 14). Two of General Chemical de Puerto Rico's bids offered a product produced by General Chemical Corp. and one bid offered a product produced in * * *. The first purchase order was lost in February 1986 to * * * of Puerto Rico, a supplier of dry aluminum sulfate from * * *. General Chemical de Puerto Rico bid \$*** per ton compared with \$*** per ton bid by * * *, *** percent lower than General Chemical de Puerto Rico's bid. The second purchase order was lost in April 1988. General Chemical de Puerto Rico offered to supply the * * * product at \$*** per ton compared to \$*** offered by * * *. The third purchase order was lost in July 1989. General Chemical de Puerto Rico made two bids for this contract--\$*** per ton for iron-free dry aluminum sulfate and \$*** for standard dry aluminum sulfate. The lowest bid was placed by * * *, which offered to supply iron-free aluminum sulfate manufactured by * * * at \$*** per ton, *** percent lower than General Chemical's bid for the iron-free product. However, * * * was unable to honor PRASA's purchase order following the imposition of a 96.3 percent cash deposit or bond requirement on Venezuelan aluminum sulfate on August 14, 1989. PRASA then placed an order with * * *, the second lowest bidder, at a price of \$*** per ton, for iron-free aluminum sulfate manufactured in * * *. * * * price was *** percent lower than General Chemical de Puerto Rico's bid for the iron-free product.¹¹⁸

In addition to the transactions reported by General Chemical de Puerto Rico, PRASA reported an aluminum sulfate purchase for which General Chemical did not bid. In June 1987, PRASA purchased *** tons of dry aluminum sulfate, manufactured in * * * by * * *, from * * * at a price of \$*** per ton.

¹¹⁵ Although SULFORCA won the contract to supply PRASA in August 1988, the actual provisions of the contract did not become effective until Nov. 1, 1988.

¹¹⁶ Conversation with * * *, Nov. 7, 1989.

¹¹⁷ * * *.

¹¹⁸ * * *.

Table 14

Dry aluminum sulfate: Bid prices for the PRASA contracts, 1986-89

Date of contract	1/Amount tons	Winning firm	Bid price per ton	Losing firm	Bid price per ton
02/86	600	* * *	<u>2/</u> \$***	* * *	<u>3/</u> \$***
06/87	600	* * * <u>4/</u>	<u>2/</u> ***	* * * <u>5/</u>	
04/88	<u>6/</u> 820	* * *	<u>2/</u> ***	* * * <u>3/7/</u>	***
07/89	<u>8/9/</u> 600	* * *	<u>2/</u> ***	* * * <u>3/</u> * * * <u>2/</u>	*** ***
		* * *	<u>2/</u> ***	* * *	***
				* * * <u>10/</u>	***

1/ * * *. * * *.2/ Iron-free dry aluminum sulfate.3/ Standard dry aluminum sulfate.4/ The aluminum sulfate was manufactured by * * *.5/ General Chemical de Puerto Rico did not bid on this contract.6/ General Chemical de Puerto Rico reported that the contract was for 600 tons of aluminum sulfate.7/ In this bid, General Chemical de Puerto Rico offered to supply aluminum sulfate produced in * * *.8/ This contract was first awarded to * * *, a local supplier. * * *, the second lowest bidder, was awarded the contract when * * * was unable to honor it.9/ A bid of \$*** per ton was made by * * *, which was disqualified. A bid of \$*** per ton was also made by * * *, a local distributor, which would have sold a product manufactured by the * * *. This company was also disqualified.10/ This company would have supplied a product manufactured in * * * by * * *.

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

PRASA also reported that a number of purchases of both dry and liquid aluminum sulfate were made on the spot market starting in the third quarter of 1988 through the first quarter of 1989. With the exception of one purchase from * * *, all of these purchases were made from SULFORCA. In contrast to the typical cost relationship of liquid and dry aluminum sulfate, SULFORCA's liquid aluminum sulfate is more expensive than its dry product because the product is imported dry and must be reliquified at an additional cost. Between September 7, 1988 and October 31, 1988, before the SULFORCA/PRASA contract took effect, *** tons of liquid aluminum sulfate were purchased from SULFORCA at a price of \$*** per ton, and *** tons of dry aluminum sulfate were purchased at a price of \$*** per ton.¹¹⁹ This product was most likely produced by * * *.¹²⁰ * * * also supplied PRASA with *** tons of its own dry aluminum sulfate at \$*** per ton between November 22, 1988 and March 27, 1989, after the contract was in effect. This price of \$*** is * * * than any other bids made to supply aluminum sulfate to the Puerto Rican market over the period of investigation. The purchase from * * * was made in September 1988, for *** tons of dry aluminum sulfate at a price of \$*** per ton. * * *.

Lost sales and lost revenues

General Chemical de Puerto Rico provided no specific allegations of lost sales or lost revenues in its questionnaire. However, the firm lost its existing contract with PRASA for liquid aluminum sulfate to SULFORCA. General Chemical de Puerto Rico also bid on and lost two purchase orders to supply PRASA with dry aluminum sulfate * * *. One purchase order was lost to * * *, a supplier of dry aluminum sulfate from * * *. The other purchase order was initially lost to * * * which supplies aluminum sulfate produced in * * *.

Exchange rates

Until 1989, Venezuela employed a multiple exchange rate system, which was introduced in February 1983 and subsequently modified in February 1984, December 1985, and December 1986. The system, as modified in December 1986, applied a fixed official rate of 14.5 bolivars per U.S. dollar to most commercial and financial transactions, to government capital transactions, and to new registered private capital flows. An exchange rate of 7.5 bolivars per dollar was 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 was applied to tourism and nonregistered private capital flows.¹²¹

¹¹⁹ Alchem reported that approximately *** tons of dry aluminum sulfate were sold to PRASA at \$*** per ton and *** tons of liquid aluminum sulfate were sold at \$*** per ton. The discrepancies have not been resolved.

¹²⁰ Conversation with * * *, PRASA, Nov. 8, 1989.

¹²¹ International Financial Statistics, January 1989.

The multiple exchange rate system was officially abolished on March 13, 1989. According to counsel for the respondent, * * *. ¹²² However, * * *. ¹²³ * * *. ¹²⁴ The free-market exchange rate was 36.9 bolivars per U.S. dollar in March, 37.4 in April, and 38.2 in May 1989.

Quarterly data reported by the International Monetary Fund indicate that during the period January 1986 through December 1988, the nominal official exchange rate value of the Venezuelan bolivar depreciated by 48.3 percent against the U.S. dollar (table 15). Much of the change in this nominal exchange rate occurred in the fourth quarter of 1986 when Venezuela devalued its currency from 7.5 to 14.5 bolivars per U.S. dollar. Although the official value of the bolivar remained constant through March 1989, the high rate of inflation in Venezuela relative to that in the United States more than offset this devaluation.

¹²² App. C to the postconference brief of counsel for SULFORCA.

¹²³ Telephone conversation with Christopher Painter, Arnold and Porter, on Sept. 15, 1989. According to Mr. Painter, * * *.

¹²⁴ Conversation with Christopher Painter, Arnold and Porter, Sept. 15, 1989.

Table 15

Indexes of the nominal and real exchange rates between the U.S. dollar and the Venezuelan bolivar, 1/ and indexes of producer prices in the United States and Venezuela, 2/ by quarters, January 1986-June 1989

(January-March 1986 = 100)				
Period	U.S. producer price index	Venezuelan producer price index	Nominal exchange- rate index 3/	Real exchange- rate index
1986:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	98.2	106.4	100.0	108.4
July-September.....	97.7	107.0	100.0	109.5
October-December...	98.1	114.6	76.3	89.1
1987:				
January-March.....	99.2	132.6	51.7	69.1
April-June.....	100.8	151.4	51.7	77.7
July-September.....	101.9	164.0	51.7	83.2
October-December...	102.3	171.8	51.7	86.8
1988:				
January-March.....	102.9	173.9	51.7	87.4
April-June.....	104.8	178.8	51.7	88.2
July-September.....	106.2	188.1	51.7	91.6
October-December...	106.7	198.6	51.7	96.2
1989:				
January-March.....	109.0	258.5	<u>4/</u> 34.8	82.5
April-June.....	110.9	<u>5/</u>	<u>4/</u> 20.1	<u>5/</u>

1/ Based on exchange rates expressed in U.S. dollars per bolivar.

2/ The real exchange rate index is derived from the nominal exchange rates adjusted by the producer price indexes of each country. These indexes are derived from line 63 of the International Financial Statistics.

3/ Official exchange rate.

4/ The official exchange rate was abolished on March 13, 1989.

5/ Not currently available.

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

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APPENDIX A

COMMERCE'S FEDERAL REGISTER NOTICES

43438

Notices

Federal Register

Vol. 54, No. 205

Wednesday, October 25, 1989

[A-307-801]

Final Determination of Sales at Less Than Fair Value; Aluminum Sulfate from Venezuela

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

ACTION: Notice.

SUMMARY: We have determined that aluminum sulfate from Venezuela is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of aluminum sulfate from Venezuela as described in the "Continuation of Suspension of Liquidation" section of this notice. The ITC will determine within 45 days of this determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT:

Mary Jenkins, Kimberly Hardin, or Mary S. Clapp, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 377-1756, 377-8371, or 377-3965, respectively.

SUPPLEMENTAL INFORMATION:

Final Determination

We have determined that aluminum sulfate from Venezuela is being, or is likely to be, sold to the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). The estimated dumping margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On June 13, 1989, after responding to Section A of the Department's questionnaire, Sulfatos de Orinoco, C.A. (SULFORCA) informed the Department that it would not respond to the remaining portions of the sales questionnaire nor to any cost questionnaire, if issued. Given SULFORCA's failure to respond to our questionnaire, we issued an expedited and affirmative preliminary determination on the basis of best information available (BIA) on August 4, 1989 (54 FR 33254, August 14, 1989).

Interested parties submitted case briefs on September 14 and 15, and rebuttal briefs on September 20, 1989. A public hearing was held on October 6, 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 will be classified solely according to the appropriate HTS item number. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive of the scope of our investigation.

The product covered by this investigation is aluminum sulfate from Venezuela, liquid or dry, currently

provided for under HTS item number 2833.22.00.00.

Period of Investigation

The period of investigation (POI) is August 1, 1988 through March 31, 1989.

Fair Value Comparisons

To determine whether sales of aluminum sulfate from Venezuela to the United States were made at less than fair value, we compared the United States price to the foreign market value. We used BIA, as required by section 776(c) of the Act, for the reasons stated in the "Case History" section of this notice.

United States Price

As BIA, we used petitioner's estimate of U.S. price, as provided in the petition, which is based on a f.o.b. price per ton of aluminum sulfate imported from Venezuela.

Foreign Market Value

As BIA, we used petitioner's estimate of foreign market value (FMV) contained in its May 31, 1989, amendment to the petition. This estimate, based on an ex-factory price submitted in the public version of SULFORCA's May 25, 1989, Section A response, was reported to be the price SULFORCA charged its largest home market customer. We converted SULFORCA's home market price to U.S. dollars based on the 14.5 Bolivares (Bs.)/\$1 U.S. exchange rate. See Comment and DOC Position.

In our preliminary determination, we stated that petitioner's cost allegation would be considered for the final determination. We have now evaluated the allegation and have determined that, based on home market sales prices submitted in petitioner's amendment to the petition (converted at the 14.5 Bs./\$1 U.S. exchange rate), the allegation does not demonstrate that home market prices were below the cost of production. Accordingly, a cost of production investigation was not initiated.

Verification

Because SULFORCA did not furnish a complete response to our questionnaire, we did not conduct verification.

Interested Party Comment

Respondent contends that in determining BIA, the Department should calculate the dumping margin using the free market exchange rate of 39.5 Bs./\$1 U.S. because (1) it used only the free-market rate for importation of goods during the POI and (2) it converted the dollars it earned for sales to Puerto Rico at the free-market rate.

Petitioner states that the Department should use the official exchange rate of 14.5 Bs./\$1 U.S. to convert home market sales to dollars. Petitioner asserts that (1) SULFORCA obtained its imports of production equipment at this rate and (2) that SULFORCA's aluminum hydrate and sulfuric acid suppliers, both of which are government owned, imported at 14.5 Bs./\$1 U.S. Petitioner also says that reports from several sources indicate that the 14.5 Bs./\$1 U.S. exchange rate had been widely used within Venezuela and that when, in March, 1989, the 39.5 Bs./\$1 U.S. "free market" rate became standard, business costs and prices rose sharply.

DOC Position

We have converted the home market price to U.S. dollars using the 14.5 Bs./\$1 U.S. exchange rate. This was the rate in effect in Venezuela during the POI for converting dollar-denominated export earnings. According to public information in the countervailing duty (CVD) record, and included in our investigation, in November 1987 the exchange rate to be used for all imports and exports was officially changed, by Venezuelan Law, to Bs. 14.50 Bs./\$1 U.S. In October 1983, the government set up a program whereby exporters could exchange export earnings at 39.25 Bs./\$1 U.S., if they waived benefits under the export bond program. However, public information in both investigations indicates that exporters were not able to take advantage of the program. There is no evidence on the record indicating that SULFORCA could have converted foreign exchange earnings during the POI at the exchange rate of 39.25 Bs./\$1 U.S. Not until March 1989, pursuant to Decree 76 and 77 Exchange Agreement No. 1 and Resolutions 80-03-01 and 89-03-02, did the Government permit unrestricted currency conversions at the free-market rate.

Therefore, as BIA, given that SULFORCA has not responded to our questionnaire, thereby denying the Department the opportunity to verify the accuracy of SULFORCA's statements and submissions, we consider that 14.5 Bs./\$1 U.S. was the appropriate exchange rate in effect for SULFORCA during the POI.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of aluminum sulfate from Venezuela, as defined in the "Scope of Investigation" section of

this notice, that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice. The margin percentages are as follows:

Manufacturer/Producer/Exporter	Margin Percentage
Sulfatos Del Orinoco, C.A. (SULFORCA)	259.17
All Others	259.17

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigation, Import Administration. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all security posted as a result of the suspension of liquidation will be refunded or canceled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs Officers to assess an antidumping duty on aluminum sulfate, liquid or dry, from Venezuela entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: October 18, 1989.

Eric L. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 89-25144 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-05-M

[C-307-302]

Final Affirmative Countervailing Duty Determination; Aluminum Sulfate From Venezuela

AGENCY: Import Administration,
International Trade Administration,
Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate, as described in the "Scope of Investigation" section of this notice. The estimated net subsidies are specified in the "Suspension of Liquidation" section of this notice. We are directing the U.S. Customs Service to suspend liquidation of all entries of aluminum sulfate from Venezuela as specified in the "Suspension of Liquidation" section of this notice.

We have notified the United States International Trade Commission (ITC) of our determination. If the ITC determines that imports of aluminum sulfate materially injure, or threaten material injury to, a U.S. industry, we will issue a countervailing duty order directing the U.S. Customs Service to continue suspension of liquidation of all entries of aluminum sulfate from Venezuela which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of our order and to require a cash deposit on entries of aluminum sulfate in an amount equal to the appropriate estimated net subsidy.

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Michelle L. O'Neill or Carole A. Showers, 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) 377-1673 or 377-3217.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to

manufacturers, producers, or exporters in Venezuela of aluminum sulfate under the preferential pricing of aluminum hydrate program.

Case History

Since publication of the "Preliminary Negative Countervailing Duty Determination: Aluminum Sulfate from Venezuela" (54 FR 27195, June 28, 1989), the following events have occurred. On June 30, 1989, we presented a supplemental/deficiency questionnaire to the Government of Venezuela. On July 14, 1989, we received a response from Sulfatos del Orinoco, C.A. (SULFORCA). On July 17, 1989, we received a partial response from the Government of Venezuela. On July 21, 1989, we received a response from the Government of Venezuela concerning SULFORCA's raw material suppliers.

On July 20, 1989, petitioner filed a request for alignment of the countervailing duty and antidumping duty final determinations. Pursuant to section 705(a)(1) of the Act, we extended the final determination date in this investigation to no later than October 18, 1989 (54 FR 33254, August 14, 1989).

On August 7, 1989, we presented an additional supplemental/deficiency questionnaire to the Government of Venezuela. On August 21, 1989, we received responses from the Government of Venezuela and SULFORCA. This August 21, 1989 submission included cost of production information for aluminum hydrate requested in our June 30, 1989 supplemental/deficiency questionnaire. On August 31, 1989, we returned as untimely this cost of production information pursuant to §§ 355.2(g), 355.31 (a)(3) and (b)(2) of the new countervailing duty regulations (published on December 27, 1988 as 53 FR 52306 to be codified at 19 CFR 355.2(g), 355.31 (a)(3) and (b)(2)). We conducted verification of the questionnaire responses of the Government of Venezuela and SULFORCA in Venezuela from August 28 to September 12, 1989.

Petitioner and SULFORCA requested a public hearing in this case on July 7, 1989 and July 21, 1989, respectively, which was held on October 6, 1989. On September 29, October 2, and October 4, 1989, we received case briefs and rebuttal briefs filed on behalf of petitioner and SULFORCA.

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 that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

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." This merchandise is currently classifiable under HTS item 2833.22.00.

Analysis of Programs

For purposes of this investigation, the period for which we are measuring subsidies ("the review period") is calendar year 1988. When complete data for the calendar year were not available, we used company fiscal year data as indicated. We have based our determination on our analysis of the petition, the responses to our questionnaires, verification, and written comments filed by petitioner and SULFORCA.

At verification, we found that another producer of aluminum sulfate in Venezuela exported to the United States during the review period. This producer, identified as Ferroaluminio, C.A. (FERRALCA) by the Government of Venezuela in its July 17, 1989 response, failed to respond to our requests for information. As FERRALCA did not respond to any of our questionnaires, we were unable to determine whether it used any of the programs included in this investigation. Therefore, we have determined, in accordance with section 776(c) of the Act, that the use of the best information available is appropriate. Section 776(c) requires the Department to use the best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner, or in the form required, or otherwise significantly impedes an investigation." For the purposes of this investigation, we have assigned FERRALCA the country-wide rate calculated in the "Final Affirmative Countervailing Duty Determination: Certain Electrical Conductor Redraw Rod from Venezuela" (53 FR 24763, June 30, 1988) (Redraw Rod) as the best

information available. We have determined that the country-wide rate calculated for the purposes of Redraw Rod is the best information available as it is the most recently completed Venezuelan countervailing duty investigation.

1. Program Determined to Confer a Subsidy

We determine that subsidies are being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate under the following program:

Preferential Pricing of Aluminum Hydrate

Petitioner alleged that a government-owned firm, Interamerican de Alumina, C.A. (INTERALUMINA), is providing aluminum hydrate to SULFORCA at a preferential rate. We have learned the following, based on the responses and verification.

INTERALUMINA is an integrated aluminum reserve owned by the Government of Venezuela through the Corporación Venezolana de Guayana (CVG) and the Venezuelan Investment Fund (FIV). INTERALUMINA's principal product is alumina. Aluminum hydrate is extracted at the filtration stage in the production of alumina. Past the filtration stage, further processing in the form of calcination takes place to produce alumina.

The extracted aluminum hydrate is sold to two customers in Venezuela, SULFORCA and FERRALCA. These two purchasers are the only producers of aluminum sulfate in Venezuela. The price charged these two customers differ. FERRALCA pays the same price INTERALUMINA charges to customers purchasing small quantities of alumina. The price INTERALUMINA charges for alumina generally is set by reference to INTERALUMINA's cost of producing alumina plus related costs identified in its financial statements. FERRALCA purchases aluminum hydrate pursuant to purchase orders which set the price and total quantity.

The price paid by SULFORCA for aluminum hydrate was established in a long-term contract entered into between INTERALUMINA and SULFORCA in August 1988, and is lower than the price paid by FERRALCA. INTERALUMINA officials' explanation for SULFORCA's lower price was that the price reflects (1) the expectation that SULFORCA will purchase larger quantities of aluminum hydrate than FERRALCA, and (2) SULFORCA's status as a new company in a developing industry.

In analyzing whether the government's provision of aluminum hydrate constitutes a countervailable

benefit, we must first determine whether it is provided to a "specific enterprise or industry, or group of enterprises or industries," as required by section 771(5)(ii) of the Act. Because the government, through INTERALUMINA, provides aluminum hydrate at a particular price only to one company, SULFORCA, we determine that this government action is directed as a "specific enterprise" within the meaning of the Act.

Having determined that the provision of the price for aluminum hydrate is specific to SULFORCA, the next issue we must address is whether that price is preferential. Pursuant to section 771(5)(A)(ii)(II) of the Act, the Department determines whether the government provision of a good or service confers a countervailable benefit by comparing the government price under scrutiny to a benchmark price. That benchmark price will normally be a non-specific price that the government charges to other users of the good in the same political jurisdiction. For the purposes of this investigation, we have determined that the price INTERALUMINA charged FERRALCA for its purchase of aluminum hydrate is the appropriate benchmark price.

In determining the appropriate benchmark price, we considered our application of this provision of the Act in past determinations, for example, in "Carbon Black from Mexico: Preliminary Results of Countervailing Duty Administrative Review" (51 FR 13262, April 18, 1986), (Carbon Black), the two purchasers of the government provided input paid the same price for the input. Therefore, it was necessary for the Department to go beyond its traditional measure of preference, *i.e.*, whether the government charges different prices to different users within the jurisdiction, and to examine the alternative measures of preference in the "Preferentiality Appendix," which was attached to Carbon Black.

In this case, however, the two purchasers of aluminum hydrate are paying different prices. After comparing the quantities and terms of SULFORCA's contract to the quantities and terms of FERRALCA's purchase orders, we determined that these did not provide a basis for justifying the price difference involved. Also, according to the INTERALUMINA officials, SULFORCA's status as a new firm in a developing industry was taken into account in setting its price.

Consistent with our traditional measure of preferentiality, we have determined that the price paid by FERRALCA for aluminum hydrate is the

proper benchmark for determining whether SULFORCA is receiving this input at preferential rates. Regardless of whether the price INTERALUMINA charged FERRALCA is specific, we have carefully examined the price and believe that it provides the best measure of preference in this situation.

First, as noted above, FERRALCA is charged the same price that small quantity purchasers pay for alumina purchased from INTERALUMINA. This is despite the fact that further processing occurs in the production of alumina. Secondly, the alumina price and, hence, the price paid by FERRALCA for aluminum hydrate, is set on the basis of INTERALUMINA's production and financial costs. Therefore, we have no reason to believe that the price aluminum hydrate charged to FERRALCA is preferential.

We recognize the potential difficulties in using the price charged to one purchase as the measure of preference implicit in the price charged to another purchaser. For example, one purchaser might be charged only a very slight premium so that the lower price would not appear to confer a benefit on the company paying that lower price. However, for the reasons described above we are satisfied in this case that the price charged to FERRALCA is not preferential and, therefore, can serve as a benchmark for determining whether aluminum hydrate has been provided to SULFORCA on preferential terms.

Absent complete data for the review period, calendar year 1988, we based our calculation on SULFORCA's fiscal year data. To calculate a benefit to SULFORCA, we multiplied the resultant price differential by the total amount of aluminum hydrate purchased during the fiscal year. We then divided the resultant figure by SULFORCA's total domestic and export sales figure as reported in its financial statements. On this basis, we calculated an estimated net subsidy of 19.03 percent *ad valorem* for SULFORCA.

II. Programs Determined Not to Confer Subsidies

We determine that subsidies are not being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate under the following programs:

A. Preferential Pricing of Sulfuric Acid

Sulfuric acid is one of the primary inputs in the aluminum sulfate production process. Petroquímica de Venezuela, S.A. (PEQUIVEN), a state-owned company, is the only producer of sulfuric acid in Venezuela. PEQUIVEN supplies sulfuric acid to companies in a

large number and broad range of industries, including the aluminum sulfate industry.

At verification, we established that all customers paid the same price for sulfuric acid purchased from PEQUIVEN, including companies producing aluminum sulfate. Because the sulfuric acid PEQUIVEN produces, and the price it charges, is provided to a wide range of industries, we determine that this program is not countervailable.

B. Preferential Pricing of Electricity

C.V.G. Electrificación del Caroní, C.A. (EDELCA) is a state-owned hydroelectric power company. We verified that EDELCA uses a primary rate schedule to determine that rate it charges to all small and medium size companies with their own transformers, such as SULFORCA.

At verification, we established that the rates charged to SULFORCA during the review period were consistent with the rates charged to other small and medium size companies. Because the electricity EDELCA supplies, and the rate it charges, is provided to a large number and broad range of industries, we determine that this program is not countervailable.

III. Programs Determined Not to Be Used

Based on verified information, we determine that manufacturers, producers, or exporters in Venezuela of aluminum sulfate did not apply for, claim, or receive benefits during the review period for exports of aluminum sulfate to the United States under the program listed below. These programs were described in the preliminary determination in this investigation unless otherwise noted.

A. Multiple Exchange Rate System

From January through October 1988, there was a unified rate of 14.50 bolívares [(Bs.), the Venezuelan currency] to the dollar for purchasing imports, exchanging export earnings, and the repayment of foreign debt obligations. On October 19, 1988, Decree 2484 allowed exporters who waived their right to use the export bond program, to purchase imports at the rate of 14.50 Bs. to the dollar and exchange export earnings at the free market rate. Decree 2484 also permitted the repayment of foreign debt obligations to remain at the fixed rate for any company incorporated before 1983. In March 1989, Decree 76 eliminated the multiple exchange rate system established by Decree 2484 and the fixed exchange rate for purchasing imports and exchanging export earnings.

Pursuant to this decree, all subsequent foreign exchange transactions would be at the free market rate.

At verification, we established that SULFORCA did not apply for the export bond program and, therefore, did not waive the right to the export bond program in order to exchange export earnings at the free market rate. We verified that SULFORCA did not purchase imports, exchange export earnings, or repay foreign debt obligations at the fixed rate from October 1988 through December 1988. We also established that SULFORCA did not exchange any export earnings until May 1989, when the free market rate was the only available rate in Venezuela. Based on the above, we determine that SULFORCA did not use the multiple exchange rate system during the review period.

B. Export Bond Program

C. Short-term FINEXOP Financing

D. Other FINEXPO Programs

E. Preferential Tax Incentives Under Decrees 1775 and 1776

F. Industrial Financing Co. of Venezuela Loans (FIVA)

G. Government Provision of Loans and Loan Guarantees

1. Central Bank of Venezuela
2. Industrial Bank of Venezuela
3. Venezuelan Investment Fund

IV. Program Determined Not to Exist

Based on verified information, we determine that a sales tax exemption for manufacturers, producers, or exporters of aluminum sulfate from Venezuela does not exist.

Interested Party Comments

All written comments submitted by the interested parties in this investigation, which have not previously been addressed in this notice, are addressed below.

Comment 1: Petitioner claims that SULFORCA's ability to convert its exchange rate earnings at the free markets rate during a period in which major elements of its costs were determined by the official rate constitutes an export subsidy equal to the differential between the two exchange rates. Petitioner argues that the Government of Venezuela gave SULFORCA access to the free market exchange rate to convert export earnings even though its cost structure, including purchases of basic raw materials and production equipment, was built on the official 14.50 Bs. to the dollar exchange rate. Petitioner further contends that SULFORCA was able to lower its costs because a large portion

of its depreciation costs during the review period was based upon the official exchange rate. Additionally, petitioner contends that the sharp increase in prices for goods and services in Venezuela as a result of the March 1989 reforms in the Venezuelan economy rebuts any contention that SULFORCA was operating in Venezuela on the basis of the free market exchange rate during the review period.

Respondent states that SULFORCA used the free market rate for all purposes during the review period and only recently exchanged export earnings. These export earnings were exchanged at a time when the free market rate was required for both export conversion and import purchases. Further, the official rate has not been available for the purchase of imports since the fall of 1988, and was subsequently abolished for all purposes in March 1989. Therefore, respondent argues, there is no basis for the Department to conclude that the change from the fixed to the floating exchange rate system constituted a countervailable benefit.

DOC Position: See section III.A. of this notice for a discussion of the exchange rates used by SULFORCA during the review period.

With respect to the treatment of depreciation costs and the exchange rate used for basic raw materials, petitioner raises these issues for the first time in its September 29, 1989 case brief. Pursuant to § 355.31(c) of the new regulations [to be codified 19 CFR 355.31(c)], the Department will not consider any subsidy allegation submitted less than 40 days prior to the preliminary determination. Thus, we consider these allegations to be untimely and not subject to comment by the Department in this final determination.

Comment 2: Petitioner contends that the price SULFORCA paid INTERALUMINA for aluminum hydrate in 1988 was preferential when compared to any of the benchmarks in the "Preferentiality Appendix." However, petitioner argues that the price at which INTERALUMINA sold aluminum hydrate to FERRALCA is the appropriate benchmark for determining the degree of preferentiality.

Respondent contends that SULFORCA does not purchase aluminum hydrate from INTERALUMINA at subsidized rates and, therefore, there is no preferential pricing. However, if the Department were to determine that there is a countervailable subsidy relating to the provision of aluminum hydrate, the only benchmark available for calculating

such an alleged subsidy would be INTERALUMINA's verified cost of production figures. Respondent does not specifically comment on the use of FERRALCA's price as a benchmark, rather, respondent contends that the Department could not use a "world price" to calculate a subsidy because aluminum hydrate is not a commodity but a specialized intermediate product for which there is no "world price." Moreover, because of plentiful raw materials and labor, the price of aluminum hydrate in Venezuela bears little relation to a world price.

DOC Position: See section I. of this notice. With respect to INTERALUMINA's cost of production information, we returned this portion of the Government's response as untimely. Therefore, we did not verify INTERALUMINA's cost of production for aluminum hydrate. Pursuant to section 776(b)(1) of the Act, the Department will only consider verified information for the purposes of a final determination. (See Case History section of this notice for further discussion.)

Comment 3: Petitioner alleges that if the Department assumes that PEQUIVEN operated on an official rate of exchange, the price charged to SULFORCA for sulfuric acid should not be considered preferential. But, according to petitioner, the price at which SULFORCA purchased sulfuric acid from PEQUIVEN is preferential if PEQUIVEN's price is converted to dollars at the free market rate. Petitioner further argues that if the Government of Venezuela had responded to the Department's requests for information on the prices at which other companies sold sulfuric acid within Venezuela, there would have been a more reliable basis by which to determine preferentiality. Petitioner suggests that the Department use the price at which PEQUIVEN imports sulfuric acid as a benchmark to determine whether or not PEQUIVEN's price is preferential.

DOC Position: At verification, we found that PEQUIVEN, the only supplier of sulfuric acid in Venezuela, did not import sulfuric acid during 1988. Furthermore, the Department does not consider the exchange rate used by input supplies when investigating preferential pricing of inputs. For further discussion regarding preferential pricing of inputs, see *DOC Position to Comment 1* above and section I., II.A. and II.B. of this notice.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination.

As mentioned previously, we used the best information available for FERRALCA, who did not participate in our investigation. During the verification, we followed standard verification procedures, including meeting with government and company officials; inspecting internal documents and ledgers; tracing information in the responses to source documents, accounting ledgers and financial statements; and collecting additional information that we deemed necessary for making our final determination. Our verification results are outlined in the public versions of the verification reports which are on file in the Central Records Unit (B-099) of the Main Commerce Building.

Suspension of Liquidation

In accordance with Section 705(c) of the Act [19 U.S.C. 1671d(c)], we are directing the U.S. Customs Service to suspend liquidation of all entries of aluminum sulfate from Venezuela which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register, and to require a cash deposit or bond in the amounts indicated below. As explained in the Analysis of Programs section of this notice, the estimated net subsidy rate for FERRALCA is based on the best information available. Because we do not have the export statistics for FERRALCA to calculate a weighted-average country-wide rate, we are providing a separate rate for FERRALCA. Therefore, the rate for all other manufacturers, producers, or exporters in this investigation is the rate calculated for SULFORCA.

Manufacturers/Producers/Exporters	Estimated net subsidy
FERRALCA	38.40
All Other Companies	19.03

This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under administrative

protective order, without the written consent of the Deputy Assistant Secretary for Investigations.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order directing Customs officers to assess countervailing duties on all entries of aluminum sulfate from Venezuela entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-25145 Filed 10-24-89; 8:45 am]

BILLING CODE 3510-05-M

APPENDIX B

THE COMMISSION'S FEDERAL REGISTER NOTICES

**UNITED STATES INTERNATIONAL
TRADE COMMISSION****[Investigation No. 731-TA-431 (Final)]****Aluminum Sulfate From Venezuela****AGENCY:** United States International Trade Commission.**ACTION:** Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-731 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of aluminum sulfate, provided for in subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 417.16 of the Tariff Schedules of the United States), that have been found by the Department of Commerce, in a preliminary determination to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before October 18, 1989 and the Commission will make its final injury determination by December 6, 1989 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended, 53 FR 33034 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: August 9, 1989.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-252-1180), 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. This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of aluminum sulfate from Venezuela are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 29, 1989 by General Chemical de Puerto Rico, Inc., Dorado, Puerto Rico. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (54 FR 22632, May 25, 1989).

Participation in the investigation. Persons wishing to participate in this investigation 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 twenty-one (21) days after the 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 public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (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 business proprietary information service list. Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective

order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive 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.

Staff report. The prehearing staff report in this investigation will be placed in the nonpublic record on October 13, 1989, and a public version will be issued thereafter, pursuant to § 201.21 of the Commission's rules (19 CFR 201.21).

Hearing. The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on October 26, 1989 at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 16, 1989. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 19, 1989, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is October 23, 1989.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions. Prehearing

briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 2, 1989. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 2, 1989.

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 Commission's 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 prehearing and posthearing briefs, and may also file additional written comments on such information no later than November 7, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: August 18, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-19936 Filed 8-23-89; 8:45 am]

BILLING CODE 7020-02-M

receipt of Commerce's notification of its final determination (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207, as amended, 53 FR 33034 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: October 25, 1989.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-252-1180), 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

This investigation is being instituted as a result of a final affirmative determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Venezuela of aluminum sulfate. This investigation was requested in a petition filed on March 29, 1989 by General Chemical de Puerto Rico, Inc., Dorado, Puerto Rico. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports on the subject merchandise (54 FR 22632, May 25, 1989).

Participation in the Investigation

Persons wishing to participate in this investigation 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 twenty-one (21) days after the 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

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-299 (Final)]

Aluminum Sulfate From Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-299 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of aluminum sulfate, provided for in subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 417.18 of the Tariff Schedules of the United States), that have been found by the Department of Commerce, in its final determination, to be subsidized by the Government of Venezuela. The Commission will make its final injury determination within 75 days after

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 public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (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 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 this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive 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.

Staff Report

A prehearing staff report applicable to this investigation was placed in the nonpublic record on October 13, 1989, and a public version was issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing on a related antidumping investigation, Aluminum Sulfate from Venezuela, inv. No. 731-TA-431 (Final), beginning at 9:30 a.m. on October 26, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. At that hearing, the Commission will hear testimony and receive evidence regarding the countervailing duty investigation instituted herein.

(Requests for a separate hearing in separate hearing in this investigation for the limited purpose of supplementing the October 26, 1989, hearing record with testimony and evidence solely related to the countervailing duty investigation, should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 3, 1989. If such a hearing is requested, parties will be contacted regarding dates for the hearing and for the filing of briefs.)

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submission

Post hearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 2, 1989. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 2, 1989.

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 Commission's 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 prehearing and posthearing briefs, and may also file additional written comments on such information no later than November 7, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: October 25, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-25538 Filed 10-27-89; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX C

LIST OF WITNESSES WHO APPEARED AT THE HEARING

CALENDAR OF PUBLIC HEARING

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

Subject: Aluminum Sulfate from Venezuela
Inv. Nos: 701-TA-299 (Final) and 731-TA-431 (Final)
Date and Time: October 26, 1989 - 9:30 a.m.

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

In Support of the Imposition of Countervailing
and Antidumping Duties:

Wilmer, Cutler & Pickering
Washington, D.C.
on behalf of

General Chemical de Puerto Rico, Inc.
("General")

Mario Gonzalez, Manager, General Chemical
de Puerto Rico, Inc. ("General")

John D. Greenwald--OF COUNSEL

In Opposition to the Imposition of Countervailing
and Antidumping Duties:

Arnold and Porter
Washington D.C.
on behalf of

SULFORCA

Douglas A. Dworkin)
)--OF COUNSEL
Christopher M.E. Painter)

APPENDIX D
OPERATIONS OF GENERAL CHEMICAL CORP.

Table D-1

Aluminum sulfate: General Chemical Corp.'s production, average practical capacity, capacity utilization, domestic shipments, export shipments, end-of-period inventories, average number of production and related workers, hours worked by such workers, total compensation of such workers, hourly compensation, and productivity, 1986-88, January-June 1988, and January-June 1989

Item	1986	1987	1988	Jan.-June--	
				1988	1989
	*	*	*	*	*

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

APPENDIX E

COMMENTS RECEIVED ON THE EFFECTS OF IMPORTS FROM
VENEZUELA ON GROWTH, DEVELOPMENT AND PRODUCTION EFFORTS,
INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested General Chemical de Puerto Rico and General Chemical Corp. to describe and explain the actual and potential negative effects, if any, of imports of aluminum sulfate from Venezuela on their growth, investment, development and production efforts, and ability to raise capital. Their responses are shown below:

Actual negative effects

General Chemical de Puerto Rico

* * * * *

General Chemical Corp.

* * * * *

Anticipated negative effects

General Chemical de Puerto Rico

* * * * *

General Chemical Corp.

* * * * *

Influence of imports on capital investment

General Chemical de Puerto Rico

* * * * *

General Chemical Corp.

* * * * *

APPENDIX F

PRICING DATA FOR THE CONTINENTAL
UNITED STATES

General Chemical Corp. provided information on the delivered prices bid for its three largest contracts involving liquid aluminum sulfate in the continental United States. Bids as well as actual f.o.b. shipment prices are shown for each year in table F-1. The shipment prices for standard liquid aluminum sulfate ranged from \$*** to \$*** per ton in 1986, from \$*** to \$*** per ton in 1987, from \$*** to \$*** per ton in 1988, and from \$*** to \$*** per ton in the first half of 1989. Subtracting average transportation costs from General Chemical de Puerto Rico's delivered prices to PRASA gives comparative average f.o.b. prices of \$*** per ton in 1986, \$*** per ton in 1987, and \$*** per ton in 1988, or * * * than the * * * prices charged by * * * for its three largest sales in the continental United States.

F.o.b. values for General Chemical Corp.'s three largest dry aluminum sulfate contracts ranged from \$*** to \$*** per ton in 1986, from \$*** to \$*** per ton in 1987, from \$*** to \$*** per ton in 1988, and from \$*** to \$*** per ton in the first half of 1989. Two of these three contracts were bid on a delivered basis and one on an f.o.b. plant basis (table F-1). General Chemical de Puerto Rico's bids to PRASA for standard dry aluminum sulfate produced in the United States were \$*** and \$*** per ton in February 1986 and July 1989, respectively.

F.o.b. shipping point spot prices reported by General Chemical Corp. for standard liquid aluminum sulfate * * * from approximately \$*** per ton in 1986 to \$*** per ton in 1988 and 1989 (table F-2). Spot prices for standard dry aluminum sulfate * * * from \$*** per ton in the second quarter of 1987 to a low of \$*** in the second quarter of 1988, and then * * * to \$*** in the second quarter of 1989. Other bids and prices pertaining to the continental United States and obtained from General Chemical Corp. and Delta Chemical Corp., Baltimore, MD, are presented in tables F-3 through F-5.

Table F-1

Aluminum sulfate: Prices and volumes for annual and multiyear contracts won by General Chemical Corp.

Product and customer	Annual quantity awarded	Bid price	Date awarded	Shipments							
				1986		1987		1988		Jan.-June 1989	
				Price	Quantity	Price	Quantity	Price	Quantity	Price	Quantity
	tons	per ton		per ton	tons	per ton	tons	per ton	tons	per ton	tons
Standard liquid aluminum sulfate	*	*	*		*	*		*		*	
Standard dry aluminum sulfate	*	*	*		*	*		*		*	

1/ F.o.b.

Source: Compiled from the questionnaire submitted by General Chemical Corp. to the U.S. International Trade Commission.

Table F-2

Aluminum sulfate: Spot market prices 1/ in the continental United States, by quarters, January 1986-June 1989

Period of shipment	Liquid aluminum sulfate				Dry standard aluminum sulfate			
	Standard		Low-iron		Iron-free			
	Price	Quantity	Price	Quantity	Price	Quantity	Price	Quantity
	per ton	tons	per ton	tons	per ton	tons	per ton	tons
	*	*	*	*	*	*	*	*

1/ F.o.b. shipping point.

Source: Compiled from the questionnaire submitted by General Chemical Corp. to the U.S. International Trade Commission.

Table F-3

Liquid aluminum sulfate: Bids to municipalities in the continental United States for shipment during 1986-89

Date bid awarded	Municipality	Company bidding	Quotes	
			Bid price per ton 1/	Volume of bid awarded tons

* * * * *

1/ Delivered prices.

Source: Aluminum Sulfate from Sweden, USITC staff report to the Commission dated March 23, 1989.

Table F-4

Liquid aluminum sulfate: Price ranges in the continental United States, by products and by quarters, January 1988-June 1989 1/

Product and period	Low price		Quantity		High price		Quantity	
	per ton		tons		per ton		tons	

* * * * *

1/ F.o.b. prices.

Source: Compiled from the questionnaire submitted by General Chemical Corp. to the U.S. International Trade Commission.

Table F-5

Dry aluminum sulfate: Price ranges in the continental United States, by products and by quarters, January 1988-June 1989 1/

<u>Product and period</u>	<u>Low price</u>	<u>Quantity</u>	<u>High price</u>	<u>Quantity</u>
	<u>per ton</u>	<u>tons</u>	<u>per ton</u>	<u>tons</u>

* * * * *

1/ F.o.b. prices.

Source: Compiled from questionnaire submitted by General Chemical Corp. to the U.S. International Trade Commission.

