

BEFORE THE EUROPEAN COMMISSION

**In the matter of an anti-dumping proceeding
concerning imports of acesulfame potassium
originating in the People's Republic of China**

**EXECUTIVE SUMMARY
OF AN
APPLICATION FOR INITIATION OF AN
EXPIRY REVIEW PURSUANT TO
ARTICLE 11(2) OF COUNCIL
REGULATION (EC) NO 2016/1036
ON BEHALF OF THE EUROPEAN
UNION INDUSTRY**

On behalf of:

Celanese Sales Germany GmbH,
Am Unisys-Park 1
65843 Sulzbach (Taunus)
Germany

Of counsel:

McDermott, Will & Emery
Avenue des Nerviens 9 – 31
1040 Brussels
Belgium

Tel: 02-230 50 59
Fax: 02-230 57 13

Email: pbentley@mwe.com

Executive Summary

This executive summary is provided in accordance with the Commission’s publication “How to Make an Anti-dumping Complaint – a Guide”. Section 12 of this Guide requires that, when lodging a complaint (or application for a review), an executive summary must also be provided covering the following topics:

- Detailed information about the product concerned, including (where applicable) production processes and uses;
- Summary of the case;
- List of known parties to the investigation (without contact details).

I. Detailed information about the product concerned, etc.

I.1 The product concerned

The product concerned is acesulfame potassium (potassium salt of 6-methyl-1,2,3-oxathiazin-4(3H)-one 2,2-dioxide; CAS RN 55589-62-3) originating in the People’s Republic of China. Acesulfame potassium is also commonly referred to as Acesulfame-K or Ace-K.

I.2 Uses of the product concerned

Acesulfame potassium, or Ace-K, is a high intensity sweetener, generally sold for use as a sweetener in edible or ingestible products; it is 200 times sweeter than white sugar and has a slightly bitter aftertaste. Ace-K is used mostly as a substitute for sugar in no- or low-calorie beverages, dairy products, confections, baked goods, medications, other consumer products such as toothpaste and chewing gum, and as a tabletop sweetener. Ace-K requires separate regulatory approvals for use in food and pharmaceutical applications. Additional analytical testing and certification documentation are required in the case of Ace-K for pharmaceutical applications.

I.3 Ace-K and other high intensity sweeteners

In most applications, Ace-K is used in extremely small quantities in combination with one or more other high intensity sweeteners.

Other high intensity sweeteners include aspartame, cyclamate, neotame, saccharin, stevia and sucralose. Each high intensity sweetener imparts a different taste. As a result, high intensity sweeteners generally cannot be substituted for each other without affecting the taste of the end product. While high intensity sweeteners compete with each other for use in end products, that competition is based largely on taste and only to a limited extent based on price.

Once Ace-K has been chosen for use in an end product, another high intensity sweetener cannot be substituted for the Ace-K without changing the taste of that end product. So, as a practical matter, once Ace-K has been chosen, it will generally be used throughout the life of the end product. The user can, of course, source the Ace-K either from Celanese or from China (either directly or more often, via a trader). Thus, throughout the life of the end

product, Celanese is in competition with the Chinese exporting producers to supply Ace-K to the manufacturer of the end product.

I.4 “Like product”

The Ace-K produced by Celanese is a “like product” (within the meaning of Article 1(4) of the Basic Regulation) to the Ace-K imported from China as determined in the original investigation. The Ace-K imported from China meets regulatory specifications for marketing in the Union.

I.5 Production process

Celanese produces Ace-K through the cyclisation of acetoacetamide-N-sulphonic acid with sulphur trioxide and then neutralisation with potassium hydroxide.

The basic process was protected by patents that expired in 2005 and so the technology disclosed in these basic patents can now be used by anyone. Celanese is not aware of any fundamentally different process for producing Ace-K efficiently.

The raw materials used by Celanese in the production of Ace-K are diketene, sulphur trioxide, sulfamic acid, tri-ethylamine, potassium hydroxide, and acetic acid.

II. Summary of the case

In the original investigation it was found that imports into the Union of Chinese Ace-K were made at prices that were below normal value, and so there was “dumping”. It was also found that the dumped imports were causing injury to the Union producer, Celanese.

The dumping margins were found to range from 64.0% to 135.6% and the injury margins from 49.7% to 126.0%. Definitive anti-dumping duties were imposed at rates ranging from 2.64 EUR/kg to 4.58 EUR/kg, based on the level of the injury margins.

The purpose of the present investigation is to determine whether expiry of the anti-dumping duties would be “likely to result in a continuation or recurrence of dumping and injury”. If such likelihood is established, the anti-dumping duties will be maintained in force for another five years.

Celanese’s case is as follows:

- Continuation of dumping: Imports of Chinese Ace-K into the Union continue to be made at dumped price levels.
- Prevention of injury: At present the anti-dumping duties prevent injury being caused to Celanese in the Union by the dumped imports.
- Likely recurrence of injury: If those anti-dumping duties were allowed to expire, the duty paid prices of imports of Chinese Ace-K into the Union would fall and volumes imported would increase. Celanese would lose sales volume and sales revenue and profitability would fall to unreasonable levels.
- Union interest: It would not be in the overall interest of the Union to allow the duties to expire.

Before elaborating on the above points it should be observed that the anti-dumping duties have not prevented the Chinese producers from exporting to the Union. The Chinese producers are still a competitive force on the Union market. The difference now is that the duties have removed the price distortions caused by the dumping and created an environment in which all operators can compete on undistorted prices. The relative market shares of Celanese and the Chinese exporting producers have changed as a result of that price correction.

II.1 Continuation of dumping

For the purposes of the application for a review, normal value is reconstructed in accordance with Article 2(6a) of the Basic Regulation on the basis of undistorted costs in a “representative country”, in this case, Turkey. Such an approach is warranted because there are significant distortions in the Chinese economy as far as concerns the raw materials and other inputs used in the production of Ace-K. These distortions are demonstrated not only by reference to the Commission’s Report on China but also by findings by research commissioned by Celanese.

A comparison of Chinese export prices, adjusted to an ex works level, to the normal value (also at ex works level) shows that there are substantial margins of dumping. It must therefore be concluded that dumping by the Chinese exporting producers continues.

II.2 Prevention of injury

The application demonstrates that, while the anti-dumping duties are in force, the prices of Ace-K imported from China (duty paid, customs cleared at the Union frontier) do not undercut the prices of Celanese’s Ace-K (ex works). The application also demonstrates that the prices of Ace-K from China (duty paid, customs cleared at the Union frontier) do not undersell the injury elimination level, that is to say, the price level (ex works) at which Celanese can cover its costs of production and make a reasonable profit. These two demonstrations are based on the current volumes and prices of Chinese imports and are therefore subject to change if prices of Chinese imports fall or volumes increase.

As a result, in comparison with the position during the original investigation, Celanese has increased its profitability and cash flow to reasonable levels, that is to say, levels obtained before dumping by the Chinese exporting producers commenced.

It must therefore be concluded that the anti-dumping duties currently in force are having the intended effect of preventing injury being caused to Celanese by the continuing dumped imports from China.

II.3 Likely recurrence of injury

If the anti-dumping duties were to expire, the customs cleared prices of Chinese imports in the Union would very probably fall by the amount of the anti-dumping duties. The price levels of Chinese imports would then undercut Celanese’s prices by significant margins, and would be substantially below the injury elimination level.

In 2019 there was significant excess Ace-K production capacity in China. Notwithstanding this, additional capacity is being constructed in China that will come on-stream in late 2020/early 2021. This is symptomatic of the distortions that exist for Ace-K production in China as a result of state intervention.

It is therefore practically certain that Chinese producers would take advantage of any expiry of the anti-dumping duties to increase the volumes they exported to the Union and thereby absorb some of their unused production capacity (although there would still be remaining excess Chinese capacity, even after that). Prior to the original investigation, the Chinese producers were able to increase market share significantly in the Union by exporting at dumped price levels. There is no reason why they would not do the same again if the anti-dumping duties were to expire. The potential for the Chinese exporters to increase the volume of their exports to the Union is significant, given that the excess capacity in China is several times the size of the Union Ace-K market (and also far exceeds world demands).

Faced with increased imports from China at dumped price levels, Celanese will inevitably suffer injury through loss of sales volume as well as price erosion.

It is therefore clear that injury would be likely to recur if the anti-dumping duties were to expire.

II.4 Union interest

It is in the interest of the Union to maintain Celanese as a viable, robust producer and supplier of Ace-K in the Union because this company ensures the following:

- A competitive counterweight to potentially unfair competition from Chinese producers.
- The existence of a secure “local” supplier, something which is particularly important in a COVID-19 type of situation.
- The provision of fully certified pharma grade Ace-K with the necessary certifications, something which the Chinese exporting manufacturers do not do.
- The maintenance of EFSA registrations in the periodic reviews conducted by this organisation.
- Investment in customer support services, assisting customers in developing new applications for Ace-K and resolving any production issues.
- Strict quality control and maintenance of product risk management programmes.
- Representation of the position of Ace-K in trade associations, such as the International Sweeteners Association
- Good corporate governance in terms of compliance with SMETA, DIN, ISO and FSSC standards, etc.
- A source of business for the suppliers of raw materials and other services as well as a source of employment for the employees of the Ace-K production plant.

Finally, it should be noted that the dosage rate of Ace-K in the end consumer product is very small indeed, so the effect of the anti-dumping duties on the price of the end consumer product is negligible.

III. List of known parties to the investigation (without contact details)

II.1 The Union producer comprising the following companies of the Celanese group:

- Celanese Sales Germany GmbH
- Celanese Production Germany GmbH & Co KG.
- Celanese Services Germany GmbH.
- Celanese Europe BV.

III.2 The Chinese exporting manufacturers, or potential exporting manufacturers

Exporting manufacturers involved in the original investigation:

- Anhui Jinhe Industrial Co., Ltd
- Suzhou Hope Technology Co., Ltd
- Vitasweet Co., Ltd

Other manufacturers that have started exporting to the Union:

- Hangzhou Sanhe Food Co., Ltd
- Shandong Minghui Food Co., Ltd
- Suzhou Peacock Food Additive Co., Ltd
- Shandong Yabang Chemical Technology Co., Ltd.

Manufacturers likely to export to the Union:

- Nantong Honxing Chemical Co., Ltd.

II.3 Principal Chinese exporters (non-manufacturing)

- A.H.A International Co., Ltd. (Food Ingredients Division)
- AGC Industries Co., Ltd.
- Anhui Light Industries International Co., Ltd.
- Arshine Pharmaceutical Co., Ltd.
- Cway (Shanghai) International Trade Co., Ltd.
- Foodchem International Corporation
- Kenko (Qingdao) Trading Co., Ltd.
- Liyang Vitasweet Biological Engineering Co., Ltd.
- Maruzen Chemicals (Shanghai) Co., Ltd.
- Nanjing Sunshine Biotech Co., Ltd.
- Qingdao Bonded Area Lulian International Trade Co., Ltd.
- Shanghai Honghao Chemicals Co., Ltd.
- Shanghai Sankai Import and Export Co., Ltd.
- Xiamen Forever Green Source Biochem Tech. Co., Ltd.
- Zhejiang Cereals, Oils & Foodstuffs Import & Export Co., Ltd

III.4 Known Union importers

- Brenntag (Belgium)

- Caldic Belgium NV
- Chempoint
- Giusto Faravelli
- Hyet Sweet BV
- IMCD Benelux BV
- KUK Bulgaria Ltd
- Nutrinordic A/S
- Omya
- Prochema
- Quimidroga S.A.
- UD Chemie
- Univar Magyarország KFT
- Veltro

III.5 Union users

This information is confidential because it comprises the list of Celanese's customers

III.6 Suppliers of raw materials to Celanese

This list is confidential because it reveals Celanese's strategic sources of supply

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Philip Bentley Q.C.
Senior Counsel
McDermott Will & Emery Belgium LLP