

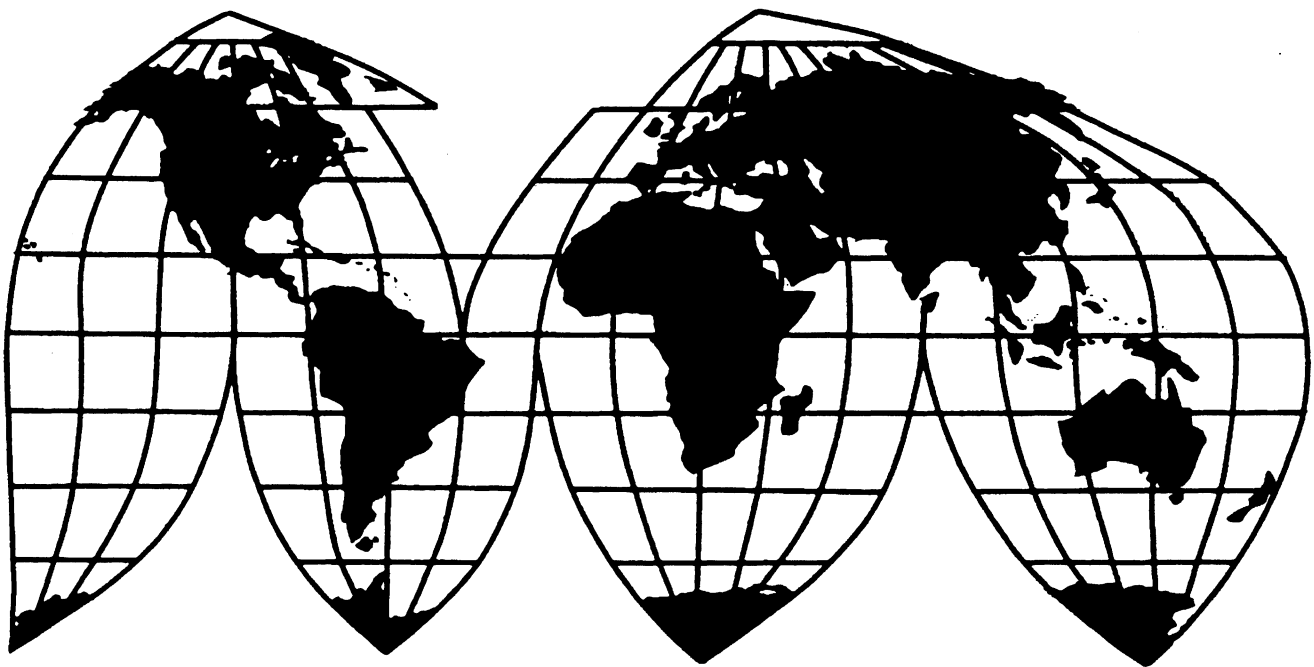
# **Sulfanilic Acid From Hungary and Portugal**

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

**Publication 3472**

**November 2001**

**U.S. International Trade Commission**



Washington, DC 20436

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## **Sulfanilic Acid From Hungary and Portugal**

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# CONTENTS

|                                                                               | <i>Page</i> |
|-------------------------------------------------------------------------------|-------------|
| Determinations . . . . .                                                      | 1           |
| Views of the Commission . . . . .                                             | 3           |
| Dissenting views of Commissioner Devaney . . . . .                            | 17          |
| Part I: Introduction . . . . .                                                | I-1         |
| Background . . . . .                                                          | I-1         |
| Summary data . . . . .                                                        | I-2         |
| Previous investigations concerning sulfanilic acid . . . . .                  | I-2         |
| The subject product . . . . .                                                 | I-3         |
| Physical characteristics and uses . . . . .                                   | I-3         |
| Manufacturing facilities and production employees . . . . .                   | I-4         |
| Interchangeability and customer and producer perceptions . . . . .            | I-5         |
| Channels of distribution . . . . .                                            | I-6         |
| Price . . . . .                                                               | I-6         |
| Part II: Conditions of competition in the U.S. market . . . . .               | II-1        |
| Channels of distribution and market characteristics . . . . .                 | II-1        |
| Supply and demand considerations . . . . .                                    | II-1        |
| U.S. supply . . . . .                                                         | II-1        |
| Industry capacity . . . . .                                                   | II-1        |
| Inventory levels . . . . .                                                    | II-2        |
| Export markets . . . . .                                                      | II-2        |
| U.S. demand . . . . .                                                         | II-2        |
| Demand characteristics . . . . .                                              | II-2        |
| Substitute products . . . . .                                                 | II-2        |
| Cost share . . . . .                                                          | II-2        |
| Substitutability issues . . . . .                                             | II-3        |
| Factor affecting sales . . . . .                                              | II-3        |
| Comparison of domestic and imported sulfanilic acid . . . . .                 | II-4        |
| Part III: U.S. producer's production, shipments, and employment . . . . .     | III-1       |
| Part IV: U.S. imports, apparent U.S. consumption, and market shares . . . . . | IV-1        |
| U.S. importers . . . . .                                                      | IV-1        |
| U.S. imports . . . . .                                                        | IV-2        |
| Apparent U.S. consumption . . . . .                                           | IV-2        |
| U.S. market shares . . . . .                                                  | IV-3        |
| Part V: Pricing and related information . . . . .                             | V-1         |
| Factors affecting prices . . . . .                                            | V-1         |
| Raw material costs . . . . .                                                  | V-1         |
| U.S. inland transportation costs and geographic markets . . . . .             | V-1         |
| Exchange rates . . . . .                                                      | V-1         |
| Pricing practices . . . . .                                                   | V-3         |
| Pricing methods . . . . .                                                     | V-3         |
| Sales terms and discounts . . . . .                                           | V-3         |
| Price data . . . . .                                                          | V-3         |
| Lost sales and lost revenues . . . . .                                        | V-5         |

## CONTENTS—Continued

|                                                                                                                                                                  | <i>Page</i> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Part VI: Financial experience of the U.S. producer .....                                                                                                         | VI-1        |
| Background .....                                                                                                                                                 | VI-1        |
| Operations on sulfanilic acid .....                                                                                                                              | VI-1        |
| Investment in productive facilities, capital expenditures, and research and<br>development expenses .....                                                        | VI-2        |
| Capital and investment .....                                                                                                                                     | VI-2        |
| Part VII: Threat considerations .....                                                                                                                            | VII-1       |
| The industry in Hungary .....                                                                                                                                    | VII-1       |
| The industry in Portugal .....                                                                                                                                   | VII-1       |
| U.S. inventories of product from Hungary and Portugal .....                                                                                                      | VII-3       |
| <b>Appendixes</b>                                                                                                                                                |             |
| A. <i>Federal Register</i> notices .....                                                                                                                         | A-1         |
| B. Conference witnesses .....                                                                                                                                    | B-1         |
| C. Summary data .....                                                                                                                                            | C-1         |
| <b>Figures</b>                                                                                                                                                   |             |
| V-1. Exchange rates: Indices of the nominal and real values of the Hungarian forint<br>relative to the U.S. dollar, by quarters, January 1998 to June 2001 ..... | V-2         |
| V-2. Exchange rates: Indices of the nominal values of the Portugese escudo<br>relative to the U.S. dollar, by quarters, January 1998 to June 2001 .....          | V-2         |
| V-3. F.o.b. prices for product 1, as reported by NFC, by quarters,<br>January 1998-June 2001 .....                                                               | V-4         |
| V-4. F.o.b. prices for product 2, as reported by NFC and ***, by quarters,<br>January 1998-June 2001 .....                                                       | V-4         |
| V-5. F.o.b. prices for product 3, as reported by NFC, by quarters, January 1998-June 2001 ....                                                                   | V-4         |
| V-6. Weighted-average delivered purchase prices for domestic product 1, as reported by<br>purchasers, by quarters, January 1998-June 2001 .....                  | V-4         |
| V-7. Weighted-average delivered purchase prices for product 2, as reported by<br>importers/purchasers, by quarters, January 1998-June 2001 .....                 | V-4         |
| V-8. Weighted-average delivered purchase prices for domestic product 3, as reported by<br>purchasers, by quarters, January 1998-June 2001 .....                  | V-4         |

## CONTENTS—Continued

| Tables                                                                                                                                                                                                                          | <i>Page</i> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| II-1. Sulfanilic acid: Percent of NFC's domestic sales by market segment, 1998-2000 and January-June 2001 .....                                                                                                                 | II-1        |
| II-2. Sulfanilic acid: Perceived importance of differences in factors other than price between sulfanilic acid produced in the United States and in other countries in sales of sulfanilic acid in the U.S. market .....        | II-3        |
| II-3. Sulfanilic acid: Perceived degree of interchangeability of sulfanilic acid produced in the United States and in other countries .....                                                                                     | II-4        |
| III-1. Sulfanilic acid: Reported U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1998-2000, January-June 2000, and January-June 2001 ..... | III-1       |
| III-2. Sulfanilic acid: Reported U.S. shipments, by type and market segment, 1998-2000, January-June 2000, and January-June 2001 .....                                                                                          | III-1       |
| IV-1. Sulfanilic acid: U.S. imports, by sources, 1998-2000, January-June 2000, and January-June 2001 .....                                                                                                                      | IV-1        |
| IV-2. Sulfanilic acid: U.S. producer's U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1998-2000, January-June 2000, and January-June 2001 .....                                                       | IV-2        |
| IV-3. Sulfanilic acid: Apparent U.S. consumption and market shares, 1998-2000, January-June 2000, and January-June 2001 .....                                                                                                   | IV-3        |
| V-1. Sulfanilic acid: Average f.o.b. prices and quantities as reported by NFC, by products and by quarters, January 1998-June 2001 .....                                                                                        | V-4         |
| V-2. Sulfanilic acid: Weighted-average delivered purchase prices and quantities for domestic products 1 and 3, as reported by purchasers, by quarters, January 1998-June 2001 .....                                             | V-4         |
| V-3. Sulfanilic acid: Weighted-average delivered purchase prices and quantities for product 2, as reported by importers/purchasers, and margins of underselling/(overselling), by quarters, January 1998-June 2001 .....        | V-4         |
| V-4. Sulfanilic acid: Lost sales allegations .....                                                                                                                                                                              | V-5         |
| V-5. Sulfanilic acid: Lost revenues allegations .....                                                                                                                                                                           | V-5         |
| VI-1. Results of sulfanilic acid operations, calendar years 1998-2000, January-June 2000, and January-June 2001 .....                                                                                                           | VI-1        |
| VI-2. Results of sulfanilic acid operations ( <i>per pound</i> ), calendar years 1998-2000, January-June 2000, and January-June 2001 .....                                                                                      | VI-1        |
| VI-3. Value of assets, capital expenditures, and R&D expenses related to sulfanilic acid operations, calendar years 1998-2000, January-June 2000, and January-June 2001 ....                                                    | VI-2        |
| VII-1. Sulfanilic acid: Reported Hungarian production capacity, production, shipments, and inventories, 1998-2000, January-June 2000, January-June 2001, and projected 2001-2002 .....                                          | VII-1       |
| VII-2. Sulfanilic acid: Reported Portuguese production capacity, production, shipments, and inventories, 1998-2000, January-June 2000, January-June 2001, and projected 2001-2002 .....                                         | VII-2       |

## CONTENTS—Continued

|                                                                                                                                                                                                                | <i>Page</i> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| <br><b>Tables—Continued</b>                                                                                                                                                                                    |             |
| C-1 Sulfanilic acid: Summary data concerning the U.S. market, 1998-2000,<br>January-June 2000, and January-June 2001 .....                                                                                     | C-3         |
| C-2. Technical sulfanilic acid: Reported U.S. production capacity, production, capacity<br>utilization, shipments, and end-of-period inventories, 1998-2000, January-June 2000,<br>and January-June 2001 ..... | C-3         |
| C-3. Refined sulfanilic acid: Reported U.S. production capacity, production, capacity<br>utilization, shipments, and end-of-period inventories, 1998-2000, January-June 2000,<br>and January-June 2001 .....   | C-3         |
| C-4. Sodium sulfanilate: Reported U.S. production capacity, production, capacity<br>utilization, shipments, and end-of-period inventories, 1998-2000, January-June 2000,<br>and January-June 2001 .....        | C-3         |

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.

## VIEWS OF THE COMMISSION

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

### SULFANILIC ACID FROM HUNGARY AND PORTUGAL

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of sulfanilic acid from Hungary that are allegedly subsidized and by imports of sulfanilic acid from Hungary and Portugal that are allegedly sold in the United States at less than fair value (“LTFV”).<sup>1</sup>

#### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping duty and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded or subsidized imports.<sup>2</sup> In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”<sup>3</sup>

#### II. DOMESTIC LIKE PRODUCT

##### A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>4</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>5</sup> In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . .”<sup>6</sup>

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in

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<sup>1</sup> Commissioner Devaney dissenting. See Dissenting Views of Commissioner Dennis M. Devaney. Commissioner Devaney joins in sections I, II, III, IV-A, and V of these Views.

<sup>2</sup> 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1368-69 (Ct. Int’l Trade 1999).

<sup>3</sup> American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

<sup>4</sup> 19 U.S.C. § 1677(4)(A).

<sup>5</sup> 19 U.S.C. § 1677(4)(A).

<sup>6</sup> 19 U.S.C. § 1677(10).

characteristics and uses” on a case-by-case basis.<sup>7</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>8</sup> The Commission looks for clear dividing lines among possible like products, and disregards minor variations.<sup>9</sup> Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>10</sup>

## **B. Product Description**

The scope of these investigations is as follows:

Sulfanilic acid is all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid. Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free-flowing powders.<sup>11</sup>

Sulfanilic acid (not including sodium sulfanilate) is produced in two grades, namely technical (or crude) sulfanilic acid and refined (or pure) sulfanilic acid.<sup>12</sup> In contrast, sodium sulfanilate (the monosodium salt of sulfanilic acid included in the scope of these investigations) is produced and sold only as one grade.<sup>13</sup> In solid form, the technical and refined grades of sulfanilic acid and sodium sulfanilate are all gray-white to white crystalline powders.<sup>14</sup>

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<sup>7</sup> See, e.g., NEC Corp. v. Dep’t of Commerce and U.S. Int’l Trade Comm’n, 36 F. Supp. 2d 380 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>8</sup> See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

<sup>9</sup> Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991).

<sup>10</sup> Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Department of Commerce (“Commerce”) found five classes or kinds).

<sup>11</sup> 66 FR 54214 and 54229 (Oct. 26, 2001).

<sup>12</sup> Technical grade sulfanilic acid is 96 percent pure and refined sulfanilic acid is 98 percent pure. Antidumping Petition, Sulfanilic Acid From Hungary and Portugal and Countervailing Duty Petition, Sulfanilic Acid From Portugal (hereinafter “Petition”), vol. I, at 13.

<sup>13</sup> Sodium sulfanilate, which is 99 percent pure, contains 75 percent minimum equivalent sulfanilic acid. Interview with \*\*\*, Nations Ford Chemical Co. (“NFC”), Oct. 25, 2001; Petition, vol. I, at 13.

<sup>14</sup> Technical and refined acids are always sold as solids; although some sodium sulfanilate is shipped in the solid form, much is shipped by the domestic producer to its customers as a 30 percent salt solution. Conference Transcript (“Tr.”), at 24; NFC Postconference Brief, app. 1, at 2.

Sulfanilic acid is used to produce optical brightening agents, food colorants and other synthetic organic dyes, and certain concrete additives.<sup>15</sup> The form of sulfanilic acid used by the end user depends on both the product being produced and the end users' production process. In most cases, optical brighteners and food colorants are produced with pure product (either refined sulfanilic acid or sodium sulfanilate). Optical brighteners, particularly paper brighteners, constitute the largest single end use for refined sulfanilic acid and sodium sulfanilate. Technical grade sulfanilic acid is used principally as a raw material for refined sulfanilic acid and sodium sulfanilate, as well as in the production of certain specialty synthetic organic dyes and concrete additives.

### **C. Domestic Like Product**

NFC, the domestic firm that accounted for all U.S. production of sulfanilic acid during 1998 to June 2001,<sup>16</sup> advocates a single like product consisting of sulfanilic acid which includes technical grade sulfanilic acid, refined grade sulfanilic acid, and sodium sulfanilate for purposes of these preliminary investigations.<sup>17</sup> Respondent Quimigal de Portugal, S.A. ("Quimigal") advocates a finding of three separate like products consisting of technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate because it claims that the three products are not interchangeable.<sup>18</sup> Respondent Clariant Corporation ("Clariant") indicates that, for purposes of the preliminary phase of these investigations, it has no objection to treating all three types as one like product.<sup>19</sup>

For the reasons set forth below we find a single like product consisting of all three forms of sulfanilic acid: technical grade sulfanilic acid, refined grade sulfanilic acid, and sodium sulfanilate.

### **Physical Characteristics and Uses**

Technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate (collectively referred to herein as "sulfanilic acid") are grey-white to white crystalline solids.<sup>20</sup> All three forms of sulfanilic acid are available as dry free-flowing powders, although the sodium sulfanilate form also is sold in a liquid solution.<sup>21</sup> All three forms also have the same organic function, i.e., they all provide the same molecular building block in producing food colors, optical brighteners, and concrete additives, which are the primary end uses for sulfanilic acid.<sup>22</sup>

The primary physical characteristics that distinguish the different forms of sulfanilic acid are the amount and nature of impurities in the product, rather than its absolute purity. The different forms all have a similar overall purity level, but certain forms have greater quantities of residual aniline and alkali

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<sup>15</sup> The majority of U.S. consumption of sulfanilic acid is for the production of optical brighteners. Approximately \*\*\* percent of U.S. consumption of sulfanilic acid is used to produce food colorants. The remainder of sulfanilic acid sales is used in the production of concrete additives and specialty dyes. Confidential Report ("CR") at I-4; Public Report ("PR") at I-3; see Amendment to vol. I of Petition, Oct. 4, 2001, at 5-6.

<sup>16</sup> CR at I-2; PR at I-2.

<sup>17</sup> NFC Postconference Brief at 2-4.

<sup>18</sup> Quimigal Postconference Brief at 2-5.

<sup>19</sup> Clariant Postconference Brief at 12.

<sup>20</sup> CR at I-4; PR at I-3.

<sup>21</sup> Petition, vol. I at 13; Tr. at 24.

<sup>22</sup> CR at I-7; PR at I-5.

insoluble materials present in the sulfanilic acid.<sup>23</sup> The refined grade sulfanilic acid and sodium sulfanilate have the least amount of impurities.<sup>24</sup>

### Interchangeability

In general, technical sulfanilic acid is limited to use as a concrete additive and is not interchangeable with sodium sulfanilate and refined sulfanilic acid in the production of optical brighteners and dyes. On the other hand, refined sulfanilic acid and sodium sulfanilate can be used in place of technical sulfanilic acid as a concrete additive. Refined sulfanilic acid and sodium sulfanilate are interchangeable as they are both used to produce the same products (optical brighteners and food colorants), although the specific production process employed by the end user will determine whether it uses the refined acid or the salt.<sup>25</sup> Although current operating processes may be an obstacle to interchangeability between refined acid and sodium sulfanilate, this obstacle can be overcome.<sup>26</sup> We note that in 1990, when the availability of refined acid from Japan was reduced, one of largest producers of brighteners in the United States changed from using refined acid from Japan to domestic sodium sulfanilate.<sup>27</sup>

### Channels of Distribution

All forms of domestic sulfanilic acid are sold directly to end users.<sup>28</sup>

### Customer Perceptions

Several purchasers noted that, while refined sulfanilic acid and sodium sulfanilate are usable in any application, technical sulfanilic acid is not usable in some applications because it is a less pure form. For example, \*\*\* reported that all grades can be used in concrete applications (which typically use the technical grade), but only the refined grade can be used in “high end” applications such as brighteners.<sup>29</sup> In its questionnaire response, \*\*\* noted that both the refined and sodium sulfanilate forms are “purified” products and are sufficiently interchangeable. Petitioner also states that its customers have the same perception of all forms of sulfanilic acid, as all grades provide the same molecular entity, but that they

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<sup>23</sup> Petition, vol. I at 13.

<sup>24</sup> Petition, vol. I at 13.

<sup>25</sup> Petitioner states that customers specify whether they want the salt or the “free acid” forms of sulfanilic acid (the term “free acid” is reportedly used to distinguish the acid form, whether refined or technical, from the salt form). However, Petitioner states that customers do not care whether the free acid is technical or refined, they simply require that the acid meets their specifications. NFC Postconference Brief at 2-3.

<sup>26</sup> Id. Clariant, an importer and end user of both the Portuguese and Hungarian product, states that the production method it uses in producing optical brighteners used in the textile and paper industries requires the input of the refined sulfanilic acid, whereas the other two domestic optical brightener producers use domestic sodium sulfanilate. Tr. at 30 and 45. Clariant further states that the use of technical grade sulfanilic acid would impart undesirable qualities in its finished product. Tr. at 31. While Clariant is presently not using domestically produced refined sulfanilic acid, it has done so in the past. Tr. at 41-42. According to John Dickson, CEO of NFC, Clariant was NFC’s largest customer for refined sulfanilic acid in 1997. Tr. at 48.

<sup>27</sup> Tr. at 10.

<sup>28</sup> Petition, vol. I at 17; CR at I-9, PR at I-6.

<sup>29</sup> Interview with \*\*\* of \*\*\*, Oct. 22, 2001.

find different grades more or less suitable depending upon their production processes and the available equipment.<sup>30</sup> A customer buys whichever form of sulfanilic acid that meets its production requirements.<sup>31</sup>

#### Common Manufacturing Facilities and Production Employees

The domestic industry produces and sells technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. Technical sulfanilic acid is packaged and sold to end users or captively consumed to produce refined sulfanilic acid and sodium sulfanilate. Petitioner produces refined sulfanilic acid and the sodium sulfanilate in the same building but on separate production equipment and each uses technical sulfanilic acid as the basic raw material.<sup>32</sup> Petitioner reports some interchangeability in employees between the different forms of sulfanilic acid, with technical acid workers assisting in the production of refined acid when not operating the technical equipment. Petitioner also states that “the refined acid and salt equipment are interchangeable and the operators can work both production units.”<sup>33</sup>

#### Price

The domestic industry’s pricing data indicate that technical and refined sulfanilic acid were generally \*\*\* during the investigation period.<sup>34</sup> In some quarters technical acid was priced \*\*\* than refined acid, but in other quarters the opposite was the case. In the case of sodium sulfanilate, it was generally priced \*\*\* than both technical and refined sulfanilic acid although there were some quarters during the period of investigation when it was priced \*\*\* than either technical or refined sulfanilic acid.<sup>35</sup>

We find that the three forms of sulfanilic acid have similar physical characteristics, end uses, channels of distribution, and common manufacturing facilities and production employees. There is also evidence of sufficient interchangeability among the different forms of sulfanilic acid, especially between refined grade sulfanilic acid and sodium sulfanilate. Moreover, prices for refined and technical grade sulfanilic acid were generally \*\*\* with sodium sulfanilate generally priced \*\*\*. Accordingly, we find a single like product consisting of all three forms of sulfanilic acid.<sup>36</sup>

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<sup>30</sup> CR at I-7; PR at I-5 - I-6.

<sup>31</sup> CR at I-7; PR at I-5 - I-6.

<sup>32</sup> Tr. at 19. Technical grade sulfanilic acid is produced in a separate building. Id.

<sup>33</sup> NFC Postconference Brief, app. 1, at 7 (flow chart). Petitioner states that it has excess capacity to produce the technical sulfanilic acid; therefore, it produces the technical sulfanilic acid for about 2-week intervals and then the technical acid operators assist in the production of refined sulfanilic acid. Likewise, excess capacity to produce sodium sulfanilate allows workers that normally produce sodium sulfanilate to assist in the production of refined sulfanilic acid. NFC Postconference Brief, app. 1, at 5.

<sup>34</sup> CR and PR Table V-1. Petitioner alleges that if it were not for dumped subject imports the price of refined sulfanilic acid would be 30 percent higher than the price of technical sulfanilic acid. CR at I-9; PR at I-6.

<sup>35</sup> CR and PR Table V-1.

<sup>36</sup> We note that this finding is consistent with previous investigations of sulfanilic acid. See Sulfanilic Acid from the People’s Republic of China, Inv. No. 731-TA-538 (Final), USITC Pub. 2542 (Aug. 1992); Sulfanilic Acid from Hungary and India, Invs. Nos. 701-TA-318 (Final) and 731-TA-560 and 561 (Final), USITC Pub. 2603 (Feb. 1993); Sulfanilic Acid from China and India, Invs., Nos. 701-TA-318 (Review) and 731-TA-538 and 561 (Review), USITC Pub. 3301 (May 2000).

### III. DOMESTIC INDUSTRY

Section 771(4) of the Act defines the relevant industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of that product.”<sup>37</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.<sup>38</sup> Based on our like product determination, we determine that there is a single domestic industry consisting of all domestic producers of sulfanilic acid, i.e., NFC.

### IV. CUMULATION

#### A. In General

For purposes of evaluating the volume and price effects for a material injury determination, Section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.<sup>39</sup> In assessing whether subject imports compete with each other and with the domestic like product,<sup>40</sup> the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographical markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

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<sup>37</sup> 19 U.S.C. § 1677(4)(A).

<sup>38</sup> See, e.g., DRAMs From Taiwan, Inv. No. 731-TA-811 (Final), USITC Pub. 3256 at 6 (Dec. 1999); Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan, Invs. Nos. 701-TA-373 (Final) and 731-TA-769-775 (Final), USITC Pub. 3126, at 7 (Sept. 1998); Manganese Sulfate from the People’s Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 and n.10 (Nov. 1995) (the Commission stated it generally considered toll producers that engage in sufficient production-related activity to be part of the domestic industry); see, e.g., Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain (“OCTG”), Invs. Nos. 701-TA-363-364 (Final) and Invs. Nos. 731-TA-711-717 (Final), USITC Pub. 2911, at I-15 (Aug. 1995) (not including threaders in the casing and tubing industry because of “limited levels of capital investment, lower levels of expertise, and lower levels of employment”).

<sup>39</sup> 19 U.S.C. § 1677(7)(G)(I). There are four exceptions to the cumulation provision, none of which applies to these investigations. See *id.* at 1677(7)(G)(ii).

<sup>40</sup> The SAA (at 848) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” Citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int’l Trade 1988), aff’d 859 F.2d 915 (Fed. Cir. 1988).

- (4) whether the subject imports are simultaneously present in the market.<sup>41</sup>

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.<sup>42</sup> Only a “reasonable overlap” of competition is required.<sup>43</sup>

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation for material injury analysis are satisfied.<sup>44</sup> In addition to considering the four cumulation factors described above, the Commission also may consider the similarity of trends in the volume and price of subject imports from the countries under investigation.<sup>45</sup>

Petitioner argues that the Commission should cumulate imports from the two subject countries. It points to evidence of competition among sulfanilic acid from the subject countries, as well as between these countries and domestic producers. It also argues that sulfanilic acid from the subject countries and the domestic like product are fungible. Petitioner further contends that all subject imports and domestic sulfanilic acid compete in the same geographic markets, and that imported and domestic sulfanilic acid are sold through similar channels of distribution, and were simultaneously present in the U.S. market towards the end of the period examined.<sup>46</sup>

The Portuguese respondent Quimigal argues that imports from each of the subject countries should not be cumulated with one another. Quimigal contends that there is little fungibility between subject imports of refined sulfanilic acid and domestic sulfanilic acid, which is primarily sodium sulfanilate and technical sulfanilic acid, because technical sulfanilic acid contains too many impurities to be used in most of the applications for which refined sulfanilic acid is used.<sup>47</sup> Quimigal also claims that given the unique geographic supply patterns in the United States market, subject imports and the domestic like product are generally not simultaneously present in the same geographic markets.<sup>48</sup>

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<sup>41</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff’d, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

<sup>42</sup> See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>43</sup> See Goss Graphic System, Inc. v. United States, \_\_\_ CIT \_\_\_, slip op. 98-147 at 8 (Oct. 16, 1998) (“cumulation does not require two products to be highly fungible”); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required”).

<sup>44</sup> 19 U.S.C. § 1677(7)(H).

<sup>45</sup> See Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int’l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int’l Trade 1988).

<sup>46</sup> NFC Postconference Brief at 4-5.

<sup>47</sup> Quimigal Postconference Brief at 3, 6-7.

<sup>48</sup> Quimigal Postconference Brief at 7.

## B. Analysis<sup>49</sup>

We find that there is a reasonable overlap of competition among the subject imports and between the subject imports and the domestic like product. The record indicates that subject imports and the domestic like product are generally fungible and are sold through similar channels of distribution. The record also shows that imports from each of the subject countries were simultaneously present in the U.S. market during the period examined and both the domestic like product and the subject imports from both countries were sold in the same geographic markets.

Fungibility. Subject imports during the period of investigation were almost entirely comprised of refined sulfanilic acid. NFC and purchasers appear to agree on the issue of interchangeability between U.S.-produced and subject sulfanilic acid. NFC reported that sulfanilic acid from different countries is \*\*\* interchangeable.<sup>50</sup> Importers' responses generally reveal a similar view.<sup>51 52</sup>

Several purchasers noted that, while refined sulfanilic acid is usable in any application, the technical grade is not usable in some applications because it is a less pure form of sulfanilic acid. For example, \*\*\* reported that all grades can be used in concrete applications (which typically use the technical grade), but only the refined grade can be used in "high end" applications such as brighteners.<sup>53</sup> In its questionnaire response, \*\*\* noted that both the refined and sodium sulfanilate forms are "purified" products and are sufficiently interchangeable.

Similar Geographical Markets. Evidence indicates that the domestic like product and subject imports from Hungary and Portugal compete in the same geographical markets. Importer/purchaser Clariant and the sole domestic producer NFC are both located in South Carolina. Clariant imports subject merchandise to its facility in South Carolina and also has purchased domestic like product. Warner-Jenkinson is located in Saint Louis, Missouri and purchases subject merchandise and domestic product from its facilities there.<sup>54</sup>

NFC reported a geographic market area encompassing \*\*\*. The two importers that provided usable responses to this question reported smaller market areas consisting of \*\*\*.

Simultaneous Presence. Official Commerce import statistics show that the domestic like product and subject imports have been present in the U.S. market since 2000. Subject imports from Hungary began entering the U.S. market in 2000 and continued into 2001. Subject imports from Portugal entered the U.S. market in 1998, were absent in 1999, and returned to the market in 2000 and the first half of 2001.<sup>55</sup>

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<sup>49</sup> Commissioner Devaney does not join the Commissions' views on cumulation. See Dissenting Views of Commissioner Dennis M. Devaney.

<sup>50</sup> CR at II-5; PR at II-4.

<sup>51</sup> CR and PR Table II-3. \*\*\* answered this question only in terms of refined sulfanilic acid. \*\*\* answered this question in terms of sulfanilic acid, regardless of form.

<sup>52</sup> In its Postconference Brief, Quimigal stated that it believes sulfanilic acid imported into the United States from Hungary is produced using an inferior process, which may result in a lower quality product compared to refined sulfanilic acid imported into the United States from Portugal. Quimigal Postconference Brief at 7. However, the record provides no evidence of significant quality differences and we note that Clariant purchases both Portuguese and Hungarian refined acid for its production of optical brighteners. See Clariant Postconference Brief at 1.

<sup>53</sup> Staff interview with \*\*\* of \*\*\*, Oct. 22, 2001.

<sup>54</sup> NFC Postconference Brief at 4-5.

<sup>55</sup> CR and PR Table IV-1.

Channels of Distribution. In the U.S. market, domestic and imported sulfanilic acid are sold directly to end users. Available data for 2000 indicate that \*\*\* sales by NFC were made to end users,<sup>56</sup> and \*\*\* sales of subject imports were made to end users.<sup>57</sup>

We have taken into account the fact that imports from the subject countries exhibited similar volume and pricing trends during the period for which data were collected. During 2000 and comparing the first six months of 2000 and 2001 (“interim periods”), the volume of subject imports from both countries increased significantly.<sup>58</sup> Prices of imported product from each of the two countries showed similar trends, with the average unit value of imports from Hungary and Portugal declining during this period.<sup>59</sup> Thus, based on consideration of all of the factors discussed above, we exercise our discretion to assess cumulatively the volume and price effects of the subject imports from the two countries for purposes of making our affirmative threat determinations.

## **V. CONDITIONS OF COMPETITION**

The following conditions of competition are pertinent to our analysis in these investigations. NFC and the majority of importer/purchasers stated that demand for sulfanilic acid in the United States has remained relatively stable since January 1, 1998, and tends to track general economic movement. Available information indicates that apparent U.S. consumption of sulfanilic acid increased from \*\*\* pounds in 1998 to \*\*\* pounds in 2000.<sup>60</sup>

Because of the highly fungible nature of the product, there is a high degree of price competition. Questionnaire responses indicate that NFC and importer/purchasers believe that price is an important factor in contract negotiations.<sup>61</sup>

The market for sulfanilic acid is highly concentrated with six purchasers accounting for 95 percent of total domestic consumption.<sup>62</sup> Purchasers make annual commitments to buy agreed upon quantities of sulfanilic acid and shipments are then released by producers and importers as required by the purchaser.<sup>63</sup>

The domestic industry expanded capacity and invested in new equipment during the period of investigation. In 1998, NFC acquired the production equipment of Zeneca, a U.K. firm that ceased

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<sup>56</sup> NFC states there are six major U.S. customers – two customers use sulfanilic acid to produce food colorants (one customer uses refined grade sulfanilic acid, and the other uses sodium sulfanilate), three customers use sulfanilic acid to produce brighteners for paper products (one customer uses refined grade sulfanilic acid, and the other two customers use sodium sulfanilate, and one customer utilizes technical grade sulfanilic acid as a concrete additive. Testimony of John Dickson, CEO, NFC, Tr. at 9-10).

<sup>57</sup> CR at II-1; PR at II-1.

<sup>58</sup> CR and PR Table IV-1.

<sup>59</sup> CR at PR Table IV-1. Notwithstanding the evidence of fungibility of the imports from Hungary and Portugal, we note that average unit values were significantly different for imports from the two countries. We intend to examine this issue further during any final phase of these investigations.

<sup>60</sup> CR at II-3, PR at II-3. At the preliminary conference, John Dickson of NFC stated that demand does not generally vary among the different forms of sulfanilic acid. Tr. at 21. However, Daniel Crosby, counsel for the Portuguese respondent, stated that demand for the refined grade of sulfanilic acid has grown faster than the demand for other forms of sulfanilic acid. Tr. at 44.

<sup>61</sup> CR at II-4; PR at II-3.

<sup>62</sup> NFC Amendment to vol. I of Petition at 5, Oct. 4, 2001.

<sup>63</sup> NFC Amendment to vol. I of Petition at 5, Oct. 4, 2001.

production of sulfanilic acid in France.<sup>64</sup> NFC then moved this equipment to its production site in Fort Mill, South Carolina. By 1999, NFC's plant was operational and NFC was able to retain a large share of Zeneca's worldwide sulfanilic acid business. The expanded capacity and capital investments allow NFC to produce technical sulfanilic acid with lower levels of impurities which has allowed it to retain important worldwide business.<sup>65</sup>

Between 1998 and 2000, China was the leading source of imports of sulfanilic acid into the U.S. market.<sup>66</sup> In March 2000, Commerce imposed retroactive antidumping duties of 85.2 percent on Chinese producers of sulfanilic acid previously not covered by the antidumping duty order on sulfanilic acid from China.<sup>67</sup> This is the deposit rate currently in effect for all Chinese product. \*\*\* of sulfanilic acid from China entered the U.S. market in the first half of 2001.<sup>68</sup> The volume of other nonsubject imports was \*\*\* in 1998, \*\*\* in 1999, \*\*\* in 2000, and \*\*\* in interim 2001 compared to \*\*\* during interim 2000.<sup>69</sup>

## **VI. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY SUBSIDIZED AND/OR LTFV IMPORTS**

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."<sup>70</sup> The Commission may not make such a determination "on the basis of mere conjecture or supposition,"<sup>71</sup> and considers the threat factors "as a

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<sup>64</sup> Zeneca's production plant was located in France.

<sup>65</sup> NFC Postconference Brief at 5.

<sup>66</sup> CR and PR Table IV-1. The volume of imports of sulfanilic acid from China was \*\*\* in 1998, \*\*\* in 1999, \*\*\* in 2000, and was \*\*\* in interim 2001 compared to \*\*\* during interim 2000.

<sup>67</sup> CR at IV-1 - IV-2; PR at IV-1.

<sup>68</sup> CR and PR Table IV-1.

<sup>69</sup> CR and PR Table C-1.

<sup>70</sup> 19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

<sup>71</sup> 19 U.S.C. §1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." *Metallwerken Nederland B.V. v. United States*, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing *American Spring Wire Corp. v. United States*, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984). See also *Calabrian Corp. v. United States*, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984).

whole.”<sup>72</sup> In making our determination, we have considered all factors<sup>73</sup> that are relevant to these investigations.<sup>74 75 76 77</sup>

Based on an evaluation of the relevant statutory factors, we find a reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports from Hungary and Portugal. For purposes of these preliminary determinations, we find that the record data reflect a significant rate of increase in the volume and market penetration of the subject imports over the period examined, indicating the likelihood of substantially increased imports in the imminent future.<sup>78</sup> The volume of cumulated subject imports increased from \*\*\* in 1998 to \*\*\* in 2000, with all of the increase occurring in 2000.<sup>79</sup> More notably, there was also a marked increase between the interim periods, with subject imports rising from \*\*\* in interim 2000 to \*\*\* in interim 2001.<sup>80</sup> In addition, more subject imports entered in the first half of 2001 than entered during all of 2000. Subject imports’ share of apparent U.S. consumption rose from \*\*\* in 1998 to \*\*\* in 2000, and was \*\*\* percent in interim 2001 compared to \*\*\* in interim 2000.<sup>81</sup> The record further indicates that Hungarian and Portuguese producers are export oriented and \*\*\* to the U.S. market.<sup>82</sup> In fact, the producers in both countries \*\*\*.<sup>83</sup>

We also find that Hungary has \*\*\* and Portugal plans to \*\*\*.<sup>84</sup> Combined capacity for Hungary and Portugal in 2000 \*\*\*. Projected combined capacity for 2001 is \*\*\* and for 2002 \*\*\*.<sup>85</sup> Combined

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<sup>72</sup> While the language referring to imports being imminent (instead of “actual injury” being imminent and the threat being “real”) is a change from the prior provision, the SAA indicates the “new language is fully consistent with the Commission’s practice, the existing statutory language, and judicial precedent interpreting the statute.” SAA at 184.

<sup>73</sup> The statutory factors have been amended to track more closely the language concerning threat of material injury determinations in the Antidumping and Subsidies Agreements, although “[n]o substantive change in Commission threat analysis is required.” SAA at 185.

<sup>74</sup> 19 U.S.C. § 1677(7)(F)(I). Factor VII regarding raw and processed agriculture products is inapplicable to the products at issue. See 19 U.S.C. § 1677(7)(F)(iii)(I).

<sup>75</sup> We have not received any information from Commerce as to the nature of the countervailable subsidies alleged in connection with imports from Hungary. Commerce’s notice initiating the countervailing duty investigation of imports from Hungary merely identifies the alleged subsidy programs by name: forgiveness of environmental liabilities. 66 Fed. Reg. 54229 (Oct. 26, 2001).

<sup>76</sup> In its notice of initiation, Commerce identified estimated dumping margins ranging from 43.52 to 45.14 percent for Hungary. For Portugal, the estimated dumping margin was 91.82 percent. 66 Fed. Reg. 54214 (Oct. 26, 2001).

<sup>77</sup> Commissioner Bragg notes that she does not ordinarily consider the alleged margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

<sup>78</sup> CR and PR Table IV-1.

<sup>79</sup> CR and PR Table IV-1.

<sup>80</sup> CR and PR Table IV-1.

<sup>81</sup> CR and PR Table IV-3.

<sup>82</sup> Hungarian producers \*\*\* and Portuguese producers export a \*\*\* of their production. Memorandum INV-Y-235, Nov. 13, 2001, at 2; CR Table VII-1; PR Table VII-1 - VII-2; Petition, vol. I at 11.

<sup>83</sup> Subject producers project \*\*\* in exports to the U.S. market of \*\*\* in 2001, \*\*\* in 2000. Memorandum INV-Y-235, Nov. 13, 2001, at 2; CR Table VII-1; PR Tables VII-1 - VII-2.

<sup>84</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; CR Table VII-1; PR Tables VII-1 - VII-2.

<sup>85</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; CR Table VII-1; PR Tables VII-1 - VII-2.

production in 2000 was \*\*\*; projected production for 2001 is \*\*\* and for 2002 is \*\*\*.<sup>86</sup> Moreover, for each subject country, the United States has become an increasingly significant market over the period examined, and there is no reason to believe that this trend will abate, particularly in view of the fact that \*\*\*.<sup>87</sup>

The record also indicates that the levels of inventories of the subject merchandise held by subject producers relative to production \*\*\* over the period examined.<sup>88</sup> However, subject producers project that their inventories will \*\*\*.<sup>89</sup>

Pricing data are very limited in this preliminary phase of these investigations, and we will endeavor to seek more comprehensive pricing data during the final phase of the investigations. We note, however, that price comparisons showed underselling by subject imports in two of the three instances where comparisons were possible.<sup>90</sup>

Moreover, the average unit values of subject imports declined during the period they were present in the market.<sup>91</sup> the average price per pound for imports from Hungary fell from \*\*\* in interim 2000 to \*\*\* in interim 2001 (subject imports from Hungary first entered the U.S. market in 2000); the average price per pound for imports from Portugal fell from \*\*\* in 1998 to \*\*\* in 2000 and was \*\*\* in interim 2001 compared to \*\*\* in interim 2000.<sup>92</sup>

As we discussed previously, domestically produced and imported sulfanilic acid are generally interchangeable, and price is a significant factor in purchasing decisions. The declining prices are especially significant because they coincided with increasing demand for sulfanilic acid, a period when prices would reasonably be expected to increase. Overall apparent consumption of sulfanilic acid rose from \*\*\* pounds in 1998 to \*\*\* pounds in 2000.<sup>93</sup> The fact that domestic and imported prices fell at the same time that demand increased and that imports were increasing market share supports the view that imports have significantly suppressed or depressed domestic prices and are likely to continue to do so.

We note that the industry was relatively healthy during much of the period examined. Capacity, production, and net sales all increased during the period.<sup>94</sup> Employment indicators generally held steady, and the industry's productivity improved.<sup>95</sup> Although operating income improved between 1998 and 2000, there are signs of imminent difficulties for the industry. Operating income declined from \*\*\* in interim 2000 to \*\*\* in interim 2001. Coinciding with the \*\*\* operating income in interim 2001, the operating income margin also decreased significantly.<sup>96</sup> The industry also saw declines in production quantity, capacity utilization, and net sales.

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<sup>86</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; CR Table VII-1; PR Tables VII-1 - VII-2.

<sup>87</sup> CR and PR Table C-1.

<sup>88</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; CR Table VII-1; PR Tables VII-1 - VII-2.

<sup>89</sup> End of period inventories are projected to be \*\*\* pounds for 2001 and \*\*\* pounds in 2002. Memorandum INV-Y-235, Nov. 13, 2001, at 2; CR Table VII-1; PR Tables VII-1 - VII-2.

<sup>90</sup> Additionally, pricing data contained in \*\*\* by Petitioner also indicate that subject imports from Hungary and Portugal undersold the domestic like product in 2000 and 2001. CR and PR Table V-4.

<sup>91</sup> We note that given the relatively stable product mix of subject imports from Hungary and Portugal over the POI, average unit values are probative of the price trends for such imports.

<sup>92</sup> CR and PR Table IV-1.

<sup>93</sup> CR at II-3; PR at II-2.

<sup>94</sup> CR and PR Table III-1

<sup>95</sup> CR and PR Table C-1. In any final phase of these investigations, we intend to look into the factors affecting NFC's cost of goods sold.

<sup>96</sup> CR and PR Table C-1.

The data available at this preliminary phase of the investigations indicate that the increasing subject import volume and price suppressing or depressing effects likely will adversely impact the domestic industry's revenues and profitability. The increases in volume and market penetration of the subject imports in the first six months of 2001 are particularly significant when considered in conjunction with the \*\*\* in operating income during the interim period. It is likely that future increases in subject import volume will be at the expense of shipments by the domestic producer, whose market share likely will decline. Price depression or suppression by subject imports is also likely to further impact the domestic industry.<sup>97</sup>

In sum, based on (1) the rapid increases in the volume and market share of the subject imports, particularly at the end of the period examined, (2) excess subject production capacity and signs that the United States is becoming a more significant market for the subject imports, (3) declining prices and underselling by subject imports, and (4) the adverse trends in the condition of the domestic industry in interim 2001, we find a reasonable indication that the domestic industry producing sulfanilic acid is threatened with material injury by reason of subject imports from Hungary and Portugal.

### CONCLUSION

For the foregoing reasons, we determine that there is a reasonable indication that the domestic industry producing sulfanilic acid is threatened with material injury by reason of imports of sulfanilic acid from Hungary that are allegedly subsidized and imports of sulfanilic acid from Hungary and Portugal that are allegedly sold in the United States at less than fair value.

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<sup>97</sup> We note Petitioner's claim that global purchasing arrangements by Hungarian and Portuguese producers will have a significant adverse effect on the domestic industry in the imminent future because global purchasers can use purchases at one location to demand special treatment at another world location. We intend to investigate this issue further, especially as it relates to pricing trends in the U.S. market, in any final phase of these investigations. NFC Postconference Brief at 16-17.



## **DISSENTING VIEWS OF COMMISSIONER DENNIS M. DEVANEY**

Based on the record in these investigations, I find that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports of sulfanilic acid from Hungary that are allegedly subsidized and sold in the United States at less than fair value (“LTFV”). In addition, I find that there is reasonable indication that an industry in the United States is threatened with material injury by reason of imports of sulfanilic acid from Portugal that are allegedly sold in the United States at LTFV.

I dissent from the majority’s opinion as to cumulation and subject imports from Hungary. I join sections I, II, III, IV.A, and V of the majority’s views. I also join the majority’s affirmative determination with respect to subject imports from Portugal, although the data I use are slightly different, yet the difference is arguably de minimus. I set forth my reasoning for my determines with respect to Hungary and Portugal below.

### **I. CUMULATION FOR PURPOSES OF THREAT**

Based on the record in the preliminary phase of these investigations, I do not exercise my discretion to cumulate imports of sulfanilic acid from Hungary and Portugal. I find that there is an insufficient overlap of competition between subject imports from Hungary and Portugal and the domestic like product, therefore, I do not cumulate subject import for the preliminary phase of these investigations.

Although there is some fungibility and interchangeability between the different grades of sulfanilic acid and the domestic like product, it is limited at best. Technical grade sulfanilic acid is used to make refined sulfanilic acid, but technical grade is not usable in many of the applications that refined grade is used due to the amount of impurities in technical grade.<sup>1</sup> Although there seems to be similar geographic markets for the subject imports and the domestic like product, I find that the channels of distribution are not so similar since there are different end users and uses for the different grades of sulfanilic acid.<sup>2</sup> Before 2000, there was relatively little simultaneous presence in the market.<sup>3</sup> However, it would be remiss to acknowledge that since 2000, the domestic like product and subject imports have competed for market share in the United States. Considering all of the factors the Commission weighs when cumulating imports, I do not exercise my discretion to cumulate imports of sulfanilic acid from Hungary and Portugal.

### **II. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY SUBSIDIZED AND/OR LTFV IMPORTS**

In making my determination, I have considered all factors that are relevant to these investigations.

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<sup>1</sup> Confidential Staff Report (CR) and Public Staff Report (PR), Table II-3, Quimigal Postconference brief at 3-7, Clariant Postconference brief at 1.

<sup>2</sup> CR and PR at II-1.

<sup>3</sup> CR and PR Table IV-1

## A. HUNGARY

Based on the evidence in the record, I find that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports of sulfanilic acid from Hungary that are allegedly subsidized and sold in the United States at LTFV.

Subject imports from Hungary were a very small portion of the U.S. market and their contribution to the domestic industry's injury is insignificant, at best. The volume of subject imports from Hungary increased from \*\*\* in 1998 to \*\*\* in 2000.<sup>4</sup> The interim periods examined in these investigations show that subject imports increased from \*\*\* in interim 2000 to \*\*\* in interim 2001.<sup>5</sup> Subject imports' share of apparent U.S. consumption rose from \*\*\* in 1998 to \*\*\* in 2000. Subject import's share was \*\*\* percent in interim 2001 compared to \*\*\* in interim 2000.<sup>6</sup> This indicated that Hungary \*\*\* increased its exports to the United States. This supports my conclusion that subject imports from Hungary will not increase in such quantities as to harm the domestic industry in the imminent future.

Hungary's capacity has remained constant over the period of investigation and in 2000 \*\*\*.<sup>7</sup> Hungary's projected capacity also \*\*\* at \*\*\* pounds for 2001 and 2002.<sup>8</sup> Hungary's production for 2000 was \*\*\* and its projected production for 2001 is \*\*\* and for 2002 is \*\*\*.<sup>9</sup> Also, Hungary has indicated that it will not \*\*\*.<sup>10</sup>

End of period inventories for 2000 were \*\*\*.<sup>11</sup> The record supports the conclusion that \*\*\*.<sup>12</sup>

There is no indication that subject imports from Hungary have caused any price depression and/or suppression. This is supported by the evidence that Hungarian producers are not shipping their product into the United States in high volumes and have not had heavy market penetration over the period. These low-volume imports have not captured a significant portion of the market share. In fact, Hungarian producers have indicated that their main export market is \*\*\*, although they do export a very small amount to the United States. While there is available capacity in Hungary, as well as inventories of sulfanilic acid, both inventories and unused capacity projections do not indicate any significant increases in the imminent future. It is unlikely that subject imports will enter the U.S. market at prices likely to suppress or depress domestic prices to any significant degree.

In light of the stable capacity and production and the unlikelihood that subject import shipments to the United States will increase, I find that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports of sulfanilic acid from Hungary that are allegedly subsidized and sold in the United States at LTFV.

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<sup>4</sup> CR and PR Tables IV-1 and C-1.

<sup>5</sup> CR and PR Tables IV-1 and C-1.

<sup>6</sup> CR and PR Table C-1.

<sup>7</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; PR Table VII-1.

<sup>8</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; PR Table VII-1.

<sup>9</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; PR Table VII-1.

<sup>10</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; PR Table VII-1.

<sup>11</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; PR Table VII-1.

<sup>12</sup> Memorandum INV-Y-235, Nov. 13, 2001, at 2; PR Table VII-1.

## B. PORTUGAL

Based on the relevant statutory factors and the evidence on the record, I find that there is reasonable indication that the domestic industry is threatened with material injury by reason of imports of sulfanilic acid from Portugal that are allegedly sold in the United States at LTFV. I determine that the record data illustrates a significant rate of increase in the volume and market penetration of the subject imports over the period examined, indicating the likelihood of substantially increased imports.<sup>13</sup>

The volume of subject imports from Portugal increased from \*\*\* in 1998 to \*\*\* in 2000.<sup>14</sup> In the interim periods examined in these investigations show that subject imports increased from \*\*\* in interim 2000 to \*\*\* in interim 2001.<sup>15</sup> Subject imports' share of apparent U.S. consumption rose from \*\*\* in 1998 to \*\*\* in 2000. Subject import's share was \*\*\* percent in interim 2001 compared to \*\*\* in interim 2000, which shows that more subject imports entered in interim 2001 than entered during calendar year 2000.<sup>16</sup> As I stated above, these recent increases in volume and market penetration indicate subject imports will continue to flood the U.S. market in the imminent future.

Portugal has steadily increased its capacity over the period of investigation and in 2000 \*\*\*.<sup>17</sup> Capacity increased from \*\*\* in interim 2000 to \*\*\* in interim 2001. Projected capacity for 2001 is \*\*\* and for 2002 is \*\*\*.<sup>18</sup> Portugal's production for 2000 was \*\*\* and its projected production for 2001 is \*\*\* and for 2002 is \*\*\*.<sup>19</sup> Also, Portugal has indicated that it will \*\*\*.<sup>20</sup>

End of period inventories for 2000 were \*\*\*.<sup>21</sup> The record supports the conclusion that \*\*\*.<sup>22</sup>

I join the majority in stating that pricing data are very limited in this phase of these investigations. As the majority stated, we will seek more comprehensive pricing data in the final phase of the investigations. The record indicates that price is a significant factor in purchasing decisions.<sup>23</sup> However, the average unit value per pound of subject imports from Portugal decreased from \*\*\* in 1998 to \*\*\* in 2000 and was \*\*\* in interim 2001 compared to \*\*\* in interim 2000.<sup>24</sup>

Apparent consumption of sulfanilic acid rose from \*\*\* pounds in 1998 to \*\*\* pounds in 2000.<sup>25</sup> This indicates a significant price suppression and depression and with projected exports to the United States, this trend will continue.

The condition of the industry was relatively healthy in 1998 through 1999. It was not until the influx of increasing volumes of subject imports that the industry took a downward turn. There has been a steady increase in capacity, production, and sales during the period of investigation.<sup>26</sup> Operating income rose \*\*\* from 1998 to 2000, however, there was a significant decline in operating income between

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<sup>13</sup> CR and PR Table IV-1.

<sup>14</sup> CR and PR Tables IV-1 and C-1.

<sup>15</sup> CR and PR Tables IV-1 and C-1.

<sup>16</sup> CR and PR Tables IV-1 and IV-3.

<sup>17</sup> CR Table VII-1; PR Table VII-2.

<sup>18</sup> CR Table VII-1; PR Table VII-2.

<sup>19</sup> CR Table VII-1; PR Table VII-2.

<sup>20</sup> CR Table VII-1; PR Table VII-2.

<sup>21</sup> CR Table VII-1; PR Table VII-2.

<sup>22</sup> CR Table VII-1; PR Table VII-2.

<sup>23</sup> CR at I-9 and II-4; PR at I-6-7 and II-3.

<sup>24</sup> CR and PR Table IV-1.

<sup>25</sup> CR at II-3; PR at II-2.

<sup>26</sup> CR and PR Table III-1

interim 2000 and interim 2001.<sup>27</sup> Production quantity, capacity utilization, and net sales have declined since 2000.<sup>28</sup>

The data indicate that the domestic industry will suffer adverse effects in terms of its revenues and profitability. The increases in volume and market penetration of the subject import, along with the price depression or suppression by subject imports will, in all likelihood, continue into the future. Therefore, I find that there is reasonable indication that the domestic industry is threatened with material injury by reason of imports of sulfanilic acid from Portugal that are allegedly sold in the United States at LTFV.

### **III. CONCLUSION**

For the foregoing reasons, I determine that there is no reasonable indication that an industry in the United States is threatened with material injury by reason of imports of sulfanilic acid from Hungary that are allegedly subsidized and sold in the United States at LTFV. In addition, I find that there is reasonable indication that an industry in the United States is threatened with material injury by reason of imports of sulfanilic acid from Portugal that are allegedly sold in the United States at LTFV.

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<sup>27</sup> CR and PR Table C-1.

<sup>28</sup> CR and PR Table C-1.

## PART I: INTRODUCTION

### BACKGROUND

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

| <i>Date</i>                | <i>Action</i>                                                                                                                         |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| September 28, 2001 . . .   | Petition filed with Commerce and the Commission; <sup>3</sup> institution of Commission investigations (66 FR 51070, October 5, 2001) |
| October 18, 2001 . . . . . | Commission's conference <sup>4</sup>                                                                                                  |
| October 26, 2001 . . . . . | Commerce's notices of initiation (66 FR 54214 (antidumping) and 66 FR 54229 (countervailing duty))                                    |
| November 13, 2001 . . .    | Commission's vote                                                                                                                     |
| November 13, 2001 . . .    | Commission determinations sent to Commerce                                                                                            |

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<sup>1</sup> For purposes of these investigations, sulfanilic acid is defined by Commerce as "all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid. Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free-flowing powders. Technical sulfanilic acid, classifiable under subheading 2921.42.22 of the Harmonized Tariff Schedule (HTS), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under subheading 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), classifiable under HTS subheading 2921.42.90, is a powder, granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content." (66 FR 54214, October 26, 2001). Sulfanilic acid has a normal trade relations tariff rate of 0.7 cent/kg + 10.2 percent *ad valorem*, applicable to imports from Hungary and Portugal; this rate also applies to sodium sulfanilate.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

<sup>3</sup> Commerce initiated an investigation of the following program alleged in the petition to have provided a countervailable subsidy to producers and exporters of the subject merchandise in Hungary: Forgiveness of environmental liabilities. *See*, app. A, 66 FR 54229. With respect to the antidumping investigations, petitioner's calculated estimated dumping margins, as adjusted by Commerce, ranged from 43.52 to 45.14 percent for Hungary. For Portugal, the petitioner's calculated estimated dumping margin, as adjusted by Commerce, was 91.82 percent. *See*, app. A, 66 FR 54214.

<sup>4</sup> A list of witnesses appearing at the conference is presented in app. B.

I-1

## SUMMARY DATA

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of the one firm that accounted for all U.S. production of sulfanilic acid during 1998-June 2001. U.S. imports are based on official statistics for technical and refined sulfanilic acid plus importer questionnaire responses for imports of sodium sulfanilate.

## PREVIOUS INVESTIGATIONS CONCERNING SULFANILIC ACID

The Commission has previously conducted investigations concerning imports of sulfanilic acid from China, Hungary, and India. The Commission completed its original investigation concerning China in August 1992, determining that an industry in the United States was threatened with material injury by reason of imports of sulfanilic acid from China that Commerce determined to be sold at LTFV.<sup>5</sup> Subsequently, in February 1993, the Commission found that an industry in the United States was threatened with material injury by reason of imports of sulfanilic acid from India that Commerce found to be both subsidized and sold at LTFV.<sup>6</sup> At the same time, the Commission found that an industry in the United States was not materially injured by reason of imports of sulfanilic acid from Hungary that Commerce found to be sold at LTFV.<sup>7</sup> <sup>8</sup> As a result of the Commission's determinations in the aforementioned investigations, Commerce issued an antidumping order on imports of sulfanilic acid from China<sup>9</sup> and issued countervailing duty and antidumping duty orders on such imports from India.<sup>10</sup> In May 2000, the Commission completed reviews of these orders and determined that their revocation would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>11</sup>

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<sup>5</sup> 57 FR 37556, August 19, 1992. The Commission further determined that it would not have found material injury but for the suspension of liquidation of entries of the merchandise under investigation. *Sulfanilic Acid from the People's Republic of China*, Inv. No. 731-TA-538 (Final), USITC Pub. 2542 (August 1992), p. 3.

<sup>6</sup> 58 FR 11246, February 24, 1993. The Commission also determined for both the countervailing and antidumping duty investigations that it would not have found material injury but for the suspension of liquidation of entries of the merchandise under investigation. *Sulfanilic Acid from Hungary and India*, Invs. Nos. 701-TA-318 (Final) and 731-TA-560 and 561 (Final), USITC Pub. 2603 (February 1993), pp. 3-4.

<sup>7</sup> 58 FR 11246, February 24, 1993. The petitioner challenged the Commission's final negative determination regarding Hungary. The CIT remanded the matter to the Commission for reconsideration and clarification of its views. 848 F. Supp. 204 (1994). On remand, the Commission reached a negative determination for Hungary, which the CIT affirmed on June 14, 1994.

<sup>8</sup> In all of the investigations concerning sulfanilic acid, the petitioner was R-M Industries, Inc., the predecessor firm to NFC. Additionally, in each of the investigations, the Commission defined the domestic like product as all forms of sulfanilic acid, including technical grade sulfanilic acid, refined grade sulfanilic acid, and sodium sulfanilate.

<sup>9</sup> 57 FR 37524, August 19, 1992.

<sup>10</sup> 58 FR 12026, March 2, 1993 (countervailing duty order) and 58 FR 12025, March 2, 1993 (antidumping duty order).

<sup>11</sup> 65 FR 34232, May 26, 2000. Commerce found the following margins (*in percent*) would likely prevail should the orders have been revoked: China (antidumping)—Sinochem Hebei, 19.14 and all others, 85.20; India (antidumping)—all manufacturers, producers, and exporters, 114.80 and India (countervailing), 43.71. 65 FR 6156, February 8, 2000, and 65 FR 18070, April 6, 2000.

## THE SUBJECT PRODUCT

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

Sulfanilic acid is all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid. Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free-flowing powders.<sup>12</sup>

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

### Physical Characteristics and Uses

Sulfanilic acid (not including sodium sulfanilate) is produced in two grades, namely technical (or crude) sulfanilic acid and refined (or pure) sulfanilic acid.<sup>13</sup> In contrast, sodium sulfanilate (the monosodium salt of sulfanilic acid) is produced and sold only as one grade.<sup>14</sup> In solid form, the technical and refined grades of sulfanilic acid and sodium sulfanilate are all gray-white to white crystalline powders.<sup>15</sup>

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

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<sup>12</sup> 66 FR 54214 and 54229, October 26, 2001.

<sup>13</sup> Technical grade sulfanilic acid is 96 percent pure and refined sulfanilic acid is 98 percent pure. Petition, vol. I, p. 13.

<sup>14</sup> Sodium sulfanilate, which is 99 percent pure, contains 75 percent minimum equivalent sulfanilic acid. Interview with \*\*\*, NFC, October 25, 2001; petition, vol. I, p. 13.

<sup>15</sup> Technical and refined acids are always sold as solids; although some sodium sulfanilate is shipped in the solid form, much is shipped by the domestic producer to its customers as a 30 percent salt solution. Conference transcript, p. 24; petitioner postconference brief, app. 1, p. 2.

The imported Portuguese product is available only as refined sulfanilic acid.<sup>16</sup> With respect to the Hungarian product, both the petitioner and importer Clariant state that the product sold in the United States is refined sulfanilic acid,<sup>17</sup> although the Hungarian producer may also produce the sodium salt.<sup>18</sup>

### Manufacturing Facilities and Production Employees

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

According to petitioner, both it and the Portuguese producer use similar manufacturing processes.<sup>19</sup> Two chemicals, aniline and sulfuric acid, are mixed in a closed reactor to form an intermediate product, aniline hydrogen sulfate. The intermediate product is then heated or “baked” to form technical sulfanilic acid, which the domestic producer either sells in this state, or uses to produce sodium sulfanilate or refined acid. NFC produces sodium sulfanilate by the addition of sodium hydroxide to a water solution of the technical grade acid. It produces refined sulfanilic acid by dissolving the technical grade acid in hot water and then recrystallizing, filtering, and drying.<sup>20</sup> Petitioner states that process improvements in domestic facilities, such as a new refined acid operations in the mid 1990s and the purchase and relocation of a previously-used continuous reactor system to produce technical acid in the late 1990s, have proven to be very efficient and cost effective.<sup>21</sup>

Petitioner produces and sells technical grade sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. Technical grade sulfanilic acid is packaged and sold or used as an input to produce refined sulfanilic acid and sodium sulfanilate. Both refined sulfanilic acid and the sodium salt are produced in the same building but on separate production equipment and each uses technical sulfanilic acid as the basic raw material.<sup>22</sup> Petitioner reports some interchangeability in employees between the different forms of sulfanilic acid, with technical acid workers assisting in the production of refined acid when not operating the technical equipment. Petitioner also states that “the refined acid and salt equipment are interchangeable and the operators can work both production units.”<sup>23</sup> Equipment and employees used to produce sulfanilic acid are also used to produce \*\*\*.<sup>24</sup>

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<sup>16</sup> Clariant Corp. (Clariant) postconference brief, p. 12; petitioner postconference brief, app. 1, pp. 2 and 6.

<sup>17</sup> *Id.*

<sup>18</sup> Interview with \*\*\*. \*\*\*. *Id.*

<sup>19</sup> Petition, vol. II, p. 4.

<sup>20</sup> Refined sulfanilic acid can also be produced by re-acidification of a sodium sulfanilate solution, although this additional step results in a wastewater stream that is difficult to treat and petitioner discontinued this method in the early 1990s. Petition, vol. I, pp. 15-16.

<sup>21</sup> Interview with \*\*\*, NFC, on October 16, 2001; petition, vol. I, pp. 16-17. NFC bought the technical acid production plant from Zeneca Ltd., a UK firm that made technical acid in France, and relocated the plant to the United States. *Id.*

<sup>22</sup> Conference transcript, p. 19. Technical grade sulfanilic acid is produced in a separate building. *Id.*

<sup>23</sup> Petitioner postconference brief, app 1, p. 7 (flowchart). Petitioner states that it has excess capacity to produce the technical sulfanilic acid; therefore it produces the technical sulfanilic acid for about 2-week intervals and then the technical acid operators assist in the production of refined sulfanilic acid. Likewise, large extra capacity to produce sodium sulfanilate allows those workers to assist in the production of refined sulfanilic acid. Petitioner postconference brief, app. 1, p. 5.

<sup>24</sup> NFC questionnaire, p. 4; interview with \*\*\*, NFC, on October 16, 2001.

The Portuguese production plant is quite modern, having been brought on line in 1999, and was designed to produce only refined sulfanilic acid.<sup>25</sup> The Portuguese production process is similar to the domestic process except that, whereas the domestic producer uses one facility to produce the technical acid and a second facility to purify the technical grade into refined sulfanilic acid, the Portuguese producer uses a continuous process in a single reaction vessel to produce refined sulfanilic acid from the starting materials.<sup>26</sup>

According to the petitioner, the Hungarian sulfanilic acid is produced using technology where aniline and sulfuric acid are reacted in an organic solvent phase. After the reaction, the crude mixture of sulfanilic acid is neutralized and water is added to form a proprietary water-soluble salt. With the addition of the water, the mixture separates into two “phases”—an organic solvent phase and a water phase. The salt of sulfanilic acid is removed with the water phase and ultimately re-acidified and converted into refined sulfanilic acid.<sup>27</sup> According to petitioner, such a process is not economically viable and results in a waste stream that would be very costly to treat.<sup>28</sup>

Regardless of the production process used, after the desired product is isolated and/or purified, it is packaged to suit the needs of the customer. According to the petitioner, domestic refined and technical sulfanilic acid and imported refined sulfanilic acid are available in either paper or poly bags of 25 kilograms each, or larger bulk bags of 500 to 1,000 kilograms.<sup>29</sup> Sodium sulfanilate may be sold as a powder and packaged similar to the acid; however, petitioner’s sales to two big optical brightener customers are as a solution that is approximately 30 percent sulfanilic acid by weight and shipped in tank trucks or tank cars.<sup>30</sup>

### **Interchangeability and Customer and Producer Perceptions**

The petitioner states that “all forms of sulfanilic acid are interchangeable with all other forms because they all provide the same molecular building block in producing food colors, brighteners, and concrete additives, which are the primary markets for sulfanilic acid.”<sup>31</sup> Refined sulfanilic acid can always be used instead of the technical grade,<sup>32</sup> but the reverse is not true since some users (e.g., food color producers and optical brightener producers) require the higher purity of the refined sulfanilic acid or sodium sulfanilate. Petitioner states that refined sulfanilic acid and sodium sulfanilate are interchangeable since they are both used to produce the same products—optical brighteners and food colors—although the specific production process used by each firm will determine whether it uses the

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<sup>25</sup> Quimigal de Portugal, S. A. (Quimigal) postconference brief, p. 9; conference transcript, p. 32; petition, vol. II, p. 4.

<sup>26</sup> Conference transcript, pp. 19 and 32; petitioner postconference brief, app. 1, pp. 5-6.

<sup>27</sup> Petition, vol. III, p. 3; petitioner postconference brief, app. 2, pp. 1-2; interview with \*\*\*, NFC, on October 16, 2001.

<sup>28</sup> Petition, vol. III, p. 3.

<sup>29</sup> Petitioner postconference brief, app. 1, p. 2; interview with \*\*\*, NFC, on October 16, 2001. About \*\*\* percent of NFC’s shipments are in the bulk form, which is two 500 kilogram bags per pallet. *Id.*

<sup>30</sup> Conference transcript, p. 24; petitioner postconference brief, app. 1, p. 2; interview with \*\*\*, NFC, on October 16, 2001.

<sup>31</sup> Conference transcript, p. 9.

<sup>32</sup> Petitioner states that customers specify whether they want the salt or the “free acid” forms of sulfanilic acid (the term “free acid” is reportedly used to distinguish the acid form, whether refined or technical, from the salt form). However, petitioner says that customers do not care whether the free acid is technical or refined, they simply require that the free acid meets their specifications. Petitioner postconference brief, pp. 2-3.

refined acid or the salt. However, petitioner points out that “one of the largest producers of brighteners in the United States changed from using refined acid produced in Japan to the domestic salt in 1990 when the availability of the refined acid from Japan was reduced”<sup>33</sup> and therefore, although current operating process may be an obstacle to interchangeability between the refined acid and the salt, it is an obstacle that can be overcome if the price difference is sufficient.<sup>34</sup>

Quimigal argues that there are differences among the three forms of sulfanilic acid and these limit the uses to which they can be applied.<sup>35</sup> Quimigal bases its argument on the fact that the technical grade product has a higher level of impurities than the refined grade product, thereby making it an impractical substitute for refined grade in the production of optical brighteners, food colors, or specialty dyes. Additionally, Quimigal argues that physical differences limit interchangeability between the sodium sulfanilate and refined sulfanilic acid.<sup>36</sup>

Clariant, an importer and end user of both Portuguese and Hungarian product, states that the production method it uses in producing optical brighteners used in the textile and paper industries requires the input of the refined sulfanilic acid, whereas the other two domestic producers of optical brighteners use domestic sodium sulfanilate.<sup>37</sup> It further states that the use of the technical grade sulfanilic acid would impart undesirable qualities in its finished product.<sup>38</sup> While Clariant is presently not using domestically produced refined sulfanilic acid, it has done so in the past.<sup>39</sup> Clariant indicates that, as of now, it has no objection to the treatment of all three grades of sulfanilic acid as one like product.<sup>40</sup>

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

### Channels of Distribution

Both the domestic producer and the importers of sulfanilic acid sell the product directly to domestic users. Petitioner states that during the period of investigation, there were only two buyers of the imported refined sulfanilic acid imported from Hungary and Portugal, making up 30 percent of the total domestic market for all forms of sulfanilic acid.<sup>41</sup>

### Price

According to petitioner, absent the presence of lower-priced imported refined sulfanilic acid, the price of technical sulfanilic acid should be about 30 percent lower than the refined sulfanilic acid and sodium sulfanilate. However, petitioner states that, as a result of the imported refined acid being sold at prices below what it is charging for technical acid, it has been forced to reduce its price for refined acid

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<sup>33</sup> Conference transcript, p. 10.

<sup>34</sup> *Id.*

<sup>35</sup> Quimigal postconference brief, p. 3.

<sup>36</sup> *Id.*, pp. 3-4, citing: *Sulfanilic Acid From China and India*, Invs., Nos. 701-TA-318 (Review) and 731-TA-538 and 561 (Review), USITC Pub. 3301 (May 2000), pp. I-7-8 and n.22.

<sup>37</sup> Conference transcript, pp. 30 and 45.

<sup>38</sup> Conference transcript, p. 31.

<sup>39</sup> Conference transcript, pp. 41-42. According to John Dickson, CEO of NFC, Clariant was NFC's largest customer for refined sulfanilic acid in 1997. *Id.*, p. 48.

<sup>40</sup> Clariant postconference brief, p. 12.

<sup>41</sup> Petition, vol. I, p. 17.

to below its price for technical acid and sodium salt.<sup>42</sup> Quimigal states that because of “the cost of complex refinement processes used to purify technical sulfanilic acid into sodium sulfanilate, and into refined sulfanilic acid, price is also a factor that supports the definition of individual like products . . .”<sup>43</sup> More detailed information on actual prices is presented in Part V of this report, *Pricing and Related Information*.

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<sup>42</sup> Petitioner postconference brief, app. 1, p. 6. Petitioner further states that low-priced refined sulfanilic acid suppresses the price of technical sulfanilic acid, and if the price differential is significant enough, even suppresses the price of sodium sulfanilate. Conference transcript, pp. 9-10.

<sup>43</sup> Quimigal postconference brief, p. 4.



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

### CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

In the U.S. market, domestic and imported sulfanilic acid are sold to end users. Available data for 2000 indicate that \*\*\* sales by NFC were made to end users,<sup>1</sup> while the vast majority of imports of sulfanilic acid were consumed internally.

Globally, both producers and purchasers of sulfanilic acid are highly concentrated groups. NFC is the only U.S. producer of sulfanilic acid, and competes with several producers in Asia, as well as three European producers (including the two subject producers), for the business of six multinational corporations.<sup>2</sup>

Three forms of sulfanilic acid are produced in the U.S. market; technical grade, refined grade, and sodium sulfanilate (salt form). The technical grade is primarily utilized in the production of concrete additives, and serves as the starting point for making the refined and salt forms of sulfanilic acid. The refined and salt forms are primarily utilized in the production of optical brighteners and food colors.<sup>3</sup> Data on NFC's domestic sulfanilic acid sales into each of the three market segments are provided in table II-1.

**Table II-1**

**Sulfanilic acid: Percent of NFC's domestic sales by market segment, 1998-2000 and January-June 2001**

\* \* \* \* \*

### SUPPLY AND DEMAND CONSIDERATIONS

#### U.S. Supply

Based on available information, NFC has the ability to respond to changes in demand with moderate to large changes in the quantity of shipments of U.S.-produced sulfanilic acid to the U.S. market. The main factors contributing to this degree of responsiveness are general increases in excess capacity and end-of-period inventories, as well as increasing sales to export markets. These factors are detailed next.

#### Industry Capacity

Data reported by the U.S. producer indicates that there is excess capacity with which to expand production in the event of price changes. Domestic capacity utilization declined from \*\*\* percent in 1998 to \*\*\* percent in 1999 as capacity expanded, then partially rebounded to \*\*\* percent in 2000. Interim data reveal that capacity utilization fell from \*\*\* percent in the first six months of 2000 to \*\*\* percent in the first six months of 2001.

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<sup>1</sup> NFC states there are six major U.S. customers – two customers use sulfanilic acid to produce food colorings (one customer uses refined grade sulfanilic acid, and the other uses sodium sulfanilate), three customers use sulfanilic acid to produce brighteners for paper products (one customer uses refined grade sulfanilic acid, and the other two customers use sodium sulfanilate), and one customer utilizes technical grade sulfanilic acid as a concrete additive (testimony of John Dickson, CEO, NFC, conference transcript, pp. 9-10).

<sup>2</sup> Each of the six multinational corporations \*\*\* (petition, vol. I, pp. 9-10).

<sup>3</sup> *Id.*

## **Inventory Levels**

The U.S. producer's inventories of sulfanilic acid, as a ratio to total shipments, increased from \*\*\* percent in 1998 to \*\*\* percent in 2000, with interim data revealing declining annualized ratios of \*\*\* and \*\*\* percent during the first six months of 2000 and 2001, respectively. These data indicate that NFC has some ability to use inventories as a means of increasing shipments to the U.S. market.

## **Export Markets**

While exports represented \*\*\* percent of total shipments in 1998, they accounted for \*\*\* and \*\*\* percent in 1999 and 2000, respectively, and increased further to \*\*\* percent in interim 2001. These numbers suggest that NFC has some ability to divert shipments to or from alternate markets in response to changes in the price of sulfanilic acid.<sup>4</sup>

## **U.S. Demand**

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

## **Demand Characteristics**

Both NFC and the majority of importers/purchasers stated that demand for sulfanilic acid in the United States has remained relatively stable since January 1, 1998, and tends to track general economic movement. Available information indicates that U.S. consumption of sulfanilic acid increased from \*\*\* pounds in 1998 to \*\*\* pounds in 2000.<sup>5</sup>

## **Substitute Products**

Questionnaire responses from NFC and six importers/purchasers reveal that all responding firms believe there are no substitutes for sulfanilic acid.

## **Cost Share**

According to NFC and the responding importers/purchasers, the sulfanilic acid that they sell or purchase in the U.S. market is used in the production of food colorings, optical brighteners, and concrete additives. Several firms estimated the percentage of total end-use cost accounted for by sulfanilic acid to be in the range 10.0 to 36.0 percent.

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<sup>4</sup> In its questionnaire response, NFC reported that its principal export markets are \*\*\*.

<sup>5</sup> At the conference, John Dickson of NFC stated that demand does not generally vary among the different forms of sulfanilic acid (conference transcript, p. 21). However, Daniel Crosby, counsel for the Portuguese respondent, stated that demand for the refined grade of sulfanilic acid has grown faster than the demand for other forms of sulfanilic acid (conference transcript, p. 44).

## SUBSTITUTABILITY ISSUES

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

### Factors Affecting Sales

While price is an important factor in the sale of sulfanilic acid, other factors such as quality and product availability may also be important considerations in purchase decisions. Questionnaire responses reveal that NFC believes differences other than price between products from various supplying countries are \*\*\* important in the sale of sulfanilic acid in the U.S. market. \*\*\*, most responding importers/purchasers who had knowledge of the requested country combinations reported that differences other than price are “sometimes” important in the sale of sulfanilic acid in the U.S. market (table II-2).<sup>6</sup>

**Table II-2**

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

| Country pair                                                                   | Number of U.S. producers reporting |     |     |     |     | Number of U.S. importers/purchasers reporting |   |   |   |   |
|--------------------------------------------------------------------------------|------------------------------------|-----|-----|-----|-----|-----------------------------------------------|---|---|---|---|
|                                                                                | A                                  | F   | S   | N   | O   | A                                             | F | S | N | O |
| U.S. vs. Hungary                                                               | ***                                | *** | *** | *** | *** | —                                             | — | 2 | — | 3 |
| U.S. vs. Portugal                                                              | ***                                | *** | *** | *** | *** | —                                             | — | 2 | — | 3 |
| U.S. vs. other                                                                 | ***                                | *** | *** | *** | *** | —                                             | — | 2 | — | 2 |
| Hungary vs. Portugal                                                           | ***                                | *** | *** | *** | *** | —                                             | — | — | 1 | 3 |
| Hungary vs. other                                                              | ***                                | *** | *** | *** | *** | —                                             | — | 1 | — | 3 |
| Portugal vs. other                                                             | ***                                | *** | *** | *** | *** | —                                             | — | 1 | 1 | 3 |
| A = Always, F = Frequently, S = Sometimes, N = Never, O = No familiarity.      |                                    |     |     |     |     |                                               |   |   |   |   |
| Source: Compiled from data submitted in response to Commission questionnaires. |                                    |     |     |     |     |                                               |   |   |   |   |

<sup>6</sup> Both NFC and all responding importers/purchasers answered this question in terms of sulfanilic acid, regardless of form.

## Comparison of Domestic and Imported Sulfanilic Acid

NFC and importers/purchasers appear to agree on the issue of interchangeability between U.S.-produced and subject sulfanilic acid. NFC reported that sulfanilic acid from different countries is \*\*\* interchangeable. While their answers were more diverse, importers' responses generally reveal a similar view (table II-3).<sup>7 8</sup>

Several importers/purchasers noted that, while the refined grade is usable in any application, the technical grade is not usable in some applications because it is a less pure form of sulfanilic acid. For example, \*\*\* reported that all grades can be used in concrete applications (which typically use the technical grade), but only the refined grade can be used in "high end" applications such as brighteners.<sup>9</sup> In its questionnaire response, \*\*\* noted that both the refined and salt forms are "purified" products and are sufficiently interchangeable.

**Table II-3**

**Sulfanilic acid: Perceived degree of interchangeability of sulfanilic acid produced in the United States and in other countries**

| Country pair                                                                   | Number of U.S. producers reporting |     |     |     |     | Number of U.S. importers/purchasers reporting |   |   |   |   |
|--------------------------------------------------------------------------------|------------------------------------|-----|-----|-----|-----|-----------------------------------------------|---|---|---|---|
|                                                                                | A                                  | F   | S   | N   | O   | A                                             | F | S | N | O |
| U.S. vs. Hungary                                                               | ***                                | *** | *** | *** | *** | 1                                             | 1 | 1 | – | 3 |
| U.S. vs. Portugal                                                              | ***                                | *** | *** | *** | *** | 1                                             | 1 | 1 | – | 3 |
| U.S. vs. other                                                                 | ***                                | *** | *** | *** | *** | 3                                             | 1 | 1 | – | 1 |
| Hungary vs. Portugal                                                           | ***                                | *** | *** | *** | *** | 1                                             | 1 | – | – | 3 |
| Hungary vs. other                                                              | ***                                | *** | *** | *** | *** | 2                                             | 1 | – | – | 3 |
| Portugal vs. other                                                             | ***                                | *** | *** | *** | *** | 2                                             | 1 | – | – | 3 |
| A = Always, F = Frequently, S = Sometimes, N = Never, O = No familiarity.      |                                    |     |     |     |     |                                               |   |   |   |   |
| Source: Compiled from data submitted in response to Commission questionnaires. |                                    |     |     |     |     |                                               |   |   |   |   |

<sup>7</sup> NFC answered this question only in terms of refined grade sulfanilic acid. All responding importers/purchasers answered this question in terms of sulfanilic acid, regardless of form.

<sup>8</sup> In its postconference brief, the Portuguese respondent (Quimigal) stated that it believes sulfanilic acid imported into the United States from Hungary is produced using an inferior process, which may result in a lower quality product as compared with refined sulfanilic acid imported into the United States from Portugal. Quimigal postconference brief, p. 7.

<sup>9</sup> Staff interview with \*\*\* of \*\*\*, October 22, 2001.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and Part VI and (except as noted) is based on the questionnaire response of the single firm that accounted for all U.S. production of sulfanilic acid during 1998-June 2001.

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

**Table III-1**

**Sulfanilic acid: Reported U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

**Table III-2**

**Sulfanilic acid: Reported U.S. shipments, by type and market segment, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

---

<sup>1</sup> Petition, vol. I, p. 16. NFC began producing sodium salt and refined sulfanilic acid in 1987. *Id.*

<sup>2</sup> *Id.*, p. 17.

<sup>3</sup> NFC was able to provide data regarding its capacity, production, capacity utilization, shipments, and end-of-period inventories for technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. Such data are provided in appendix tables C-2, C-3, and C-4, respectively, of this report. NFC does not maintain separate employment or financial data by type of acid.



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

### U.S. IMPORTERS

Three firms, Clariant, \*\*\*, and \*\*\*, accounted for all imports of sulfanilic acid from Hungary and Portugal during the period examined. In the case of Clariant and \*\*\*, all product imported by these firms was for internal use. Clariant imported \*\*\*. \*\*\*. In addition, \*\*\*. During 1999, \*\*\*. Two firms reported imports of \*\*\*.

During the period examined, China was the leading source of imports of sulfanilic acid. According to NFC, this occurred because:

“During the period of 1997 through 1999 importers of Chinese sulfanilic acid were allowed to import sulfanilic acid from two related factories in China without making any antidumping duty deposits. This situation did not change until March 13, 2000, when Commerce determined that the actual duty applicable for the 1997-98 annual review was 18.75 percent. This also established the new duty deposit rate. This rate remained in effect until March 21, 2000, when Commerce determined that the actual duty applicable for the 1998-99 period was 85.2 percent. This is the deposit rate now in effect.

The retroactive nature of the review process accounts for large quantities of Chinese dumped sulfanilic acid being imported in 1999 and 2000. The Chinese would never have exported this large quantity of sulfanilic acid had they known the actual duty would be 18.75 percent and 85.2 percent for the respective years.”<sup>1</sup>

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

“As the Chinese importers woke up to the big retroactive duties they began to import much less in the second half of 2000. There have been no Chinese imports at all this year, just in time for Quimigal to start making large exports from their new factory in Portugal and then followed by Nitrokemia from their plant in Hungary. Attachment 4 (of the petition) clearly shows how the Chinese reduction in imports was simply replaced by imports from Portugal and Hungary.”<sup>2</sup>

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

“ . . . I’ll be the first to tell you that it’s the China and India problem in Europe that’s causing Quimigal and Nitrokemia to sell below their cost of production and has caused them to be in the horrible problem that they are.”<sup>3</sup>

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<sup>1</sup> Petition, vol. I, pp. 19-20.

<sup>2</sup> *Id.*, p. 20.

<sup>3</sup> Conference transcript, p. 55.

With respect to NFC's comments, Clariant notes:

"It is patently obvious in the petition, and through the petitioner's comments at the preliminary conference on October 18, 2001, that NFC's complaint is with imported sulfanilic acid from China and India, and the perceived injury it suffered when those imports were in the U.S. market, rather than any threat from European sources. As petitioner himself stated, 'the whole problem is India and China causing this convulsion of these industries.' . . . Perhaps this belief is what caused Mr. Dickson to dedicate the majority of his petition to describing the damage inflicted on the domestic industry by China and India. More likely, petitioner was forced to discuss China and India because he cannot plausibly allege unfair trade practices on the part of Portugal and Hungary, without also making the equally implausible claim that all producers (other than NFC, of course) are all selling sulfanilic acid around the world at less than their cost of production. In any case, the unfair trade practices of which petitioner complains have already been remedied in the form of antidumping and countervailing duties against China and India."<sup>4</sup>

#### U.S. IMPORTS

Table IV-1 presents data on U.S. imports of sulfanilic acid based on official statistics of Commerce for technical and refined sulfanilic acid plus importer questionnaire responses for imports of sodium sulfanilate.<sup>5</sup>

**Table IV-1**

**Sulfanilic acid: U.S. imports, by sources, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

#### APPARENT U.S. CONSUMPTION

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

**Table IV-2**

**Sulfanilic acid: U.S. producers' U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

---

<sup>4</sup> Clariant postconference brief, p. 2.

<sup>5</sup> Imports of sulfanilic acid (technical and refined grades) are classified under HTS subheading 2921.42.22 with no differentiation made between the grades. Imports of sodium sulfanilate are classified under HTS subheading 2921.42.90, a "basket category."

## U.S. MARKET SHARES

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

### Table IV-3

**Sulfanilic acid: Apparent U.S. consumption and market shares, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*



## **PART V: PRICING AND RELATED INFORMATION**

### **FACTORS AFFECTING PRICES**

#### **Raw Material Costs**

The main raw materials used in the production of sulfanilic acid are aniline and sulfuric acid. Raw material costs accounted for \*\*\* percent of the total 2000 cost of goods sold for U.S. production of sulfanilic acid. According to NFC, the cost of aniline increased in early 2000, \*\*\*.<sup>1</sup>

#### **U.S. Inland Transportation Costs and Geographic Markets**

Transportation costs of sulfanilic acid for delivery within the United States vary from firm to firm but tend to account for a small to moderate percentage of the total cost of the product. For NFC, these costs accounted for \*\*\* percent of the total cost of sulfanilic acid. For the three importers/purchasers who provided usable responses to this question, these costs accounted for between \*\*\* and \*\*\* percent of the total cost of the product, with an average of 7.3 percent.

NFC reported a geographic market area encompassing \*\*\*. The two importers that provided usable responses to this question reported smaller market areas consisting of \*\*\*, \*\*\*, and South Carolina.

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

#### **Exchange Rates**

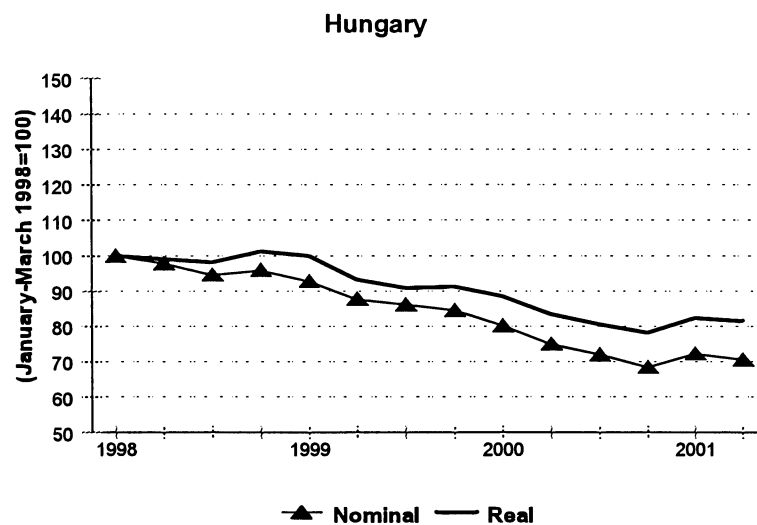
Quarterly data reported by the International Monetary Fund indicate that the real value of the Hungarian forint depreciated approximately 18.0 percentage points relative to the U.S. dollar from January 1998 through June 2001. Real values for the Portuguese escudo cannot be calculated due to the unavailability of the relevant Portuguese producer price information. However, nominal trends show that the escudo depreciated 19.0 percentage points relative to the U.S. dollar during this time frame (figures V-1 and V-2).

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<sup>1</sup> Amendment to vol. I of petition, p. 8 (October 4, 2001).

**Figure V-1**

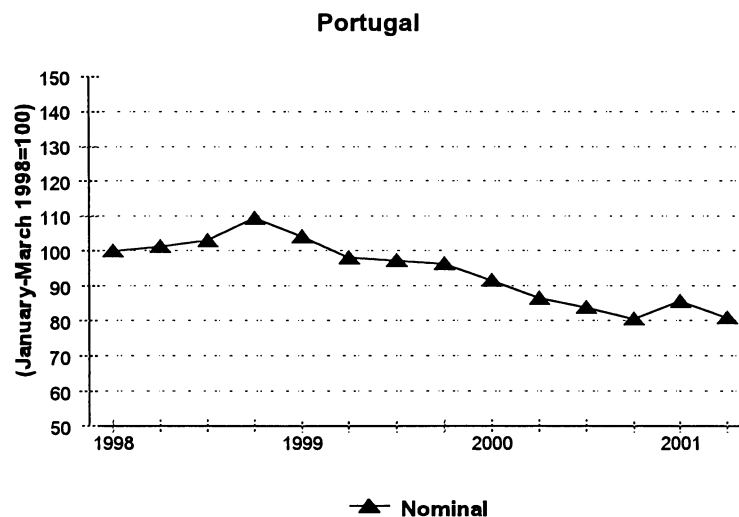
**Exchange rates: Indices of the nominal and real values of the Hungarian forint relative to the U.S. dollar, by quarters, January 1998-June 2001**



Source: International Monetary Fund, *International Financial Statistics*, October 2001.

**Figure V-2**

**Exchange rates: Index of the nominal values of the Portuguese escudo relative to the U.S. dollar, by quarters, January 1998-June 2001**



Source: International Monetary Fund, *International Financial Statistics*, October 2001.

## PRICING PRACTICES

### Pricing Methods

Available information from the conference and questionnaires reveals that sales of sulfanilic acid in the United States typically involve annual contracts or blanket purchase orders, with price fixed for the duration of the agreement, and quantity sometimes fixed for the duration of the agreement.<sup>2</sup>

According to NFC, its six primary customers are multinational organizations which manage sulfanilic acid purchases on a global basis. NFC states that the practice of global purchasing, and the additional pressure it creates on sulfanilic acid prices, became a factor during the past few years. Prior to that time, purchasing decisions were made in the country where the product was used.<sup>3</sup>

### Sales Terms and Discounts

\*\*\* responding sulfanilic acid importers/purchasers did not report the existence of fixed discount policies. However, \*\*\* reported the existence of volume-based price discounts. \*\*\* reported that sulfanilic acid prices are typically quoted on an f.o.b. basis and payment is required within 30 days, while \*\*\* reported that prices are typically quoted on a delivered basis with payment due in 30 to 60 days.

## PRICE DATA

The Commission requested that NFC and importers/purchasers provide quarterly data for the total quantity and value of three sulfanilic acid products. Data were requested for the period January 1998 through June 2001. The products for which pricing data were requested are as follows:

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

**Product 2.** – Refined grade sulfanilic acid

**Product 3.** – Sodium sulfanilate

NFC and six importers/purchasers provided usable pricing data for sales or purchases of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters. Selling price data reported by NFC and importers accounted for \*\*\* percent of the 1998-2000 value of the U.S. producer's commercial shipments of sulfanilic acid, as well as \*\*\* percent of the 1998-2000 landed, duty-paid value of imports of sulfanilic acid from Hungary and \*\*\* percent of the 1998-2000 value of imports of sulfanilic acid from Portugal. Purchase price data accounted for \*\*\* percent of the 1998-2000 value of the U.S. producer's commercial shipments of sulfanilic acid, as well as \*\*\* percent of the 1998-2000 value of imports of sulfanilic acid from Hungary and \*\*\* percent of the 1998-2000 value of imports of sulfanilic acid from Portugal.

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

---

<sup>2</sup> Several importers/purchasers reported contract periods of less than one year. For example, \*\*\* reported issuing blanket purchase orders, often on a quarterly basis, and \*\*\* reported that contracts/purchase orders typically last six months to one year.

<sup>3</sup> Petitioner postconference brief, p. 16.

**Table V-1**

**Sulfanilic acid: Average f.o.b. prices and quantities as reported by NFC, by products and by quarters, January 1998-June 2001**

\* \* \* \* \*

**Table V-2**

**Sulfanilic acid: Weighted-average delivered purchase prices and quantities for domestic products 1 and 3, as reported by purchasers, by quarters, January 1998-June 2001**

\* \* \* \* \*

**Table V-3**

**Sulfanilic acid: Weighted-average delivered purchase prices and quantities for product 2, as reported by importers/purchasers, and margins of underselling/(overselling), by quarters, January 1998-June 2001**

\* \* \* \* \*

**Figure V-3**

**F.o.b. prices for product 1, as reported by NFC, by quarters, January 1998-June 2001**

\* \* \* \* \*

**Figure V-4**

**F.o.b. prices for product 2, as reported by NFC and \*\*\*, by quarters, January 1998- June 2001**

\* \* \* \* \*

**Figure V-5**

**F.o.b. prices for product 3, as reported by NFC, by quarters, January 1998-June 2001**

\* \* \* \* \*

**Figure V-6**

**Weighted-average delivered purchase prices for domestic product 1, as reported by purchasers, by quarters, January 1998-June 2001**

\* \* \* \* \*

**Figure V-7**

**Weighted-average delivered purchase prices for product 2, as reported by importers/purchasers, by quarters, January 1998-June 2001**

\* \* \* \* \*

**Figure V-8**

**Weighted-average delivered purchase prices for domestic product 3, as reported by purchasers, by quarters, January 1998-June 2001**

\* \* \* \* \*

According to NFC, in a market where all sulfanilic acid is fairly traded, the price of technical acid is approximately 30.0 percent less than the prices for refined acid and sodium sulfanilate due to lower production costs and impurities that are undesirable for some applications. Further, the refined acid and sodium sulfanilate would be priced about the same in a fairly traded market. However, NFC contends that subject imports have caused price irregularities in the U.S. market. For example, in some instances NFC may have sold refined acid at prices lower than what it typically charges for technical acid and/or sodium sulfanilate in order to compete against the subject imports' prices.<sup>4</sup>

Price comparisons between the U.S. products and subject imports were only available for product 2 -- refined grade sulfanilic acid. Thus, only product 2 is discussed next. As shown in table V-1 and figure V-4, price comparisons for product 2 between the United States and Hungary were not available. Regarding Portugal, one price comparison is available in the third quarter of 1999. In this quarter, the Portuguese product was priced \*\*\* the U.S. product, with a margin of \*\*\* percent.<sup>5</sup>

As shown in table V-3 and figure V-7, purchase price comparisons for product 2 between the United States and Hungary were possible in one quarter. In the third quarter of 2000, the Hungarian product was priced above the U.S. product, with a margin of \*\*\* percent. Purchase price comparisons for product 2 between the United States and Portugal were possible in a total of two quarters. In both quarters, the Portuguese product was priced below the U.S. product, with margins of \*\*\* and \*\*\* percent.

## LOST SALES AND LOST REVENUES

NFC provided information on six allegations of lost sales and two allegations of lost revenues due to imports of sulfanilic acid from Hungary and Portugal.<sup>6</sup> Of the eight specific lost sales/lost revenue allegations, four were confirmed by purchasers, and four were denied by purchasers. The reported allegations of lost sales and lost revenues total \$\*\*\* and involve nearly \*\*\* pounds of sulfanilic acid, of which \$\*\*\* and \*\*\* pounds were confirmed by purchasers. The lost sales and lost revenues allegations are reported in tables V-4 and V-5, respectively. Additional information provided by purchasers follows.

\* \* \* \* \*

**Table V-4**  
**Sulfanilic acid: Lost sales allegations**

\* \* \* \* \*

**Table V-5**  
**Sulfanilic acid: Lost revenues allegations**

\* \* \* \* \*

<sup>4</sup> Petitioner postconference brief, app. 1, p. 6.

<sup>5</sup> \*\*\*.

<sup>6</sup> \*\*\*.

<sup>7</sup> Staff interview with \*\*\* of \*\*\*, October 22, 2001.

<sup>8</sup> Staff interview with \*\*\* of \*\*\*, October 22, 2001.

<sup>9</sup> \*\*\*.

<sup>10</sup> Fax response of \*\*\* of \*\*\*, October 31, 2001.

<sup>11</sup> Fax response of \*\*\* of \*\*\*, October 31, 2001. \*\*\*.



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

## BACKGROUND

This section of the report presents the financial information of NFC, which was the only U.S. producer of sulfanilic acid during the period examined. NFC's sales of sulfanilic acid represent somewhat more than \*\*\* of its total sales revenue during the period examined. In addition to sulfanilic acid, NFC also sells and toll processes pigments and custom chemicals.<sup>1</sup>

The three forms of sulfanilic acid produced and sold by NFC (technical sulfanilic acid, sodium sulfanilate, and refined sulfanilic acid) are reflected, but not separately presented, in the profit and loss information presented below.<sup>2</sup> The relative importance of each type of sulfanilic acid sold by NFC changed somewhat during the period examined. \*\*\*.<sup>3 4</sup>

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

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

## OPERATIONS ON SULFANILIC ACID

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

**Table VI-1**  
**Results of sulfanilic acid operations, calendar years 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

**Table VI-2**  
**Results of sulfanilic acid operations (*per pound*), calendar years 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

---

<sup>1</sup> Conference transcript, p. 7. \*\*\*.

<sup>2</sup> In addition to profit and loss information on overall sulfanilic acid operations, the Commission's questionnaire requested that NFC report profit and loss information separately for technical sulfanilic acid, refined sulfanilic acid, and sodium sulfanilate. In response to the Commission's questionnaire, NFC explained that it was unable to provide profit and loss information for the requested subcategories in the time available, however it would attempt to provide this information in the future.

<sup>3</sup> \*\*\*.

<sup>4</sup> \*\*\*.

<sup>5</sup>Petition, vol. I, pp. 16-17. \*\*\*.

The full-year periods were characterized by a steady increase in sulfanilic acid sales volume, while corresponding sales revenue increased irregularly.<sup>6</sup> Notwithstanding declines in average unit sales revenue, NFC's profitability (gross and operating) increased from 1998 through 2000 as a result of higher volume, lower average unit cost of goods sold (COGS), and \*\*\* selling, general, and administrative expenses (SG&A).<sup>7 8</sup>

Lower sales volume and revenue for interim 2001 compared to interim 2000, as well as an increase in average unit COGS, combined to \*\*\* at the end of the period examined.<sup>9</sup>

NFC's estimated cash flows from sulfanilic acid operations increased along with profitability during the full-year periods and then dipped \*\*\* along with interim 2001 operating income. The interest expense allocated to sulfanilic acid is \*\*\* compared to operating income.<sup>10</sup> As a result, the ratio of times interest earned reflected \*\*\*.

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

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

**Table VI-3**  
**Value of assets, capital expenditures, and R&D expenses related to sulfanilic acid operations, calendar years 1998-2000, January-June 2000, and January-June 2001**

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

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

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

R&D expenses reportedly represented \*\*\*. \*\*\*.<sup>11</sup>

## CAPITAL AND INVESTMENT

The Commission requested NFC to describe any actual or potential negative effects of imports of sulfanilic acid from Portugal and/or Hungary on its growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). NFC described actual negative effects as follows: \*\*\*. NFC described potential negative effects as follows: \*\*\*.

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<sup>6</sup> In addition to the fact that the average value of all forms of sulfanilic acid generally declined somewhat during the period examined (based in the shipment data submitted by NFC), the change in \*\*\* also contributed to the overall decline in NFC's average unit sales value.

<sup>7</sup> \*\*\*.

<sup>8</sup> As previously noted, NFC's product mix \*\*\* somewhat during the period examined. Accordingly, a variance analysis is not presented.

<sup>9</sup> \*\*\*.

<sup>10</sup> \*\*\*.

<sup>11</sup> NFC's October 26, 2001, response to request for clarification.

## PART VII: THREAT CONSIDERATIONS

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

### THE INDUSTRY IN HUNGARY<sup>1 2</sup>

Data provided by Nitrokemia, the sole producer/exporter of sulfanilic acid in Hungary,<sup>3</sup> are presented in table VII-1. According to the petition, the history of Nitrokemia's involvement with sulfanilic acid "goes back about 20 years ago when \*\*\*."<sup>4</sup> During the past 20 years, Nitrokemia has been the major supplier to \*\*\*.<sup>5</sup> According to the petition, the Nitrokemia plant was designed to produce only refined sulfanilic acid for which there is no "significant" home market inasmuch as there are no producers of paper dyes, food colors, and concrete additives in Hungary.<sup>6</sup> Insofar as Nitrokemia's capacity, the petitioner estimates it to be 4.0 million pounds.<sup>7</sup>

**Table VII-1**

**Sulfanilic acid: Reported Hungarian production capacity, production, shipments, and inventories, 1998-2000, January-June 2000, January-June 2001, and projected 2001-2002**

\* \* \* \* \*

### THE INDUSTRY IN PORTUGAL<sup>8</sup>

Data provided by Quimigal, the lone producer of sulfanilic acid in Portugal, are presented in table VII-2. Quimigal, which began production in 1999, was formerly a state-owned company that was sold to the De Mello Group in 1997.<sup>9</sup> The De Mello Group is a Portuguese conglomerate with holdings in

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<sup>1</sup> Information in this section comes from the petition and from data provided by Nitrokemia. \*\*\*.

<sup>2</sup> Sulfanilic acid from Hungary is not subject to antidumping findings or remedies in any WTO-member countries.

<sup>3</sup> Petition, vol. III, p. 3.

<sup>4</sup> *Id.*

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

<sup>6</sup> *Id.*, and petition, vol. I, p. 11.

<sup>7</sup> Petition, vol. I, p. 11.

<sup>8</sup> Sulfanilic acid from Portugal is not subject to antidumping findings or remedies in any WTO-member countries.

<sup>9</sup> Petition, vol. II, p. 3.

**Table VII-2**

**Sulfanilic acid: Reported Portuguese production capacity, production, shipments, and inventories, 1998-2000, January-June 2000, January-June 2001, and projected 2001-2002**

\* \* \* \* \*

Portuguese chemical, banking, insurance, healthcare, and shipping industries.<sup>10</sup> All of Quimigal's production is refined sulfanilic acid and is sold by Twinstar Chemical, Ltd., a chemical trading company located in the United Kingdom.<sup>11</sup> According to the petition, Quimigal's main business is the production of aniline<sup>12</sup> that is sold primarily to Dow Chemical in Portugal for the production of urethane chemicals.<sup>13</sup>

Quimigal contends that any problems NFC may be experiencing are "properly attributable to non-subject imports from China," rather than imports from Portugal.<sup>14</sup> In this regard, Quimigal cites NFC's own testimony stating (concerning the U.S. market):

". . . the bottom fell out in 1998 when the Chinese dropped the price by more than 25 percent and then dropped it even further the next year. The Department of Commerce applied large retroactive dumping duties against these imports in '98 and '99, and the Chinese imports since have receded from the market."<sup>15</sup>

Insofar as the issue of threat is concerned, Quimigal argues that its exports to the United States will not threaten the U.S. industry and notes that:

"Developments in the European sulfanilic acid market will, in the near term, create a vastly increased demand such that the current U.S. import volume of sulfanilic acid from Portugal will not increase significantly. This will result because in July 2001 the European Commission (EC) initiated antidumping and antisubsidies proceedings against imports into the EC from China and India. These cases are expected to conclude in October 2002 with the imposition of trade measures against Chinese and Indian imports of sulfanilic acid. Just as the effective application of trade remedy laws has protected the U.S. domestic industry from unfairly traded imports from China and India, so will such laws be applied to protect the European market from unfair competition. Any unused production capacity in Portugal, Hungary, and the United States will be competing for the European sulfanilic acid market after the impending departure of the Chinese and Indian products."<sup>16</sup>

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*, pp. 3-4.

<sup>12</sup> Sulfanilic acid is a downstream derivative of aniline.

<sup>13</sup> Petition, vol. II, p. 3. Petitioner states that it was Quimigal's position as an aniline producer that led it to the decision several years ago to also produce sulfanilic acid. *Id.*

<sup>14</sup> Quimigal postconference brief, p. 11.

<sup>15</sup> *Id.*, p. 9.

<sup>16</sup> *Id.*, pp. 13-14.

## **U.S. INVENTORIES OF PRODUCT FROM HUNGARY AND PORTUGAL**

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



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



## INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-426 and 731-TA-984 and 985 (Preliminary)]

### Sulfanilic Acid From Hungary and Portugal

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

**ACTION:** Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation No. 701-TA-426 and antidumping investigations Nos. 731-TA-984 and 985 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Hungary of sulfanilic acid<sup>1</sup> provided for in subheadings 2921.42.22 and 2921.42.90 for the Harmonized Tariff Schedule of the United States that are alleged to be subsidized by the Government of Hungary, and by reason of imports of sulfanilic acid from Hungary and Portugal that are alleged to be sold in

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

the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach preliminary determinations in countervailing duty and antidumping investigations in 45 days, or in this case by November 13, 2001. The Commission's views are due at Commerce within five business days thereafter, or by November 20, 2001.

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

**EFFECTIVE DATE:** September 28, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jim McClure (202-205-3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>.

#### SUPPLEMENTARY INFORMATION:

**Background.**—These investigations are being instituted in response to a petition filed on September 28, 2001, by National Ford Chemical Co. of Fort Mill, SC.

**Participation in the investigations and public service list.**—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the *Federal Register*. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations

upon the expiration of the period for filing entries of appearance.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the *Federal Register*. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference.**—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 18, 2001, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202-205-3191) not later than October 16, 2001, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written submissions.**—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 23, 2001, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and

a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 1, 2001.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01-24987 Filed 10-4-01; 8:45 am]

BILLING CODE 7020-62-M

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**DEPARTMENT OF COMMERCE****International Trade Administration****[A-437-804, A-471-806]****Notice of Initiation of Antidumping  
Duty Investigations: Sulfanilic Acid  
From Hungary and Portugal****AGENCY:** Import Administration,  
International Trade Administration,  
Department of Commerce.**ACTION:** Initiation of antidumping duty  
investigations.**SUMMARY:** The Department of Commerce  
is initiating antidumping duty  
investigations to determine whether  
producers or exporters of sulfanilic acid  
from Hungary and Portugal are selling  
sulfanilic acid to the United States at  
less than fair value.**EFFECTIVE DATE:** October 26, 2001.**FOR FURTHER INFORMATION CONTACT:**  
Jarrod Goldfeder at (202) 482-0189 or  
John Brinkmann at (202) 482-4126,  
Import Administration, International  
Trade Administration, U.S. Department  
of Commerce, 14th Street and  
Constitution Avenue, NW., Washington,  
DC 20230.**Initiation of Investigations***The Applicable Statute and Regulations*

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

*The Petitions*

On September 28, 2001, the Department received petitions filed in proper form by Nation Ford Chemical Company ("the petitioner"). The Department received supplemental

information to the petitions on October 9 and 12, 2001.

In accordance with section 732(b)(1) of the Act, the petitioner alleges that imports of sulfanilic acid from Hungary and Portugal are, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to each of the antidumping investigations that it is requesting the Department to initiate. *See infra*, "Determination of Industry Support for the Petition."

#### Scope of Investigations

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

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

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

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

Although the HTS subheadings are provided for convenience and customs purposes, the written description of the

scope of these investigations is dispositive.

This scope is identical to the scope of the antidumping duty order on Sulfanilic Acid from the People's Republic of China. *See Antidumping Duty Order: Sulfanilic Acid from the People's Republic of China*, 57 FR 37524 (August 19, 1992) (as currently reflected in *Sulfanilic Acid from the People's Republic of China; Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 66 FR 47003 (September 10, 2001)). Nevertheless, during our review of the petition, we discussed the scope with the petitioner to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit ("CRU") at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determinations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also

determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law. *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the *Scope of Investigation* section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

The Department has determined that the petitions contain adequate evidence of industry support; therefore, polling is unnecessary. *See Initiation Checklist* for each country at Industry Support. Information on the record demonstrates that the producer who supports the petitions account for more than 50 percent of the production of the domestic like product. Additionally, no interested party pursuant to section 771(9)(A), (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that these petitions are filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

#### Initiation Standard for Cost Investigations

Pursuant to section 773(b) of the Act, the petitioner provided information demonstrating reasonable grounds to

believe or suspect that sales in the comparison markets for Hungary and Portugal were made at prices below the cost of production ("COP") and, accordingly, requested that the Department conduct country-wide sales-below-COP investigations in connection with these investigations. The Statement of Administrative Action ("SAA"), submitted to the Congress in connection with the interpretation and application of the URAA, states that an allegation of sales below COP need not be specific to individual exporters or producers. See H.R. Doc. No. 103-316, 103d Cong., 2d Sess. 833 (1994). The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that new section 773(b)(2)(A) of the Act retains the requirement that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the comparison market in question are at below-cost prices. *Id.* We have analyzed the country-specific allegations as described below.

#### *Export Price ("EP") and Normal Value ("NV")*

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. A more detailed description of these allegations is provided in the *Initiation Checklist* for each country. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, as appropriate.

#### **Hungary**

##### *EP*

The petitioner claims that one producer, Nitrokemia 2000 Co. ("Nitrokemia"), accounts for all of the sulfanilic acid production in Hungary and, accordingly, all of the sulfanilic acid products exported to the United States from Hungary. The petitioner provided pricing and cost information for this producer. According to the petitioner, Nitrokemia sells sulfanilic

acid directly to unaffiliated U.S. customers. For Nitrokemia, the petitioner based EP on the average U.S. Customs values classifiable under 2921.42.2200 of the HTS, as reported in the ITC's Dataweb (<http://dataweb.usitc.gov>), for the period of July 1, 2000 through June 30, 2001. The petitioner did not make any deductions to this FOB port of exportation price of sulfanilic acid. See *Hungary Initiation Checklist*.

##### *NV*

According to the petitioner, Nitrokemia has no home market for sulfanilic acid and, therefore, it was unable to obtain price information for sales in the home market. The Department confirmed with the U.S. Commercial Service in Budapest, Hungary ("Commercial Service Budapest") that there were no other producers of sulfanilic acid in Hungary, nor were there any known Hungarian industries which utilized commercial quantities of sulfanilic acid. See *Hungary Initiation Checklist*. Therefore, the petitioner turned to third-country sales for purposes of calculating NV. For a third-country market, the petitioner selected Germany because, based on the Hungarian export statistics, Germany is the largest export market for Nitrokemia. After examining this evidence, we found the petitioner's selection of Germany as the comparison market to be reasonable because it met the criteria for viable third-country sales pursuant to section 773(a)(1)(B)(ii) of the Act.

The petitioner used Hungarian export statistics to determine third-country prices in Germany. These export statistics pertained to a basket category, aniline derivatives, in which sulfanilic acid is included. The petitioner presented evidence that Nitrokemia is the only producer of aniline derivatives in Hungary and that this basket category provides the best approximation of Nitrokemia's sulfanilic acid exports. We confirmed with the Commercial Service Budapest that sulfanilic acid falls under the Hungarian basket category of HS #2921.42, aniline salts and derivatives, and that the volume and value of exports in the Hungarian export statistics are maintained on a DAF ("delivered to frontier") basis. Furthermore, from the description of this Hungarian basket category and discussions with the Commercial Service Budapest, we found that these products are comparable to the products exported to the United States which served as the basis for EP. The petitioner did not make any deductions to the comparison market price.

#### *Price-to-CV Comparisons*

The petitioner provided information demonstrating reasonable grounds to believe or suspect that sales of sulfanilic acid in the comparison market (Germany) were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation in this country. See section 773(b)(2)(A) of the Act.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing ("COM"), selling, general, and administrative expenses, including financial expenses ("SG&A"), and packing. The petitioner calculated COM based on the petitioner's own factors of production to estimate the cost in Hungary. The petitioner valued raw materials (*i.e.*, natural gas, electricity, activated carbon, aniline, sulfuric acid, caustic soda, and hydrochloric acid) using Hungarian values obtained from a market research report prepared by the Commercial Service Budapest. The petitioner relied upon Nitrokemia's 2000 annual report to estimate labor cost as well as SG&A and financial expenses. The petitioner relied upon its own factory overhead percentage, claiming that Nitrokemia's annual report did not provide sufficient detail for this purpose.

Based upon the comparison of the prices of the foreign like product in the comparison market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, in the event that we determine that Germany is the appropriate market upon which to base NV, we will conduct a COP investigation.

Because the comparison-market price was below the COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, the petitioner based NV for sales in the comparison market on CV. The petitioner calculated CV using the same COM, SG&A and financial expenses used to compute comparison market costs. Consistent with section 773(e)(2) of the Act, the petitioner included in CV an amount for profit. For profit, the petitioner relied upon its own financial experience inasmuch as Nitrokemia reported a negative profit for 2000. The petitioner did not make any other adjustments to CV for comparisons to EP.

Based upon the comparison of CV to EP, as adjusted by the Department (see *Hungary Initiation Checklist*), the

petitioner calculated estimated dumping margins ranging from 43.52 to 45.14 percent. *See Hungary Initiation Checklist.*

#### Portugal

##### EP

The petitioner claims that one producer, Quimigal S.A. ("Quimigal"), accounts for all of the sulfanilic acid production in Portugal and, accordingly, all of the sulfanilic acid products exported to the United States from Portugal. The petitioner provided pricing and cost information for this producer. According to the petitioner, Quimigal sells its product through an unaffiliated reseller in the United Kingdom ("UK") to unaffiliated U.S. customers. For Quimigal, the petitioner based EP on U.S. Customs values classifiable under 2921.42.2200 of the HTS, as reported in the ITC's Dataweb (<http://dataweb.usitc.gov>) for the period of July 1, 2000 through June 30, 2001. The petitioner adjusted this FOB port of exportation price by deducting an amount for gross profit realized on the transaction by the unaffiliated UK reseller. No further adjustments were made by the petitioner.

While the petitioner provided some support for this adjustment, we have adopted the more conservative approach of using Portuguese export statistics to measure EP. This approach should avoid any inflation of the U.S. prices as reported in U.S. import statistics due to the reseller's markup, without attempting to quantify the markup. *See Portugal Initiation Checklist* for a complete discussion of the changes we made to the EP. These export statistics pertained to a basket category, aniline derivatives, in which sulfanilic acid is included. The petitioner presented evidence that Quimigal is the only producer of aniline derivatives in Portugal and that this basket category provides the best approximation of Quimigal's sulfanilic acid exports. The Portuguese export statistics were already in U.S. dollars, so there was no need to perform any conversions.

##### NV

According to the petitioner, Quimigal has no home market for sulfanilic acid and, therefore, it was unable to obtain price information for sales in the home market. Therefore, the petitioner turned to third-country sales for purposes of calculating NV. For third-country markets, the petitioner selected Spain, the UK, and Pakistan. After examining the evidence, we find that the UK is the most reasonable comparison market because, based on the Portuguese export

statistics, the UK is the largest export market for Quimigal and because it meets the criteria for viable third-country sales pursuant to section 773(a)(1)(B)(ii) of the Act. *See Portugal Initiation Checklist.*

##### Price-to-CV Comparisons

According to the petitioner, the per-unit prices for the comparison market, calculated using Portuguese export statistics, are below Quimigal's estimated cost of production. Therefore, the petitioner requested that the Department conduct a country-wide sales-below-cost investigation in the comparison market. *See* section 773(b)(2)(A) of the Act.

Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A expenses (which include financial expenses), and packing. Because Quimigal also produces aniline, a major input in the production of sulfanilic acid, the petitioner included estimated costs for Quimigal's aniline production in its overall calculation of COP.

As an estimation of the cost of aniline production in Portugal, the petitioner calculated Quimigal's COM for aniline based on a Stanford Research Institute ("SRI") report<sup>1</sup> of the estimated cost of producing aniline in Germany. The petitioner valued raw materials using the same research report except in the case of benzene, where the petitioner used prices from the Weekly DeWitte Newsletter for Benzene and Derivatives, and in the case of nitric acid and hydrogen, where the petitioner used quotes taken from suppliers to a European producer of sulfanilic acid.

To calculate Quimigal's COM for sulfanilic acid, the petitioner used its own factors of production to estimate the cost in Portugal. The petitioner valued raw materials from various sources. Sulfuric acid and activated carbon were valued based on quotes and invoices obtained from the European producer. Labor, natural gas and electricity were valued based on Portuguese values obtained from market research performed by the U.S. Commercial Service in Lisbon, Portugal. The petitioner was unable to obtain Quimigal's financial statements for purposes of deriving factory overhead, SG&A, and interest expense. Consequently, the petitioner relied upon its own experience for SG&A and interest expense, while factory overhead was calculated using the SRI report, which we found resulted in a more conservative percentage than if the

petitioner had relied upon its own experience.

Based upon the comparison of the prices of the foreign like product in the comparison market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, in the event that we determine that the UK is the appropriate market upon which to base NV, we will conduct a COP investigation.

Because the comparison-market prices were below the COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, the petitioner based NV for sales in the comparison market on CV. The petitioner calculated CV using the same COM, SG&A and financial expenses it used to compute comparison market costs. Consistent with section 773(e)(2) of the Act, the petitioner included in CV an amount for profit. For profit, the petitioner relied upon its own financial experience for the year for 2000 because it was unable to obtain Quimigal's financial statements. The petitioner did not make any other adjustments to CV for comparisons to EP.

Based upon the comparison of CV to EP, as adjusted by the Department, the estimated dumping margin is 91.82 percent.

##### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of sulfanilic acid from Hungary and Portugal are being, or are likely to be, sold at less than fair value.

##### Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise. The petitioner contends that the industry's injured condition is evident in the declining trends in employment, domestic prices, production, net sales volume and value, and inventory. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (*see Hungary Initiation Checklist and Portugal Initiation Checklist*). A-8

<sup>1</sup> This report is part of SRI's Process Economics Program. It was provided to NFC on a confidential basis.

*Initiation of Antidumping Investigations*

Based upon our examination of the petitions on sulfanilic acid, we have found that they meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of sulfanilic acid from Hungary and Portugal are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(c)(1), we will make our preliminary determinations no later than 140 days after the date of this initiation.

*Distribution of Copies of the Petitions*

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each respective petition has been provided to the representatives of the governments of Hungary and Portugal. We will attempt to provide a copy of the public version of each petition to each exporter named in the petitions, as provided for under section 351.203(c)(2) of the Department's regulations.

*ITC Notification*

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

*Preliminary Determinations by the ITC*

The ITC will determine no later than November 13, 2001, whether there is a reasonable indication that imports of sulfanilic acid from Hungary or Portugal are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 18, 2001.

Faryar Shirzad,

*Assistant Secretary for Import  
Administration.*

[FR Doc. 01-26941 Filed 10-25-01; 8:45 am]

BILLING CODE 3510-DS-P



**DEPARTMENT OF COMMERCE****International Trade Administration****[C-437-805]****Notice of Initiation of Countervailing Duty Investigation: Sulfanilic Acid From Hungary****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**ACTION:** Initiation of countervailing duty investigation.**SUMMARY:** The Department of Commerce is initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of sulfanilic acid from Hungary receive countervailable subsidies.**EFFECTIVE DATE:** October 26, 2001.**FOR FURTHER INFORMATION CONTACT:** Melani Miller, AD/CVD Enforcement, Group I, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0116.**SUPPLEMENTARY INFORMATION:****The Applicable Statute and Regulations**

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

**The Petition**

On September 28, 2001, the Department received a petition filed in proper form by Nation Ford Chemical Company ("the petitioner"). The Department received supplemental information to the petition on October 9 and 12, 2001.

In accordance with section 702(b)(1) of the Act, the petitioner alleges that manufacturers, producers, or exporters of sulfanilic acid, the subject merchandise, from Hungary receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section

771(9)(C) of the Act and has demonstrated sufficient industry support. See *Determination of Industry Support for the Petition* section, below.

#### Scope of Investigation

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

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

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

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

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

This scope is identical to the scope of the antidumping duty order on Sulfanilic Acid from the People's Republic of China. See *Antidumping Duty Order: Sulfanilic Acid from the People's Republic of China*, 57 FR 37524 (August 19, 1992) (as currently reflected in *Sulfanilic Acid from the People's Republic of China; Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 66 FR 47003 (September 10, 2001)). Nevertheless, during our review of the petition, we discussed the scope with the petitioner to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (see *Antidumping Duties; Countervailing*

*Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit ("CRU") at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

#### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of Hungary ("GOH") for consultations with respect to the petition filed in this proceeding. The Department held consultations with the GOH on October 9, 2001. The points raised in the consultations are described in the Memorandum to the File, "CVD Consultations with Officials from the Government of Hungary," dated October 9, 2001, which is on file in the Department's CRU, Room B-099 of the main Department of Commerce building.

#### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same

statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law. See *Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the *Scope of Investigation* section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

The Department has determined that the petition contains adequate evidence of industry support; therefore, polling is unnecessary. See *Industry Support* section from the October 18, 2001 *Initiation Checklist*, which is on file in the Department's CRU. Information on the record demonstrates that the producer who supports the petition accounts for more than 50 percent of the production of the domestic like product. Additionally, no interested party pursuant to section 771(b)(A), (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

#### Injury Test

Because Hungary is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to this investigation. Accordingly, the ITC must determine whether imports of the

subject merchandise from Hungary materially injure, or threaten material injury to, a U.S. industry.

#### **Allegations and Evidence of Material Injury and Causation**

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise. The petitioner contends that the industry's injured condition is evident in the declining trends in employment, domestic prices, production, and net sales volume and value. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (*see Initiation Checklist*).

#### **Allegations of Subsidies**

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

#### **Initiation of Countervailing Duty Investigation**

The Department has examined the countervailing duty petition on sulfanilic acid from Hungary and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of sulfanilic acid from Hungary receive countervailable subsidies.

##### **A. Change in Ownership**

The petitioner alleges that, in November 1997, Nitrokemia, a government-owned entity, was split into two parts: Nitrokemia 2000, which received certain of the former Nitrokemia's assets including the sulfanilic acid production facilities, and Nitrokemia Rt., which received the remainder of the former Nitrokemia's assets and the former Nitrokemia's environmental liabilities. According to its web site, Nitrokemia 2000 continued to be a fully-owned subsidiary of the

former Nitrokemia (now Nitrokemia Rt.) until May 1998, at which point it became an independent stock company owned by the State Privatization Company. Subsequently, in November 2000, Nitrokemia 2000 was privatized.

The petitioner alleges that the current Nitrokemia 2000 is the same "person" as it was prior to its privatization. Thus, consistent with the Department's recent *Final Results of Redetermination Pursuant to Court Remand in Acciai Speciali Terni S.p.A. v. United States*, et al., (Ct. No. 99-06-00364) (December 19, 2000), the past countervailable subsidies received by pre-privatized Nitrokemia 2000 would continue to be countervailable after the change in ownership. We will examine this issue in the course of the investigation to determine whether any non-recurring subsidies provided to Nitrokemia 2000 prior to its privatization should be attributed to Nitrokemia 2000 in our period of investigation.

##### **B. Creditworthiness**

The petitioner alleges that the former Nitrokemia, Nitrokemia Rt., and Nitrokemia 2000 were uncreditworthy from 1997 through 2000. To support its allegation, the petitioner states that the financial statements for all three companies show that they have all been unprofitable since 1997, and that these companies could not possibly borrow money without government guarantees. The petitioner further claims that no company with such substantial environmental liabilities (*see Programs* section, below, as well as the *Initiation Checklist*) would be able to successfully borrow funds from any commercial institution. As additional support, the petitioner provided a current Dun and Bradstreet report for Nitrokemia 2000, as well as a financial analysis derived from Nitrokemia 2000's financial statement for 2000.

With respect to the petitioner's uncreditworthiness allegations for 1999 and 2000, as noted below in the *Programs* section, we are not initiating an investigation of any alleged subsidies bestowed in those years. Thus, we are not initiating a creditworthiness investigation for 1999 and 2000. If, however, in the course of this investigation we discover that any non-recurring subsidies, loans, or loan guarantees were bestowed during 1999 and 2000, we will consider any new uncreditworthiness allegations made at that time.

With respect to 1997 and 1998, which is the time period during which the former Nitrokemia was split and the contingent environmental liabilities were assigned to Nitrokemia Rt. (*see*

*Programs* section, below, as well as the *Initiation Checklist*), the petitioner must establish a reasonable basis to believe or suspect that a company was uncreditworthy in each of these years in order for the Department to investigate the company's creditworthiness. Pursuant to section 351.505(a)(4)(i) of the Department's regulations, the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources.

In this instance, the only evidence provided by the petitioner relating to these years was the companies' financial statements which showed losses. While a loss in a particular year may provide some information about a company's financial position, the Department looks not only to present indicators but also to past indicators of financial health (*see* section 351.505(a)(4)(i)(B) of the Department's regulations) and to present and past indicators of the firm's ability to meet its costs and fixed financial obligations (*see* section 351.505(a)(4)(i)(C) of the Department's regulations). In both the petition and the petitioner's response to the Department's supplemental petition question with respect to the uncreditworthiness allegations, the petitioner did not provide financial ratios to support its creditworthiness argument for 1997 and 1998. Moreover, although the petitioner provided the financial statement for old Nitrokemia for 1997 from which 1997 financial ratios could be derived, the petitioner did not provide any information or financial statements that could be used to derive financial ratios for any of the preceding years. Thus, because the petitioner did not provide sufficient relevant evidence to support a reasonable basis to believe or suspect that these companies were uncreditworthy in 1997 and 1998, we are also not initiating a creditworthiness investigation for these years.

##### **C. Programs**

We are including in our investigation the following program alleged in the petition to have provided a countervailable subsidy to producers and exporters of the subject merchandise in Hungary:

##### **Forgiveness of Environmental Liabilities**

We are not including in our investigation at this time the following programs alleged to benefit producers and exporters of the subject merchandise in Hungary:

**1. Forgiveness of Short-Term Liabilities.** The petitioner alleges that, because the combined short-term liabilities listed on the 1998 financial statements from Nitrokemia Rt. and Nitrokemia 2000 are significantly smaller than the short-term liabilities listed on the former Nitrokemia's 1997 financial statements, the GOH forgave some of the former Nitrokemia's short-term liabilities when the company was split.

The petitioner has not provided sufficient evidence that any short-term debts were actually forgiven by the GOH. Although the combined short-term debts were less than the short-term debts from the former Nitrokemia's financial statements, the petitioner has provided no evidence that the short-term debt was not simply paid off or converted to long-term debt. Thus, lacking sufficient evidence of a financial contribution or a benefit from the GOH at this time, we are not including this program in our investigation.

**2. Provision of Natural Gas for Less Than Adequate Remuneration.** The petitioner alleges that the GOH subsidizes the price of natural gas to the Hungarian industry because natural gas prices in Hungary are significantly lower than they are in the rest of the world. Without this alleged subsidy, the petitioner states that the cost of natural gas for Nitrokemia 2000's sulfanilic acid production would be one percent higher.

The petitioner has provided no evidence to support its claim that the GOH provided natural gas for less than adequate remuneration to a specific enterprise or industry in Hungary. The petitioner admits that it was not able to locate any information that this alleged provision of low-priced natural gas was not generally available in Hungary. Thus, because no information was provided in support of the specificity claim, at this time we are not including this program in our investigation.

#### **Distribution of Copies of the Petition**

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the GOH. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under section 351.203(c)(2) of the Department's regulations.

#### **ITC Notification**

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

#### **Preliminary Determination by the ITC**

The ITC will determine no later than November 13, 2001, whether there is a reasonable indication that imports of sulfanilic acid from Hungary are causing material injury, or threatening to cause material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 18, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01-26940 Filed 10-25-01; 8:45 am]

**BILLING CODE 3510-09-P**

**APPENDIX B**

**CONFERENCE WITNESSES**



## CALENDAR OF THE PUBLIC CONFERENCE

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

Subject: Sulfanilic acid from Hungary and Portugal  
Invs. Nos.: 701-TA-426 and 731-TA-984 and 985 (Preliminary)  
Date and Time: October 18, 2001 - 9:30 a.m.

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

### **In Support of the Imposition of Countervailing and Antidumping Duties:**

Nation Ford Chemical Company  
Fort Mill, SC

John A. Dickson, CEO, Nation Ford Chemical Company  
Jay Dickson, Vice President of Operations, Nation Ford Chemical Company

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

Barnes, Richardson, and Colburn  
Washington, DC  
on behalf of

Clariant Corporation

Robert L. Beck, Purchasing Manager, Clariant Corporation

Robert L. Shapiro )-OF COUNSEL

Baker & McKenzie  
Washington, DC  
on behalf of

Quimigal-Quimica de Portugal, S.A.

Daniel Crosby )-OF COUNSEL



**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**

**Sulfanilic acid: Summary data concerning the U.S. market, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

**Table C-2**

**Technical sulfanilic acid: Reported U.S. production capacity, production, capacity utilization, shipments, and end-of-period inventories, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

**Table C-3**

**Refined sulfanilic acid: Reported U.S. production capacity, production, capacity utilization, shipments, and end-of-period inventories, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

**Table C-4**

**Sodium sulfanilate: Reported U.S. production capacity, production, capacity utilization, shipments, and end-of-period inventories, 1998-2000, January-June 2000, and January-June 2001**

\* \* \* \* \*

