

**COMMISSION REGULATION (EC) No 575/2002
of 3 March 2002**

imposing a provisional anti-dumping duty on imports of sulphanilic acid originating in the People's Republic of China and in India

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 2238/2000⁽²⁾ and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 6 July 2001, the Commission announced, by a notice ('notice of initiation') published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of sulphanilic acid originating in the People's Republic of China ('PRC') and India. A parallel anti-subsidy investigation concerning imports of the same product originating in India was initiated on the same date⁽⁴⁾.
- (2) The anti-dumping proceeding was initiated as a result of a complaint lodged in May 2001 by Sorochimie Chimie Fine, representing a major proportion, in the current case more than 65 %, of the Community production of sulphanilic acid. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an anti-dumping proceeding.
- (3) The Commission officially advised the exporting producers and importers/traders known to be concerned as well their associations, the representatives of the exporting countries concerned, users, suppliers and Community producers. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (4) A number of exporting producers in the countries concerned, as well as Community producers, Community users and a trader made their views known in writing. All parties who so requested within the above time limit and showed that there were particular reasons

why they should be heard were granted the opportunity to be heard.

- (5) In view of the apparent large number of exporting producers of the product concerned in the countries subject to the investigation, known from the complaint, the application of sampling for the investigation of dumping was envisaged in the notice of initiation.
- (6) However, only a limited number of exporting producers from the PRC and India made themselves known and provided the information requested in the notice of initiation. Therefore, sampling was not considered necessary for either of the countries concerned.
- (7) The Commission sent questionnaires to all parties known to be concerned and to all other companies who made themselves known within the deadlines set in the notice of initiation. Replies were received from two Community producers, one Indian exporting producer and its related importer in the Community, one Chinese exporting producer, one Chinese trading company and one producer in a market economy third country. The Commission also received replies from seven users, one supplier and one trader providing information which was sufficiently complete and representative to use in the assessment of Community interest. Several companies chose to submit only comments in preference to completing the Commission's questionnaires. These comments have been taken into account where appropriate.
- (8) In order to allow exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual treatment, if they so wished, the Commission sent to the Chinese companies known to be concerned a market economy status and an individual treatment claim form. One company requested MET pursuant to Article 2(7)(b) of Regulation (EC) No 384/96 ('the basic Regulation') or individual treatment should the investigation establish that it did not meet the conditions for MET.
- (9) The Commission sought and verified all information it deemed necessary for the purpose of a determination of dumping, injury and Community interest. Verification visits were carried out at the premises of the following companies:

(a) *Community producers*

- Sorochimie Chimie Fine, Givet, France,
- Quimigal SA, Estarreja, Portugal;

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ C 190, 6.7.2001, p. 2.

⁽⁴⁾ OJ C 190, 6.7.2001, p. 5.

(b) *Exporting producer in India*

— Kokan Synthetics and Chemical Private Ltd, Dapoli, Ratnagiri, Maharashtra;

(c) *Market economy third country producer*

— Nation Ford Chemical Company, South Carolina, USA;

(d) *Users*

— Bayer AG, Leverkusen, Germany.

- (10) The investigation of dumping and injury covered the period from 1 July 2000 to 30 June 2001 ('IP'). The examination of trends relevant for the assessment of injury covered the period from January 1997 to the end of the IP ('analysis period').

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (11) The product under consideration is sulphanilic acid. There are basically two grades of sulphanilic acid which are determined according to their purity: a technical grade and a purified grade. In addition, the purified grade is sometimes commercialised as a salt of sulphanilic acid. Technical and purified acid share the same basic chemical characteristics in terms of chemical formula ($C_6H_7NO_3S$) and molecular structure although they differ slightly in terms of purity (the range of purity may start from 96 % for the technical grade and from 99 % for the purified grade and for the acid content of its salt; the major impurities being residual aniline and alkali insoluble materials ranging from 2 % to less than 0,1 %). Technical and purified grades of sulphanilic acid are available as dry free flowing powders. The salt of purified sulphanilic acid is sold in powder or solution form according to customer requirements. Sulphanilic acid is used as raw material in the production of optical brighteners, concrete additives, food colorants and speciality dyes. Although there are different uses of sulphanilic acid, all grades and forms are perceived by users to be reasonably substitutable, are used interchangeably in most applications and should be, therefore, treated for the purpose of the present proceeding as one single product.

2. Like product

- (12) The product exported to the Community from the PRC and India, the product sold domestically in India as well as the one manufactured and sold in the Community by the Community producers were found to have basically the same chemical characteristics as well as the same uses and are therefore considered as like products within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. India

1.1. Normal value

- (13) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the domestic sales of sulphanilic acid were representative, i.e. whether the total volume of such sales was at least 5 % of the total export sales volume to the Community. The investigation showed that the domestic sales were representative.
- (14) The Commission subsequently identified those product types of sulphanilic acid sold domestically as being identical or directly comparable with the types sold for export to the Community when they were of the same grade and form.
- (15) For each product type sold by the exporting producer on its domestic market which was found to be directly comparable with the type sold for export to the Community it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular product type were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable product type exported to the Community. The investigation showed that out of three exported types, two were sold in representative quantities on the domestic market.
- (16) The Commission subsequently examined whether the domestic sales of the company could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation.
- (17) This was done by establishing the proportion of domestic sales to independent customers, of each of the two representative types, not sold at a loss on the domestic market during the IP. For these product types, since more than 80 % by volume was not sold at a loss on the domestic market, and the weighted average sales price was equal to or higher than the weighted average production cost, normal value, by product type, was calculated as the weighted average of all domestic sales prices, paid or payable by independent customers, of the type in question, as set out in Article 2(1) of the basic Regulation.
- (18) For the product type which was not sold in representative quantities on the domestic market, normal value had to be constructed. In order to determine the constructed normal value, the cooperating exporting producer's own sales, general and administrative (SG&A) costs incurred and weighted average profit realised on domestic sales of the like product, in the ordinary course of trade, during the IP, were added to the average cost of manufacturing during the IP, pursuant to Article 2(6) of the basic Regulation.

1.2. *Export price*

- (19) The investigation showed that the exports of the Indian exporting producer were made both to unrelated and to related customers in the Community.
- (20) Therefore, for those sales made to unrelated customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, on the basis of export prices actually paid or payable.
- (21) For sales made via its related importer, the export price was constructed on the basis of the resale prices to independent customers. Adjustments were made for all costs incurred between importation and resale by that importer, including SG&A expenses, and a reasonable profit margin, in accordance with Article 2(9) of the basic Regulation.

1.3. *Comparison*

- (22) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.
- (23) Accordingly, allowances for differences in transport costs, ocean freight and insurance costs, handling, loading and ancillary costs, packing costs, credit costs, commissions and discounts have been granted where applicable and justified.
- (24) The company claimed a duty drawback adjustment for notional duties that would have been paid for imports of the principle raw material (aniline) had the company used imported aniline for its entire production of sulphanilic acid sold on the domestic market. This claim was rejected because it was based on notional assumptions and, as such, no amounts of duty were borne by the material (aniline) incorporated in the like product, when intended for consumption in India.
- (25) The company also claimed notional quantity discounts with the argument that, had its domestic customers purchased the same quantities as the customers in the export market, then its domestic customers would qualify for a discount in-built in the price which is given to Community customers. This claim could not be accepted under the provisions of Article 2(10)(c) of the basic Regulation since quantity discounts can only be considered for an adjustment when they are actually given for differences in quantities and not on the basis of notional assumptions. It was, therefore, examined under the provisions of Article 2(10)(k) of the same

Regulation ('Other factors'), where it was found that the pattern claimed by the company regarding the in-built discounts was not consistently applied to its sales on the domestic market. Indeed, it was established that smaller quantities and/or orders were sold occasionally at lower prices than larger quantity/orders. On this basis, since it was not demonstrated that domestic customers pay consistently different prices because of different quantities purchased, this adjustment could not be accepted.

- (26) The company claimed credit costs for a number of its domestic sales transactions that were based on verbal agreements. However, these credit costs could not be accepted since the company was not able to provide proof of any agreements concerning the payment terms of these sales. Moreover, for the remaining domestic sales transactions for which written sales orders/contracts defined their payment terms, the credit costs that were accepted were adjusted downwards. This was because the company had calculated the credit costs on the total invoice value (including indirect taxes such as sales tax and excise duty) and not on the basis of the net invoice value. In this respect, it was found that the payment of the sales tax which the company collected from its customers was deferred, interest free, for a period of 12 years and, thus, the claim of credit costs associated with the sales tax was unfounded. Secondly, the amount of excise duties, which was a modified VAT system ('CENVAT'), paid to the tax authorities was calculated on the balance between the CENVAT on goods purchased and the same tax on sales to customers. Of this amount, the CENVAT paid for sales of the product under consideration could not be identified separately. It was therefore concluded that credit (finance) costs for CENVAT, if any, should be considered as normal operational overheads and that no adjustment should be made concerning such costs.

1.4. *Dumping margin*

- (27) According to Article 2(11) of the basic Regulation, the adjusted weighted average normal value by product type was compared with the adjusted weighted average export price, as determined above.
- (28) On this basis, the provisional weighted average dumping margin expressed as a percentage to the cif Community frontier price duty unpaid is 24,6 %.
- (29) Since the level of cooperation was high, the residual provisional margin was set at the same level as the one established for the cooperating company, i.e. 24,6 %.

2. China

2.1. Normal value

2.1.1. Market economy treatment ('MET')

- (30) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value should be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c), i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the product concerned.
- (31) The sole Chinese cooperating producer requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim for exporting producers.
- (32) The claim was rejected because it was not submitted by the whole group involved in the production and sale of the product but only by one company within the group. Therefore, it was not possible to verify whether the group as a whole merited market economy status. Moreover, the claimant company was subject to restrictions in its buying and selling activities. In fact, the company was not licensed to import nor to export which meant that decisions regarding prices, costs and inputs were not taken in response to market signals reflecting supply and demand or without significant State interference (see also recital 37 below).
- (33) Consequently, after a specific consultation of the Advisory Committee, the applicant company was informed that its MET application could not be granted.

2.1.2. Analogue country

- (34) According to Article 2(7) of the basic Regulation, for companies to which MET could not be granted, normal value has to be established on the basis of the price or constructed value in an analogue country. In the notice of initiation, the Commission indicated the use of the United States of America ('USA'), which was also the proposal made in the complaint, as an appropriate analogue country for the purpose of establishing normal value for the PRC. However, after investigating this possibility the Commission decided that it was more appropriate to use India as an analogue country, due to the similarities in the market conditions of this country and those of the PRC. It also noted that this choice was suggested by the cooperating Chinese exporter who objected to the initial proposal indicated in the notice of initiation.

2.1.3. Determination of normal value in the analogue country

- (35) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the cooperating exporting producer in China was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of the prices paid or payable on the domestic market of India for products comparable to those sold by the Chinese exporting producer to the Community.

2.2. Export price

2.2.1. Individual treatment

- (36) The company that was not granted MET applied for individual treatment, i.e. the determination of an individual dumping margin on the basis of its individual export prices. The Commission verified whether this company enjoyed, both in fact and in law, the necessary degree of independence from the State.
- (37) In this respect, it was established that the company was not licensed to export and that all its exports were made via a trading company controlled by state authorities. It was, therefore, concluded that the applicant company did not meet the necessary requirements for individual treatment.

2.2.2. Determination of export price

- (38) All export sales of the cooperating Chinese producer to the Community, which were made via the trading company, were made directly to independent customers in the Community and the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of the prices paid or payable.
- (39) The comparison of the data concerning exports to the Community provided by the cooperating Chinese exporter and the import volume as determined in recital 47 below, indicated that these exports represented less than 20 % of total Chinese imports into the Community during the IP. Thus, the export price for non-cooperating exporting producers had to be based on facts available in accordance with Article 18 of the basic Regulation. In this respect, in order not to reward non-cooperation, it was considered appropriate to use the lowest export prices established for certain representative transactions of the cooperating exporter.

2.3. Comparison

- (40) For the purposes of a fair comparison by product type between the normal value at fob Indian frontier level and the export price at fob Chinese frontier level, due allowance was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made in respect of transport and insurance costs in accordance with Article 2(10) of the basic Regulation.

2.4. Dumping margin

- (41) In the absence of individual treatment being granted to the sole cooperating exporter, an overall dumping margin was calculated for the whole of the PRC. The comparison of normal value and export price revealed the existence of dumping with regard to imports of the product concerned originating in the PRC, the dumping margin being equal to the amount by which the normal value exceeded the export price to the Community.
- (42) The provisional dumping margin for imports originating in the PRC expressed as a percentage of the cif price at Community frontier level, duty unpaid, is 21,0 %.

- the total verified sales of the Community industry on the Community market,
- the verified responses of former Community producers of the product concerned which cooperated in the investigation and
- evidence contained in the complaint for other former producers which did not cooperate.

- (46) Community consumption of sulphanilic acid in the IP was approximately 11 000 tonnes. This figure is some 13 % higher than at the start of the analysis period. After two years of relative stability in 1997 and 1998, there was a slight decline in consumption in 1999 before a clear upturn in 2000 and the IP.

D. COMMUNITY INDUSTRY

- (43) Sulphanilic acid is manufactured in the Community by two companies: the complainant, Sorochimie Chimie Fine ('Sorochimie') and Quimigal S.A. ('Quimigal'). It should be noted that Sorochimie manufactured sulphanilic acid throughout the analysis period. Quimigal, however, only began to produce and sell sulphanilic acid in 1999. There were several other Community producers of sulphanilic acid active on the market at the start of the analysis period. However, all these other producers ceased production during the period either to focus on their other activities or to source sulphanilic acid from external sources. They have therefore not been taken into account when determining 'Community production'. It should be borne in mind that these important developments on the Community market allowed both Sorochimie and Quimigal to increase their production and sales.
- (44) Although Quimigal is not a party to the complaint, it has expressed its support for the proceeding and fully cooperated in the investigation. It is therefore considered that Quimigal and Sorochimie fulfil the requirements of Article 5(4) of the basic Regulation, since they accounted for 100 % of the Community production of sulphanilic acid on the date the proceeding was initiated. They are therefore provisionally deemed to constitute the 'Community industry' within the meaning of Article 4(1) of the same Regulation and will hereinafter be referred to as such.

E. INJURY

1. Community consumption

- (45) Apparent consumption of sulphanilic acid in the Community was established on the basis of:
- imports of the product concerned into the Community as established according to recital 47 below,

2. Imports into the Community from the countries concerned

2.1. Import data

- (47) The CN heading, under which the product under investigation is currently classified covers a variety of other products. The Commission therefore made use of the best facts available and established figures for both the volumes and prices of imports of sulphanilic acid on the following basis. Data for imports from India were established on the basis of the reply of the cooperating exporting producer to the Commission's questionnaire. The volumes of imports from the PRC and the USA were taken from information contained in the complaint given the low level of cooperation from producers in the PRC and the fact that the sole exporting producer in the USA gave an estimate in confidence of its exports to the Community for the analysis period. The prices of these imports were predominantly derived from Eurostat data with the response of the cooperating Chinese producer to the Commission's questionnaire also being taken into account for the IP only. Information concerning the volume and prices of imports originating in Hungary and Japan was derived by comparing Eurostat data to responses of users to the Commission's questionnaires. With the exception of the countries noted above, the investigation established that there were no imports from other third countries during the analysis period.

2.2. Cumulative assessment of the effects of the imports concerned

- (48) In accordance with Article 3(4) of the basic Regulation, it was examined whether imports from the countries concerned should be assessed cumulatively for the purposes of the determination of injury.

- (49) It was established (see recitals 29 and 42) that the margin of dumping for imports from each country subject to the current investigation was more than *de minimis* as defined in Article 9(3) of the basic Regulation. It was also established that the volume of such imports from each country was not negligible. Imports from India and China had a combined market share of more than 40 % in the IP with imports from China accounting for approximately two-thirds of this figure. The volume of imports from each of the countries concerned increased during the analysis period and their price levels on the Community market during the IP were fairly similar. In addition, the imports concerned competed on the same market as the like product produced by the Community industry and many users in the Community purchased from all three sources in the analysis period.
- (50) For the reasons noted above, it was provisionally concluded that imports originating in India and China should be assessed cumulatively.

3. Volume and prices of the dumped imports

- (51) The volume of the imports concerned increased by more than 150 % during the analysis period from a figure of approximately 1 800 tonnes in 1997 to 4 600 in the IP. They more than doubled their market share during the analysis period from a level of approximately 18 % to more than 40 %.
- (52) The average price of the imports concerned increased by 9 % during the analysis period. They reached their lowest level in 1999.

	1997	1998	1999	2000	IP
Import (tonnes)	1 821	2 856	3 262	3 556	4 662
(indexed)	100	157	179	195	256
Market share (indexed)	100	151	187	186	227
Average cif price ECU/EUR per tonne (indexed)	100	91	86	90	109

3.1. Price undercutting

- (53) For the purposes of analysing price undercutting, the weighted average sales prices per grade of the Community industry to unrelated customers on the Community market were compared to the corresponding weighted average export prices of the imports concerned. The comparison was made after the deduction of rebates and discounts. The prices of the Community industry were adjusted to an ex-works basis. The prices of the imports concerned were on a cif basis with an appropriate adjustment for customs duties and post importation costs.
- (54) On this basis, the level of price undercutting for imports from the PRC was approximately 7 %. In view of the high level of cooperation received from the exporting producer in India, as noted above in recital 29, the level of price undercutting for India as a whole was established on the basis of this company's data at a figure of 13 %. It should be noted the imports concerned exerted a price depressive and suppressive effect on the prices of the Community industry which suffered losses throughout the analysis period.

4. Situation of the Community industry

4.1. Preliminary remarks

- (55) In order to respect confidential business information, it has been necessary to present information concerning the two companies forming the Community industry in an indexed form. In addition, as the second member of the Community industry began production only in 1999, i.e. midway through the analysis period, it has been decided to present its data separately from that of Sorochimie so as to allow a more meaningful analysis of trends. As a result, two indices, both starting at 100, are presented for each indicator with 1997 as the base year for Sorochimie and 1999 as the base year for Quimigal (except in the case of investments which started to be made earlier).
- (56) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry.

4.2. Production, production capacity and capacity utilisation

- (57) The Community industry's level of production in the IP was more than double the level recorded at the start of the analysis period. This reflected an increase of 51 % in Sorochimie's production over the analysis period and the entry of Quimigal onto the market in 1999. The Community industry's production capacity also increased over the analysis period but to a lesser degree than its actual production. The combination of these two factors led to an overall increase in the capacity utilisation rate of the Community industry during the period. Quimigal's capacity utilisation rate increased sharply as it came out of its start-up phase. Both companies achieved a satisfactory level of utilisation of their capacity in the IP.

Indexed		1997	1998	1999	2000	IP
Production (tonnes)	Sorochimie	100	126	125	142	151
	Quimigal	0	0	100	288	348
Capacity (tonnes)	Sorochimie	100	115	115	115	115
	Quimigal	0	0	100	133	133
Increase in capacity utilisation (%)	Sorochimie	100	110	109	124	132
	Quimigal	0	0	100	216	261

4.3. Stocks

- (58) Sorochimie's year-end stock levels were higher in absolute terms at the end of the IP than in 1997. However, when expressed as a percentage of production they decreased over the period (from 15 % to 11 %). Quimigal's stock levels decreased after its entry onto the market so that its stocks represented approximately 5 % of production in the IP. The Community industry's year-end stock levels are not considered to be abnormal for such an industry.

Indexed		1997	1998	1999	2000	IP
Stocks (tonnes)	Sorochimie	100	94	76	69	108
	Quimigal	0	0	100	73	59

4.4. Sales volume, market share and growth

- (59) The sales of the Community industry in the IP were more than 75 % higher than recorded in 1997. It should be borne in mind that part of the increase is due to the appearance of Quimigal on the market in 1999. Considered in isolation, Sorochimie increased its sales on the Community market by nearly 40 % during the analysis period.
- (60) The Community industry increased its share of the Community market by nearly 50 % during the analysis period. The highest market share was recorded in 2000. However, some market share was lost to the dumped imports in the IP as their volume grew at a faster rate than the overall market. Most of the Community industry's increase in market share resulted from the effect of Quimigal's production coming on stream. However, Sorochimie was also able to increase its market share during the analysis period because a number of other producers in the Community withdrew from the market. Both companies, therefore, were able to experience a more rapid growth than consumption. This, however, was done by pushing capacity utilisation to high levels and developing sales of salts as the presence of dumped imports prevented them from fully benefiting from the restructuring of the Community production of sulphanilic acid and implementing their planned capacity expansion (see recital 65).

Indexed		1997	1998	1999	2000	IP
Sales (tonnes)	Sorochimie	100	93	96	135	138
	Quimigal	0	0	100	243	238
Market share (%)	Sorochimie	100	92	103	132	126
	Quimigal	0	0	100	222	202

4.5. Sales prices and costs

- (61) Sorochimie's average selling price decreased by 9 % over the analysis period. There was a sharp decline between 1997 and 1998 before prices began to rise again, albeit very slowly. The development between 1997 and 1998 reflects both a slight fall in the price of aniline (the most important raw material in price terms) as well as the price pressure exerted on the Community market by the dumped imports which increased by over 50 % in volume at this time. Sorochimie's average selling price increased marginally from 1999 onwards as the company was able to take advantage of both an increase in Community consumption and the exit of certain producers from the market. However, this increase was at a lower rate than the increase in the price of aniline, which is the most significant raw material for the production of sulphanilic acid in cost terms. In this way, the level of undercutting established for the imports concerned in the IP demonstrates the price depressing effect they had on the level of Sorochimie's own prices as it was unable to recover the full amount of the increase in its main raw material. Quimigal's average selling price increased at a faster rate than Sorochimie's but it should be borne in mind that the company had to start from a relatively low selling price in 1999 with relatively low sales volume as it attempted to establish itself in the market. In spite of its rising sales price, it was nonetheless unable to cover its full costs of production and remained loss making in the IP.

Indexed		1997	1998	1999	2000	IP
Average sales price (ECU/EUR per tonne)	Sorochimie	100	85	86	87	91
	Quimigal	0	0	100	103	119

4.6. Profitability

- (62) The Community industry was loss making throughout the analysis period, with the most important losses recorded in 2000. It is to be recalled that the imports concerned have been present on the Community market in significant volumes and at low prices since the beginning of the analysis period as demonstrated by their market share of approximately 18 % in 1997 and their prices being between 7 % and 13 % below the prices of the Community industry's prices in the IP. Sorochimie's losses on net sales to unrelated customers in the Community during the IP, when expressed as a percentage of the same sales, were in single digits whilst Quimigal's losses were in double digits. Quimigal's net return on sales include a recalculation of their depreciation on a straight line over a period of 10 years in order not to take into account exceptional start-up costs in the form of accelerated amortisation. Furthermore, as capacity utilisation was fairly high in the IP, no impact of low start-up volumes on unit costs is included in the data examined.
- (63) It is clear that the viability of the Community industry depends on it being able to achieve higher selling prices for its production and thereby put an end to its prolonged loss making period.

4.7. Investments and ability to raise capital

- (64) The table below indicates that the Community industry continued to make investments in its sulphanilic acid activities throughout the analysis period. In the case of Sorochimie, these investments were primarily related to the maintenance of existing capital assets. It should be noted that Quimigal made substantial investments in advance of its start-up in 1999. This company made the decision to enter the sulphanilic acid market several years earlier when prices on the Community market were higher.
- (65) Sorochimie's ability to raise capital has been affected by the dumped imports as investment plans to increase capacity have been deferred since the necessary expenditure could not be justified in the current environment of insufficient returns on sulphanilic acid activities. Quimigal also had to delay its expansion plans because of the current market situation.

Indexed		1997	1998	1999	2000	IP
Investments (ECU/EUR)	Sorochimie	100	39	92	91	81
	Quimigal	100	826	291	100	99

4.8. Return on investments and cash flow

- (66) As the Community industry has been loss making throughout the analysis period, the figure for the return on investments, which expresses the after tax result as a percentage of the average opening and closing net book value of assets employed in the production of sulphanilic acid, has also remained negative.
- (67) Sorochimie was cash generative throughout the analysis period, although only marginally so in 1998, 1999 and 2000. Quimigal was cash generative in the year it commenced sales (1999) but then cash flow became negative in 2000 and the IP.

4.9. Employment, productivity and wages

- (68) The following table shows the development in the number of workers employed in the sulphanilic activities of both companies forming the Community industry and the average total employment cost per employee. The figure for productivity is calculated on the basis of tonnes produced per employee.
- (69) For the Community industry as a whole, employee numbers were the same in the IP as at the beginning of the analysis period. However, it should be noted that the two companies experienced divergent trends in that Sorochimie lost a number of jobs incidentally equal to that created by Quimigal when it came onto the market.

- (70) The Community industry considerably improved its productivity during the analysis period. This occurred as Quimigal reached its planned level of production in the IP and efforts were made overall to improve competitiveness.

Indexed		1997	1998	1999	2000	IP
Employees (number)	Sorochimie	100	96	89	86	86
	Quimigal	0	100	100	133	133
Average employment cost per employee (ECU/EUR per person)	Sorochimie	100	121	133	134	132
	Quimigal	0	100	278	208	208
Productivity (tonnes per person)	Sorochimie	100	131	140	166	177
	Quimigal	0	0	100	216	261

4.10. Magnitude of dumping

- (71) Given the volume and the price of the dumped imports, the impact of the actual margins of dumping, which are significant, cannot be considered negligible.

- (76) On the basis of the foregoing, it is provisionally concluded that the Community industry has suffered material injury, characterised by price depression and suppression, a prolonged period of losses, insufficient returns on investment and the deferment of expansion plans, within the meaning of Article 3 of the basic Regulation.

4.11. Conclusion on injury

- (72) The imports from the countries concerned had a significant presence on the market even at the beginning of the analysis period. During the IP itself, the volume of such imports was over 150 % the level recorded in 1997. They have doubled their market share during the analysis period to reach a level of more than 40 % in the IP. The imports concerned undercut the prices of the Community industry significantly. The most rapid growth in market share occurred between 1997 and 1998. It was also at this time that Sorochimie suffered the sharpest drop in its average sales prices as it was forced to compete aggressively against the dumped imports in an effort to maintain its position on the market.

- (73) Although Sorochimie was later able to raise its selling prices and also increase its sales volumes as other operators were forced out of the market, it remained loss making due to the low price levels prevailing on the market. This was in spite of its improved efficiency as demonstrated by the increase in productivity.

- (74) Quimigal was never able to cover its costs although the extent of its losses reduced somewhat due to an increase, albeit an insufficient one, in its selling price.

- (75) The dumping margins found were of a significant magnitude. It is also recalled that as a direct consequence of the prolonged loss making situation that the Community industry had difficulties in raising capital and had to defer investment plans. The losses were also reflected in the development of Community industry's return on investment.

F. CAUSATION OF INJURY

1. Introduction

- (77) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the dumped imports originating in the countries concerned have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (78) The volume of the dumped imports increased by more than 150 % during the analysis period. In addition to a price depression effect, the low price level of the dumped imports and their increasing presence on the Community market had a price suppressing effect on the prices of both companies constituting the Community industry in that they were unable to reflect the full increase in their cost of production in their selling price. Finally the Community industry could not increase its production capacity as should have been the case given the withdrawal of other Community producers from the market and the increase in demand observed over the analysis period as a whole.

3. Effects of other factors

3.1. Imports originating in other third countries

- (79) With the exception of 1999 when Community consumption fell to its lowest level in the analysis period, the volume of imports originating in other third countries remained relatively stable at approximately 2 000 tonnes. Overall, they therefore lost market share from approximately 21 % in 1997 to 18 % in the IP. Only imports from the USA and Hungary were at levels above 1 % of Community consumption in the IP. It should be noted that the sole producer of sulphanilic acid in Japan ceased manufacturing the product during the analysis period. Imports from this country in the IP were not significant (less than 100 tonnes). Imports from Japan have therefore not been further considered in this investigation.
- (80) Imports originating in the USA appeared on the Community market for the first time in 1999 and increased significantly thereafter to reach a market share of around 10 % in the IP. This came about following the relocation of some production activities that had previously taken place in the Community. The prices of imports originating in the USA were significantly higher than those of the Community industry.
- (81) Imports originating in Hungary decreased by nearly half during the analysis period. Their average selling price was significantly higher than that of the dumped imports and broadly similar to those of the Community industry.
- (82) On the basis of the above, it is provisionally concluded that imports originating in other third countries and in particular the USA and Hungary did not contribute to the material injury suffered by the Community industry.

3.2. Changes in the pattern of consumption

- (83) The apparent consumption of sulphanilic acid in the Community increased during the analysis period from approximately 10 000 tonnes in 1997 to around 11 000 tonnes in the IP. The Community industry was able to increase its market share over the same period as other Community producers left the market. The development of consumption did not, therefore, contribute to the injury suffered by the Community industry.

3.3. The export performance of the Community industry

- (84) Sorochimie's exports as percentage of total sales in the IP was similar to that recorded at the start of the analysis period at approximately one third. There was an increase in 1998 and 1999 due to certain one-off contracts. The level of Quimigal's exports expressed by the same measure was higher in the IP at approximately one half of total sales. The Community industry's price level for exports during the IP was similar to that experienced for sales on the Community market. It has therefore been provisionally concluded that the export performance of the Community industry did not contribute to the injury it suffered.

3.4. The entry of Quimigal onto the Community market

- (85) It is recalled that Quimigal, the second company forming part of the Community industry, began producing and selling sulphanilic acid in 1999 as a result of an earlier decision taken at a time when prices on the Community market for sulphanilic acid were higher. It has been alleged that at least part of the injury suffered by the Community industry should be attributed to Quimigal and not to the imports concerned in that Quimigal had relatively low sales prices and high unit costs in its first years of operation. This claim had to be rejected since it is the presence of the very low priced dumped imports, that forced the company to offer its production at fairly similar prices in order to gain market share in a reasonable length of time. Prices of Quimigal were afterwards able to slightly increase.
- (86) Furthermore, in order to ensure that the injury suffered by the Community industry was not incorrectly attributed to the dumped imports, the impact of any exceptional start-up costs from Quimigal's operating results were removed as explained at section 4.6 on profitability.
- (87) In view of the above, it is provisionally concluded that the entry of Quimigal onto the market did not contribute to the material injury suffered by the Community industry.

4. Conclusion on causation

- (88) The investigation has shown that the dumped imports in large quantities on the Community market caused severe price depression of the Community industry's average selling prices. The Community industry was forced to considerably lower its prices in order to maintain its share of the market and ensure a satisfactory capacity utilisation. Moreover, there was price suppression as

price increases did not occur which would have taken place in the absence of the dumped imports. The fact that it was able to increase its market share can be attributed to the exit of a number of other Community producers from the sulphanilic acid market. Although the Community industry was able to raise its prices from 1998 onwards, these increases were not sufficient to return it to profitability. Over the same period, the volume of imports from the countries concerned and their market share continued to increase.

- (89) In view of the above and in the absence of any other factors which could have injured the Community industry, it was provisionally concluded that the material injury suffered by the Community industry, as evidenced by its prolonged loss making situation, negative returns on sales and investments and difficulties in raising capital and carrying out expansion plans, was caused by the dumped imports.

G. COMMUNITY INTEREST

1. General remarks

- (90) The Commission examined whether, despite the conclusion on injurious dumping, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose and in accordance with Article 21(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.

2. The investigation

- (91) The Commission sent questionnaires to importers, suppliers of raw materials, industrial users of the product concerned as well as other interested parties who made themselves known within the time limit set in the notice of initiation.
- (92) In total, 27 questionnaires were sent out, but only 9 replies were received within the time limits set. As noted above in recital 7, several companies chose to submit only comments in preference to completing the Commission's questionnaires. These comments have been taken into account where appropriate.
- (93) Questionnaire responses were received within the time limits from seven users of the product concerned:

- Bayer AG, Leverkusen, Germany,
- Ciba Spezialitätenchemie Grenzach GmbH, Grenzach Wyhlen, Germany,
- Manuel Vilaseca SA, Barcelona, Spain,
- SA Robama, Barcelona, Spain,
- Sika Limited, Welwyn Garden City, United Kingdom,
- SIPO srl, Milan, Italy,
- SKW Polymers GmbH, Trostberg, Germany;

one trader:

- Tinstar Chemicals Ltd., Harrow, United Kingdom;

one supplier of raw materials to the sulphanilic acid industry:

- Quimigal SA, Estarreja, Portugal.

3. Likely effect of the imposition on the Community industry

- (94) It is recalled that the Community industry comprises two companies with production facilities in France and Portugal.
- (95) In spite of the material injury suffered by the Community industry during the IP, there is no reason to doubt its long-term viability and competitiveness in a market where normal conditions of fair trade exist. The Community industry has plans to increase its production capacity in the Community to be able to meet growing domestic demand. However, these plans have had to be deferred because of the low level of prices in the Community brought about by the presence of the dumped imports.
- (96) It should be noted that the Community industry's loss making situation has resulted from its difficulty to compete with the low-priced dumped imports, which already held a significant market share at the beginning of the analysis period and which have increased their market share considerably during the analysis period. The pressure of the dumped imports has also forced a number of Community producers to cease production of sulphanilic acid.
- (97) It is considered that the imposition of measures will restore fair competition on the market. The Community industry should then be able to increase the volume and prices of its sales, thereby generating the necessary level of return to justify continued investment in its production facilities.

- (98) Should measures not be imposed, it is almost certain that the losses of the Community industry observed over the analysis period will continue. It will not be able to invest in new production capacity and compete effectively with imports from third countries. It is to be noted that Sorochimie has filed for protection from its creditors because of difficulties in its business and that its current trading activities are being overseen by an administrator appointed by the local Court of Commerce. It may be impossible for the company to continue if measures are not imposed.
- (99) In this context, it is noted that exports from the countries concerned have been subject to anti-dumping measures in the USA since August 1992 (PRC) and March 1993 (India). With the exception of the Community market, there are considered to be limited additional third country markets for these exports.
- (100) It is therefore provisionally concluded that the imposition of anti-dumping measures is in the interest of the Community industry.

4. Likely effect of the imposition of measures on traders

- (101) The Commission received one reply from a company which imported the product concerned until recently and also traded sulphanilic acid produced by the Community industry. The company noted that the imposition of measures in the Community could lead some users to relocate their production facilities outside the Community or move away from certain end-product markets. It therefore feared that it would lose business in the Community. As concluded below with regard to users of the product concerned, such developments are unlikely to occur and therefore it was provisionally concluded that the imposition of measures would not have a serious impact on Community traders of sulphanilic acid.

5. Likely effect of the imposition of measures on suppliers of raw materials to the sulphanilic acid industry

- (102) The Commission received only one questionnaire reply from a supplier of raw material (aniline) to the sulphanilic acid industry. This reply was from Quimigal, which is also one of the two Community producers of sulphanilic acid. In the IP, its aniline sales to sulphanilic acid producers represented a very small percentage of its total aniline sales in the Community. In spite of this, the company stressed the importance of its sales (both internal and external) to the sulphanilic acid industry.
- (103) In view of the low level of cooperation from suppliers of raw materials to the sulphanilic acid industry and the particular situation of the one cooperating supplier, it is provisionally concluded that the imposition of anti-

dumping measures would not have either major beneficial or prejudicial consequences for suppliers.

6. Likely effect of the imposition of measures on users

- (104) Sulphanilic acid has a wide range of applications. It is used in the manufacture of optical brighteners, additives for concrete and speciality dyes and colorants. An analysis of data provided by the Community industry, cooperating exporting producers and a former Community producer of sulphanilic acid, showed the optical brightener sector to be the most important user sector with approximately 65 % of estimated Community consumption. Concrete additives accounted for approximately 15 % of Community consumption and speciality dyes and colorants for 10 %. The intended application of the remainder, which also included sales to traders, was unknown.
- (105) The Commission sought to quantify the possible financial impact of measures on the operations of the cooperating users by taking into account both the origins of their sulphanilic acid purchases and its share in their overall manufacturing costs in the IP. As the proposed measures are based on the dumping margins found, it was considered for the purposes of this exercise that the prices of imports from the countries concerned would increase by the proposed duties.
- (106) As a number of users have made the same point opposing the imposition of measures on the grounds that production capacity in the Community is insufficient to meet domestic demand, it has been decided to address this concern for all user sectors in section 7.

6.1. Optical brighteners

- (107) Three questionnaire replies were received from Community companies producing optical brighteners and written comments from a fourth. Optical brighteners are general fluorescent whitening agents used by external customers primarily in the paper and detergent industries. Although one of the questionnaire respondents did not provide comprehensive information on its profitability during the analysis period, the trends observed for the other two companies are considered to be meaningful in that the two accounted for half of the sulphanilic acid used by all three companies in the IP.
- (108) The cooperating producers of optical brighteners use either pure grade sulphanilic acid or pure grade in a salt solution. In the IP, approximately half of their purchases were sourced from the Community industry and half from other sources including the countries concerned.

- (109) Sulphanilic acid is only used in certain types of optical brighteners and in varying quantities. When the information provided by the three cooperating users was combined, it was found that sulphanilic acid accounted for in the region of 10 % of their manufacturing costs of those optical brighteners in which sulphanilic acid is a constituent. It was consequently established using the methodology detailed above in recital 105 that measures would increase the manufacturing costs for optical brighteners containing sulphanilic acid by just over 1 % and that the increase in their full costs (i.e. after taking SG&A costs into account) would be somewhat less than 1 %.
- (110) The producers of optical brighteners argued that there is little differentiation between the types available on the market. As a result, optical brighteners are treated like a commodity and competition between producers is intense. This appeared to be supported by the profitability data provided by two of the respondents which showed that the returns on sales of optical brighteners containing sulphanilic acid had declined significantly over the analysis period in spite of the availability of sulphanilic acid at dumped prices and a more general decline in total manufacturing costs observed over the same period.
- (111) It was argued that if measures were imposed, producers of optical brighteners in third countries where there were no measures would gain a significant price advantage. One producer claimed that if the already low level of return from its optical brighteners' business were further reduced by measures, it would have to reconsider its presence in the market.
- (112) It is not evident that producers of optical brighteners in countries outside the Community will derive a distinct competitive advantage against Community based competitors if measures are imposed. This is particularly true if one considers that the market for sulphanilic acid in one of the largest optical brightener producing countries, the USA, is already subject to a number of anti-dumping duties on imports of sulphanilic acid. It should also be noted that, taking into account the fact that the possible increase in the overall costs of Community based optical brightener producers would be somewhat less than 1 %, and that optical brighteners only account for a small part of the cost of paper production, it has not been demonstrated that continued production in the Community of these products would be endangered. In view of the substantial investments they have made in their Community production facilities in recent years, the size of the market and their customer base, it is evident that these producers will maintain a substantial presence in the Community.
- (113) It is therefore provisionally considered that the imposition of measures would not have a major adverse impact on this user group.
- 6.2. *Concrete additives*
- (114) The Commission received replies to its questionnaire from two companies producing concrete additives and written comments from a third. Concrete additives or admixtures are used to improve certain characteristics of concrete and thereby the way in which it performs under a variety of conditions.
- (115) The data of the cooperating users showed that sulphanilic acid was used in the production of all types of concrete additives. When the data of the two companies were combined and account was taken of their respective product mix and size, it was found that sulphanilic acid represented roughly 15 % of their manufacturing costs. It was consequently established using the methodology detailed above in recital 105 that measures would increase the manufacturing costs for concrete additives by just over 2 % and that the increase in their full costs (i.e. after taking SG&A into account) would be less than this figure.
- (116) Only one of the respondents provided data concerning the profitability of products sold containing sulphanilic acid. The Commission has therefore not been able to make a precise assessment of the financial impact of measures on this user group. Nevertheless, it is to be noted that the turnover of products containing sulphanilic acid represents a very small part (i.e. less than 5 %) of the total turnover of the two companies that replied to the Commission's questionnaire. Therefore, although it is acknowledged that measures would have some impact on their concrete admixture business, the companies' overall activities would not be endangered. This is supported by the fact that neither company submitted that it would be unable either to absorb the increase in its costs or to pass such an increase onto customers.
- (117) The same two cooperating users were very much against the imposition of measures. Apart from raising concerns about the adequate availability of sulphanilic acid in the Community which are addressed below in section 7, they alleged that they would lose competitiveness on world markets to producers of concrete admixtures in third countries where there was access to supplies of sulphanilic acid from India and China without anti-dumping duties.
- (118) This claim had to be rejected for a number of reasons. In the first instance, neither company provided any evidence, such as information relating to the degree of competitive threat posed by producers of concrete additives in other third countries, with which to substantiate their claim. In addition, having taken account the anticipated increase in these companies' overall costs as noted above in recital 115, it was not considered that measures would have such a prejudicial effect on their competitiveness.

- (119) The third producer was more equivocal in its stance. Whilst underlining that its competitiveness depended to a certain extent on the price at which it was able to purchase its raw materials, it recognised the importance of maintaining a competitive production base for sulphanilic acid in the Community which would guarantee the security of supply for this raw material.
- (120) In the light of the above, it is provisionally concluded that the imposition of measures would not have serious prejudicial effects on the activities of this user sector.

6.3. *Dyes and colorant producers*

- (121) The Commission received questionnaire replies from three producers of dyes, one of which had also replied to the Commission in its capacity as a producer of optical brighteners. Written comments were also received from a fourth producer. They purchased relatively small quantities of sulphanilic acid in the IP. Approximately half of the purchases were of sulphanilic acid originating in the Community with the remainder coming from the countries concerned. When the data of the three companies were combined and account was taken of their respective product mix and size, it was found that sulphanilic acid represented between 5 and 10 % of their manufacturing cost for dyes containing sulphanilic acid. The turnover of these products in turn accounted for approximately one third of the combined turnover of these companies.
- (122) It was consequently established using the methodology detailed above in recital 105 that measures would increase the manufacturing costs for dyes and colours containing sulphanilic acid by just over 1 % and that the increase in full costs (i.e. after taking SG&A into account) would be somewhat less than this figure. However, as none of these companies provided the Commission with specific details on the profitability of their dye businesses, it was not possible to determine with any precision the possible effect of measures on their overall financial situation.
- (123) One respondent did however make written comments on the very competitive nature of the dye business and the low margin environment in which it had to do business. It was stated that there was strong price competition from dye products originating in India and China, possibly due to dumping, and that any increase in the price of sulphanilic acid could have serious consequences for continued dye production in the Community. However, the possible existence of dumping on a downstream market (no evidence to this effect having been provided) should not prevent the application of proper trade defence instruments to remedy the injurious effects of the dumped imports on

the producers of sulphanilic acid forming the Community industry.

- (124) Due to the lack of information provided on profitability and the relatively low importance of the cost of sulphanilic acid in the overall manufacturing costs of all dyes, it is provisionally concluded that the imposition of anti-dumping duties would not have serious prejudicial consequences for this user sector.

6.4. *Conclusion*

- (125) Recalling the conclusions reached above in respect of the various users of sulphanilic acid in the present investigation, it is provisionally concluded that the imposition of measures would slightly affect their financial situation but would not endanger their continued activities or lead them to relocate their production outside the Community.

7. **Competition and trade distorting effects**

- (126) The Commission considered the possible competition and trade distorting effects of measures in the light of the findings of the investigation and comments made by interested parties. These comments primarily focused on the continued need for imports of the product concerned into the Community because of the inability of the Community industry to satisfy demand. One user also raised the fear that a reduction in supply from India and China would allow Sorochimie to fix prices on the Community market with its American competitor.
- (127) Measures are not intended to prevent imports into the Community but to ensure that they are not made at injurious dumped prices. It is accepted that imports from various origins will continue to satisfy a significant part of Community demand. It should also be noted that the Community industry has plans to increase its capacity if the return on its sulphanilic acid sales reaches an acceptable level. It is therefore most likely, provided that the injurious effects of the dumped imports are removed by the imposition of measures, that the Community industry will be able to carry out these investment plans. It is important to note that sulphanilic acid production is already concentrated in relatively few countries around the world. According to the findings of the present investigation, production outside the Community is now restricted to India, China, the USA and Hungary. It is therefore in the interests of all users in the Community that the Community industry is allowed to operate under conditions of fair competition so that domestic supplies of the product continue to be available.

- (128) The second claim concerning price collusion had to be rejected as mere conjecture. No evidence was supplied to support the allegation. Moreover, were measures not to be imposed, the Community industry could be forced out of production. If this were to happen, the number of suppliers on the Community market would be further reduced and remaining suppliers could raise their prices to take advantage of this fact.
- (129) In view of the above, it is provisionally concluded that the imposition of provisional anti-dumping duties would help to protect the choice of user industries and maintain competition on the Community market.

8. Conclusion on Community interest

- (130) On the basis of the above, it is provisionally concluded that there are no compelling reasons on the grounds of Community interest why anti-dumping measures should not be imposed in the present case.

H. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (131) In order to prevent further injury being caused by the dumped imports, it was considered appropriate to adopt anti-dumping measures in the form of provisional duties.
- (132) For the purpose of determining the level of these duties, the Commission took account of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Community industry.
- (133) To this end, the Commission determined a non-injurious price based on production costs of the Community industry (without taking into account any exceptional costs linked to the Sorochimie's difficulties in its glue business or to the start-up costs of Quimigal), together with a profit margin of 6 %. This profit margin was considered reasonable and achievable for an industry of this type in the chemical sector. The non-injurious price was compared with the prices of the dumped imports used to establish price undercutting, as outlined above. Differences resulting from this comparison were then expressed as a percentage of the total cif import value to establish the injury margin.

2. Provisional measures

- (134) Since for both India and the PRC the dumping margin has been found to be lower than the injury elimination level, the provisional duties to be imposed should correspond to the dumping margins established, in accordance with Article 7(2) of the basic Regulation.

- (135) However, with regard to the parallel anti-subsidy proceeding in respect of India, in accordance with Article 24(1) of Council Regulation (EC) No 2026/97 ⁽¹⁾ ('the basic anti-subsidy Regulation') and Article 14(1) of the basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or export subsidisation. It is therefore necessary to determine whether, and to what extent, the subsidy amounts and the dumping margins arise from the same situation.

- (136) With regard to India, a provisional countervailing duty corresponding to the amount of subsidy, which was found to be lower than the injury margin, was proposed in accordance with Article 12(1) of the basic anti-subsidy Regulation. Certain of the subsidy schemes investigated which were found to be countervailable in India constituted export subsidies within the meaning of Article 3(4)(a) of the basic anti-subsidy Regulation. As such, these subsidies could only affect the export price of the Indian exporting producer, thus leading to an increased margin of dumping. In other words, the provisional dumping margin established for the sole cooperating Indian producer is partly due to the existence of export subsidies. In these circumstances, it is not considered appropriate to impose both countervailing and anti-dumping duties to the full extent of the relevant export subsidy amount and dumping margin provisionally established. Therefore, the provisional anti-dumping duty should be adjusted to reflect the actual dumping margin remaining after the imposition of the provisional countervailing duty offsetting the effect of the export subsidies. Consequently, the anti-dumping duty rate for India has been set at the level of the dumping margin (24,6 %) minus the rate of countervailing duty of the export subsidies (6,6 %).

- (137) For the PRC, the anti-dumping duty rate has been set at the level of the dumping margin.

I. FINAL PROVISIONS

- (138) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty,

⁽¹⁾ OJ L 288, 21.10.1997, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of sulphanilic acid falling within CN code ex 2921 42 10 (TARIC code 2921 42 10 60) originating in the People's Republic of China and India.

2. The rate of the provisional anti-dumping duty applicable to the net-free-at-Community-frontier-price, before duty, shall be as follows:

Country	Provisional duties (%)
People's Republic of China	21,0
India	20,1

3. Unless otherwise specified, the provisions in force concerning custom duties shall apply.

4. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the

provision of a security equivalent to the amount of provisional duty.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96 interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within 20 days of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within month of the date of its entry into force.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

Article 1 of this Regulation shall apply for a period of six months.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 3 March 2002.

For the Commission

Pascal LAMY

Member of the Commission
