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April 8, 2021
VIA EDIS

OUR FILE NO. 423875-000006

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: In the Matter of Certain High-Potency Sweeteners, Processes for Making Same, and Products Containing Same, Inv. No. 337-TA-_____

Dear Secretary Barton:

In accordance with the Commission's Temporary Change to Filing Procedures dated March 16, 2020, Complainants Celanese International Corporation, Celanese (Malta) Company 2 Limited, and Celanese Sales U.S. Ltd. submit the following documents in support of their request that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, concerning certain high-potency sweeteners, processes for making same, and products containing same:

1. One (1) electronic copy of Complainants' verified Complaint, pursuant to Commission Rule 210.8(a)(1)(i) and 210.12(a).
2. One (1) electronic copy of the public exhibits to the Complaint, pursuant to Commission Rules 210.8(a)(1)(i) and 201.12(a)(9)¹, including:
 - a. One (1) electronic copy of the certified versions of United States Patent Nos. 10,023,546 ("the '546 patent"), 10,208,004 ("the '004 patent"), 10,590,098 ("the '098 patent"), 10,233,163 ("the '163 patent") and/or 10,590,095 (the "'095 patent") (collectively, the "Asserted Patents"), listed as Exhibits 5-9 to the Complaint, pursuant to Commission Rule 210.12(a)(9)(i), and
 - b. One (1) electronic copy of certified assignment records for the Asserted Patents, listed as Exhibits 10-14 to the Complaint, pursuant to Commission Rule 210.12(a)(9)(ii).
3. One (1) electronic copy of confidential exhibits 3, 15, 75, 78-82, 94-99 and 101 to the Complaint, pursuant to Commission Rules 201.6(c) and 210.8(a)(1)(ii).
4. One (1) electronic copy of the certified prosecution histories for each of the Asserted Patents, included as Appendices A, B, C, D, and E to the Complaint, pursuant to Commission Rule 210.12(c)(1).

¹ Due to the Commission's restrictions on in-person filings in response to COVID-19, Complainants' counsel has retained and will make available upon request samples of the covered products.



The Honorable Lisa R. Barton
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5. One (1) electronic copy of each of the patents and applicable pages of each technical reference identified in the prosecution histories of the Asserted Patents as Appendices F, G, and H to the Complaint, pursuant to Commission Rule 210.12(c)(2).
6. A letter and certification requesting confidential treatment for the information contained in confidential exhibits 3, 15, 75, 78-82, 94-99, and 101 to the Complaint, pursuant to Commission Rules 201.6 and 210.5.
7. A Statement on the Public Interest regarding the remedial orders sought by the Complainants in the Complaint, pursuant to Commission Rule 210.8(b).

Please contact me with any questions regarding this submission. Thank you for your attention to this matter.

Respectfully submitted,

DLA Piper LLP (US)

/s/ Aaron Wainscoat

Aaron Wainscoat

Enclosures



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Washington, D.C. 20436

Re: In the Matter of Certain High-Potency Sweeteners, Processes for Making Same, and Products Containing Same, Inv. No. 337-TA-_____

Dear Secretary Barton:

Pursuant to Commission Rules 201.6 and 210.5, Complainants Celanese International Corporation, Celanese (Malta) Company 2 Limited, and Celanese Sales U.S. Ltd. respectfully request confidential treatment of certain confidential business information contained in Confidential Exhibits 3, 15, 75, 78-82, 94-99, and 101 of the Complaint filed contemporaneously with this letter.

The information contained in the Confidential Exhibits contain confidential data regarding (a) Celanese's financial investments and expenditures, (b) Celanese's business operations including confidential license information, and (c) technical details regarding the processes for manufacturing and testing the covered products. The information in the Confidential Exhibits qualifies as confidential information pursuant to 19 C.F.R. § 201.6 because:

1. it is not available to the public;
2. unauthorized disclosure of such information could cause substantial harm to Celanese's competitive position; and
3. its disclosure could impair the Commission's ability to obtain information necessary to perform its statutory function.

Non-confidential versions of these exhibits with the confidential information redacted are being filed concurrently.



The Honorable Lisa R. Barton
April 8, 2021
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Please contact me with any questions regarding this submission. Thank you for your attention to this matter.

Respectfully submitted,

DLA Piper LLP (US)

/s/ Aaron Wainscoat

Aaron Wainscoat

Enclosures

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

In the Matter of

**CERTAIN HIGH-POTENCY
SWEETENERS, PROCESSES FOR
MAKING SAME, AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-_____

COMPLAINANTS' STATEMENT OF PUBLIC INTEREST

Pursuant to Commission Rule 210.8(b), 19 C.F.R. § 210.8(b), Celanese International Corporation, Celanese Sales U.S. Ltd. and Celanese (Malta) Company 2 Limited (collectively, “Celanese” or “Complainants”) respectfully submit this statement on public interest issues in support of the concurrently filed Complaint entitled *In the Matter of Certain High-Potency Sweeteners, Processes for Making Same, and Products Containing Same* against the Proposed Respondents named in the Complaint.

This proceeding involves the importation, sale for importation, and/or sale after importation into the United States of certain high-potency sweeteners, particularly acesulfame potassium (“Ace-K”), processes for making same, and products containing same that infringe Celanese’s five United States patents as asserted in the Complaint (the “Asserted Patents”). Celanese seeks a permanent limited exclusion order to exclude from entry into the United States infringing high-potency sweeteners and products containing such sweeteners, as well as orders directing Respondents to cease and desist from marketing, advertising, distributing, offering for sale, selling, or otherwise transferring, including the movement or shipment of inventory, in the United States, or transferring outside the United States for sale in the United

States Respondents' high-potency sweeteners and products containing such sweeteners that infringe the Asserted Patents.

The requested orders are in the public interest. The Commission has long recognized the strong public interest in enforcing intellectual property rights. *See, e.g., Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chips, Power Control Chips, and Products Containing Same, Including Cellular Telephone Handsets*, Inv. No. 337-TA-543, USITC Pub. 4258, at 136-37 (Oct. 2011). This public interest is rooted in incentivizing innovators to disclose their technology in exchange for the statutory right to exclude others, and “[t]he importation of any infringing merchandise derogates from the statutory right, diminishes the value of the intellectual property, and thus indirectly harms the public interest.” *Id.* at 63-64 n.231 (quoting S. Rep. 100-71, at 128-29 (1987)). The Commission rarely denies relief on public interest grounds. *Id.* at 137-38. The few instances where relief has been denied involve situations not present here, where “inadequate supply within the United States – by both the patentee and domestic licensees – meant that an exclusion order would deprive the public of products necessary for some important health or welfare need” *See Spansion, Inc. v. ITC*, 629 F.3d 1331, 1360 (Fed. Cir. 2010).

In this case, the requested remedial orders against Respondents will not have an adverse effect on the public health and welfare in the United States, competitive conditions in the United States economy, the production of likely or directly competitive articles in the United States, or United States consumers. Here, the subject articles are certain high potency sweeteners that are not necessary to the public health or welfare. Celanese is one of the largest producers of Ace-K and has capacity to supply demand occupied by Respondents' infringing products. Moreover, Celanese's intellectual property is being appropriated to the severe

detriment of Celanese. Thus, there is a strong public interest in protecting Celanese's intellectual property and no countervailing adverse effects to outweigh that public interest.

1. Explanation Of How The Articles Potentially Subject To The Requested Orders Are Used In The United States.

The accused products at issue in this investigation are high-potency sweeteners, processes for making same, and products containing the same. The accused products are used as low-calorie sweeteners in food products, beverages, and pharmaceuticals.

2. Identification Of Any Public Health, Safety, Or Welfare Concerns Relating To The Requested Orders.

There are no health, safety, or welfare concerns at issue in this investigation that rise to the level of public interest concerns. The accused Ace-K products are high-potency sweeteners and products containing such sweeteners, and they are not the type of products that have raised concerns by the Commission about public health, safety, or welfare, such as medical devices, pharmaceuticals, or military hardware important to national security and defense. *See Certain Radio Control Hobby Transmitters and Receivers and Products Containing the Same*, Inv. No. 337-TA-757, Notice of Issuance of Limited Exclusion Order (Sept. 27, 2011). While the accused Ace-K products healthfully limit caloric intake, alternatives to the accused products are readily available, as indicated in the next section.

3. Identification Of Like Or Directly Competitive Articles That Complainants Or Third Parties Make That Would Replace The Subject Articles If They Were To Be Excluded.

Celanese develops and sells a high-potency sweetener product under its Sunett® Sweetener trademark. Other chemical companies produce high-potency sweeteners that do not infringe the Asserted Patents, and these products are readily available on the market. Examples of non-infringing high-potency sweeteners include aspartame, saccharin, sucralose, and various formulations thereof, provided that such formulations do not include infringing Ace-K. Thus, if

the high-potency sweeteners at issue in this investigation were excluded, consumers of high-potency sweeteners would still have a variety of products from which to choose that would be produced by Celanese and other competitors.

4. Identification Of Whether The Complainants And/Or Third Parties Have The Capacity To Replace The Volume Of Articles Subject To The Requested Orders In A Commercially Reasonable Time In The United States.

Celanese and other non-infringing producers of high-potency sweeteners have ample capacity to provide the United States market with a supply of high-potency sweeteners sufficient to replace the supply of high-potency sweeteners provided by Respondents that may become subject to an exclusion order in this investigation. Indeed, as described in more detail in the domestic industry section and supporting declarations of the Complaint, Celanese sold more than a thousand tons of its Sunett® Sweetener high-potency sweetener product in the U.S. alone during the last two years (and more globally), and it has capacity to increase its production sales of Sunett® Sweetener to meet increased demand in the United States. In addition to Celanese's Sunett® Sweetener high-potency sweetener product, numerous other high-potency sweetener products are available on the market, including, for example aspartame, saccharin, sucralose, and various formulations thereof, provided that such formulations do not include infringing Ace-K.

5. Statement Of How The Requested Remedial Orders Would Impact Consumers.

For at least the reasons articulated above, it would be unlikely that consumers would experience any impact from the requested remedial orders. Since, as discussed above, Respondents' subject articles are high potency sweeteners that do not implicate any public health, safety, or welfare concerns, their exclusion will not create any public interest concerns. As discussed above, consumers would not be deprived of like or directly competitive products

due to the presence of others in the relevant market, including Celanese and other suppliers. Substitute products would be available to provide U.S. consumers with replacement products within a commercially reasonable time. Due to the availability of such alternatives, negative economic outcomes from the requested remedial orders are also unlikely. Regardless, even negative economic outcomes, as opposed to negative public health, safety, and welfare outcomes, do not outweigh the strong public interest in protecting Celanese's intellectual property rights. *See, e.g., Certain Lens-Fitted Film Packages*, Inv. No. 337-TA-406, Comm'n. Op., 1999 ITC LEXIS 202, at *40 (June 28, 1999) (price increase insufficient to warrant preclusion of remedial order under public interest analysis). Thus, any potential effect on the public interest from the exclusion of Respondents' infringing products would be minimal at most.

Dated: April 8, 2021

Respectfully submitted,

By: /s/ Aaron Wainscoat

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(Malta) Company 2 Limited*

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

In the Matter of

**CERTAIN HIGH-POTENCY
SWEETENERS, PROCESSES FOR
MAKING SAME, AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-_____

**COMPLAINT OF CELANESE INTERNATIONAL CORPORATION, CELANESE
(MALTA) COMPANY 2 LIMITED, AND CELANESE SALES U.S. LTD. UNDER
SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

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2	Celanese Corporation Form 10-K	Public
3C	Declaration of Tom Kelly in Support of the Complaint of Celanese International Corporation, Celanese Sales U.S. Ltd. & Celanese (Malta) Company 2 Limited under Section 337 of the Tariff Act of 1930, as amended	Confidential
4	Sunett® Acesulfame Potassium: A Superior Sweetener for Achieving Sugar Reduction Goals	Public
5	Certified Copy of U.S. Patent No. 10,023,546	Public
6	Certified Copy of U.S. Patent No. 10,208,004	Public
7	Certified Copy of U.S. Patent No. 10,590,098	Public
8	Certified Copy of U.S. Patent No. 10,233,163	Public
9	Certified Copy of U.S. Patent No. 10,590,095	Public
10	Certified Copy of Recorded Assignment as to U.S. Patent No. 10,023,546	Public
11	Certified Copy of Recorded Assignment as to U.S. Patent No. 10,208,004	Public
12	Certified Copy of Recorded Assignment as to U.S. Patent No. 10,590,098	Public
13	Certified Copy of Recorded Assignment as to U.S. Patent No. 10,233,163	Public
14	Certified Copy of Recorded Assignment as to U.S. Patent No. 10,590,095	Public
15C	Licenses to Asserted Patents	Confidential
16	Quality Information Pack : Sunett® (March 2020)	Public
17	Excerpt of Anhui Jinhe's Website (en.jinheshiye.com) - About Us	Public
18	Excerpt of Anhui Jinhe's Website (en.jinheshiye.com) - Contact Us	Public
19	Excerpt of Anhui Jinhe's Website (ajhfood.com) - About Us	Public
20	Anhui Jinhe Enlarges Sucralose Capacity and Product Mix (cnchemicals.com) (October 17, 2016)	Public
21	Excerpt of Anhui Jinhe Website (en.jinheshiye.com) - Products	Public
22	State of Delaware - Entity Details - Jinhe USA LLC	Public
23	Excerpt of Jinhe USA's website (jinheusa.com) - Contact	Public
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26	Excerpt of Jinhe USA's website (jinheusa.com) - About	Public
27	State of Delaware - Entity Details - Agrident, Inc.	Public
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52	Excerpt of NiuSource's website (niusource.com) - About Us	Public
53	NiuSource Acesulfame Potassium (Ace-K) Product Brochure	Public
54	Excerpt of NiuSource's website (niusource.com) - Acesulfame Potassium (Ace-K)	Public
55	State of Delaware Entity Details for Prinova US LLC	Public
56	Excerpt of Prinova's website (prinovausa.com) - Contact Us	Public
57	Excerpt of Prinova's website (prinovausa.com) - Sweeteners	Public
58	New Jersey Business Entity Information for Prosweetz Ingredients, Incorporated	Public
59	Excerpt of Panasource's website (panasourceusa.com) - Contact Us	Public
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61	Excerpt of Panasource's website (panasourceusa.com) - Acesulfame Potassium	Public
62	ISO 22000 Certificate to Anhui Jinhe posted on Panasource's website	Public
63	ISO 14001 Certificate to Anhui Jinhe posted on Panasource's website	Public
64	ISO 9001 Certificate to Anhui Jinhe posted on Panasource's website	Public
65	FSSC 22000 Certificate to Anhui Jinhe posted on Panasource's website	Public
66	Kosher Certificate to Anhui Jinhe posted on Panasource's website	Public
67	Halal Certificate to Anhui Jinhe posted on Panasource's website	Public
68	Secretary of State of Massachusetts Business Entity Summary for Suzhou-Chem, Inc.	Public
69	Excerpt of Suzhou-Chem's website (suzhouchem.com) - Logistics	Public
70	Excerpt of Suzhou-Chem's website (suzhouchem.com) - About Us	Public
71	New Jersey Business Entity Information for UMC Ingredients, LLC	Public
72	Excerpt of UMC Corp.'s website (umccorp.com) - Home Office	Public
73	Excerpt of UMC Corp.'s website (umccorp.com) - Warehouse	Public
74	UMC Ingredients - Food, Beverage and Nutrition Product List	Public
75C	Declaration of Christoph Mollenkopf	Confidential
76	List of Foreign Counterparts for the Asserted Patents	Public

Exhibit Number	Description	Designation
77	Import Genius Records for Anhui Jinhe	Public
78C	Claim Chart Showing Infringement of U.S. Patent No. 10,023,546 by the Jinhe Acesulfame Potassium Product	Confidential
79C	Claim Chart Showing Infringement of U.S. Patent No. 10,208,004 by the Jinhe Acesulfame Potassium Product	Confidential
80C	Claim Chart Showing Infringement of U.S. Patent No. 10,590,098 by the Jinhe Acesulfame Potassium Product	Confidential
81C	Claim Chart Showing Infringement of U.S. Patent No. 10,233,163 by the Jinhe Acesulfame Potassium Product	Confidential
82C	Claim Chart Showing Infringement of U.S. Patent No. 10,590,095 by the Jinhe Acesulfame Potassium Product	Confidential
83	Import Genius Records for Jinhe USA	Public
84	Import Genius Records for Agrident	Public
85	Import Genius Records for Apura Ingredients Inc.	Public
86	Import Genius Records for Crossroad Ingredients	Public
87	Import Genius Records for Hhoya USA Inc.	Public
88	Import Genius Records for Ingredis US LLC	Public
89	Import Genius Records for NiuSource Inc.	Public
90	Import Genius Records for Panasource Ingredients Inc./ Prosweetz Ingredients Incorporated	Public
91	Import Genius Records for Prinova US LLC	Public
92	Import Genius Records for Suzhou-Chem Inc.	Public
93	Import Genius Records for UMC Ingredients, LLC fka JRS International LLC	Public
94C	Declaration of Dr. Louis DeFilippi	Confidential
95C	Claim Chart Showing Domestic Industry of U.S. Patent No. 10,023,546 by the Sunett® Acesulfame Potassium Product	Confidential
96C	Claim Chart Showing Domestic Industry of U.S. Patent No. 10,208,004 by the Sunett® Acesulfame Potassium Product	Confidential
97C	Claim Chart Showing Domestic Industry of U.S. Patent No. 10,590,098 by the Sunett® Acesulfame Potassium Product	Confidential
98C	Claim Chart Showing Domestic Industry of U.S. Patent No. 10,233,163 by the Sunett® Acesulfame Potassium Product	Confidential
99C	Claim Chart Showing Domestic Industry of U.S. Patent No. 10,590,095 by the Sunett® Acesulfame Potassium Product	Confidential
100	Certified English Translation of the Anhui Jinhe Acesulfame Potassium Product Manual	Public

Exhibit Number	Description	Designation
101C	Laboratory Testing Results of Impurity Contents in Anhui Jinhe Acesulfame Product	Confidential
102	Jinhe Ace-K Product (1kg package)	Public
103	Jinhe Ace-K Product (25kg package)	Public
104	Celanese Sunett® Ace-K Product Package	Public
105	Sunett® Ace-K Product Brochure	Public

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B	Certified Copy of the Prosecution History of U.S. Patent No. 10,208,004
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D	Certified Copy of the Prosecution History of U.S. Patent No. 10,233,163
E	Certified Copy of the Prosecution History of U.S. Patent No. 10,590,095
F	Copies of Patents and Other References Cited in the Prosecution of U.S. Patent Nos. 10,023,546, 10,208,004, 10,590,098, 10,233,163 and 10,590,095
G	Copies of Additional Patents and Other References Cited in the Prosecution of U.S. Patent No. 10,023,546
H	Copies of Additional Patents and Other References Cited in the Prosecution of U.S. Patent No. 10,233,163

I. INTRODUCTION

1. Celanese International Corporation, Celanese (Malta) Company 2 Limited, and Celanese Sales U.S. Ltd. (collectively, “Celanese” or “Complainants”) bring this complaint under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on the unlawful importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation by Anhui Jinhe Industrial Co., Ltd. (“Jinhe”); Jinhe USA LLC ; Agrident, Inc.; Apura Ingredients Inc.; Crossroad Ingredients; Hhoya USA Inc.; Ingredis US LLC; NiuSource Inc.; Prinova US LLC; Prosweetz Ingredients Incorporated d/b/a Panasource Ingredients Inc.; Suzhou-Chem Inc.; and UMC Ingredients, LLC fka JRS International LLC (collectively, “the Proposed Respondents”) of high-purity acesulfame potassium (“Ace-K”), a high-potency sweetener, processes for making same, and products containing same that directly or indirectly infringe one or more claims of U.S. Patent No. 10,023,546 (“the ’546 patent”), U.S. Patent No. 10,208,004 (“the ’004 patent”), U.S. Patent No. 10,590,098 (“the ’098 patent”), U.S. Patent No. 10,233,163 (“the ’163 patent”) and/or U.S. Patent No. 10,590,095 (the “’095 patent”) (collectively, “Asserted Patents”), either literally or under the doctrine of equivalents. The allegations herein are made based on the personal knowledge of the Complainants with respect to their own actions, and upon information and belief as to all other matters.

2. Respondent Jinhe manufactures the accused Ace-K in China, and the remaining respondents import and/or sell after importation in the United States Ace-K manufactured by Jinhe (“Accused Products”).

3. The Accused Products were manufactured, without license, using the technologies protected by the Asserted Patents. The Accused Products were manufactured by a process that practices at least the following claims of each of the Asserted Patents:

Asserted Patents	Asserted Claims (Independent claims in bold)
The '546 patent	1 , 11-13, 15-18, 22, and 27
The '004 patent	1 -5, 7-9, 11-13, 21-33, and 35-42
The '098 patent	1 -5, 7-9, 11-12, 20-32, 34, and 36-38
The '163 patent	1 , 4-5, 7-11, 13, 15-16, 18-19, and 22-37
The '095 patent	1 , 4-5, 7-11, 13, 15, 18-19, and 22-39

4. Celanese is a global technology leader in the production of specialty materials and chemical products which are used in most major industries and consumer applications.

Celanese's products, essential to everyday living, are manufactured in North America, Europe and Asia. Celanese is one of the world's largest producers of acetyl products, which are intermediate chemicals for nearly all major industries. Celanese is also a leading global producer of high-performance engineered polymers that are used in a variety of high-value applications.

Ex. 1.

5. Celanese is an industry leader in the production of acetic acid, derivatives of acetic acid (e.g., acetic anhydride and vinyl acetate), and products produced using acetic acid. Celanese is the only Western producer of Acesulfame potassium ("Ace-K"), a type of high-potency sweetener that is a commonly used ingredient in beverages, confections, baked goods, dairy products, dental floss, and chewing gum. Ex. 2, at 6. Celanese's Sunett®-brand Ace-K, for example, is a sweetener The Coca-Cola Company has used for its Coke Zero and other products.

Ex. 3C at ¶ 3.

6. Ace-K was discovered in 1967, when Hoechst researcher Karl Claus was conducting research on oxathiazinondioxides and found that they tasted sweet. A subsequent research program evaluated structurally related compounds until a great-tasting, safe, stable, and commercially viable compound was selected — now known as Ace-K. Ex. 4, at 3.

7. While no single high potency sweetener tastes exactly like sugar, blends that include Ace-K can significantly improve the sweetness quality of a zero-calorie product as compared to an individual sweetener. The reason that Ace-K blends provide sugar-like taste is linked to Ace-K's temporal profile. Other high potency sweeteners, such as aspartame, sucralose, and stevia, have a delayed onset of sweetness or the sort of lingering sweetness that consumers associate with an "artificial" or diet taste. Ace-K, on the other hand, has a fast onset of sweetness, which fades quickly (also unlike sugar). And, when Ace-K is blended with lingering sweeteners, the resulting taste profile is much more like sugar. Ex. 4, at 2.

8. The physical and chemical versatility of Ace-K ensures that it can be used in food and beverages without issue:

ACESULFAME-K FEATURES AND BENEFITS

Feature	Benefit
Excellent heat stability – up to 230oF	Ace-K can be used in a wide variety of thermally-processed products (baked goods, boiled confections, hot filled beverages, canned goods).
Broad pH stability from 3.0 to 9.0	Ace-K can be used successfully in essentially all food, beverage and pharmaceutical products.
200 times sweetener than sugar	High potency of Ace-K means that usage levels are low, making it a very cost-effective sweetener.
Does not react/interact with other food ingredients	Ace-K can be used in all food, beverage, and pharmaceutical formulations without concern about quality changes over time due to ingredient interactions.
Excellent water solubility – up to 27% soluble at room temperature	Ace-K quickly and fully dissolves in water for ease of production. It is easily incorporated into concentrates and beverage bases.
Zero calories	Ace-K is not metabolized and doesn't contribute any calories to your formula.

Ex. 4, at 3.

9. Through a series of mergers and divestitures, the name of the owner of the production, intellectual property, and know-how have changed from Hoechst to Nutrinova® to the current name, Celanese. Since its discovery, Celanese has generated an abundance of safety data to satisfy the requirements of global regulatory approvals, bolstered its production know-how with a robust patent portfolio, broadened its expertise in the usage of Ace-K in foods and beverage, and trademarked the name Sunett® Ace-K for the sweetener. Ex. 4, at 3.

10. Sunett® Ace-K has predictable purity which provides flavor and color stability and enhanced shelf life in the final product. It also confers stable processing conditions and does not clog filtration systems. Sunett ® Ace-K also has consistent particle size which offers benefits like dry premix blending consistencies, potential dosage stability, low maintenance time, and consistent sweetener distribution. Ex. 4, at 4.

11. The amount of time and resources that Celanese invested in bringing Sunett® Ace-K to market has made Celanese experts in the production and usage of this unique sweetener. This expertise has led to an extensive production and application patent portfolio, which Celanese continues to build, implement, and enforce. Ex. 4, at 3. Celanese's numerous innovations include not only technological advances in chemical products, but also technological advances in processes and techniques for improving the efficiency of the production of chemical products.

12. The Asserted Patents relate to processes that reduce impurity levels in the production of Ace-K.

13. The inventions protected by the Asserted Patents have been incorporated into Celanese's high-potency sweetener products. Celanese's Sunett® Ace-K products are manufactured by practicing the asserted patents.

14. Proposed Respondents import, sell for importation into the United States, and/or sell after importation into the United States certain high-purity Ace-K manufactured by Jinhe, and products containing same that appear to have been manufactured using Celanese's patented processes for making same ("Accused Products"). Indeed, Proposed Respondents' Accused Products appear to have been manufactured using Celanese's patented processes for reducing impurity levels during the manufacture of Ace-K.

15. As set forth in Sections III and VI below, the Accused Products are manufactured abroad and are imported, sold for importation into the United States, and/or sold after importation into the United States.

16. Copies of the certified version of the Asserted Patents are included as Exhibits 5-9. Celanese owns all rights, title, and interest in each of the Asserted Patents, including the right to sue for infringement. Copies of the assignment records relating to the Asserted Patents are included as Exhibits 10-14. Copies of the internal licenses relating to the Asserted Patents are included as Confidential Exhibit 15C.

17. An industry as required by 19 U.S.C. § 1337(a)(2) and (3) exists in the United States relating to articles protected by the Asserted Patents. The domestic industry includes significant domestic investments in plant and equipment and significant domestic employment of labor and capital in the Sunett® Ace-K products by Celanese.

18. Complainant Celanese seek as relief a permanent limited exclusion order under 19 U.S.C. § 1337(d) barring from entry into the United States infringing high-potency sweeteners, processes for making same, and products containing same that are manufactured abroad, sold for importation, imported, and/or sold in the United States after importation by or on behalf of the Proposed Respondents.

19. Celanese also seeks as relief permanent cease-and-desist orders under 19 U.S.C. § 1337(f) prohibiting the Proposed Respondents from importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), soliciting United States agents or distributors, or aiding and abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of certain

high-potency sweeteners, processes for making same, and products containing same that infringe one or more claims of the Asserted Patents.

20. Complainants also request that the Commission require an appropriate bond during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

II. COMPLAINANTS

21. Celanese International Corporation is a United States company organized and existing under the laws of Delaware, having its principal place of business at 222 West Las Colinas Boulevard, Suite 900N, Irving, Texas 75039. Celanese (Malta) Company 2 Limited is a limited company organized under the laws of Malta, having its registered office at 78 Mill street, Zone 5, Central Business District, Qormi, CBD 5090, Malta and registered with company registration number C97343. Celanese Sales U.S. Ltd. is a limited partnership, organized and existing under the laws of Texas, having its principal place of business at 222 West Las Colinas Boulevard, Suite 900N, Irving, Texas 75039. Celanese International Corporation, Celanese (Malta) Company 2 Limited, and Celanese Sales U.S. Ltd. are wholly owned subsidiaries of Celanese Corporation.

22. Celanese is a global technology leader in the production of specialty materials and chemical products which are used in most major industries and consumer applications. Celanese is the only Western producer of Acesulfame potassium ("Ace-K"), a type of high-potency sweetener, which is a commonly used ingredient in beverages, confections, baked goods, dairy products, dental floss, and chewing gum. Celanese's Sunett®-brand Ace-K, for example, is a sweetener [REDACTED] and other products. *See* Ex. 3C, at ¶ 3; Ex. 2, at 6. Ace-K also sweetens [REDACTED] and dozens of other American products. Ex. 3C, at ¶ 3.

23. Sunett® Ace-K is manufactured by Celanese in a modern single purpose facility in Frankfurt, Germany. Ex. 4, at 4; Ex. 16, at 5. Celanese also owns and operates an acetic acid plant in Clear Lake, Texas which manufactures acetic acid that is used to provide diketene, an essential precursor and primary raw material for the manufacture of Sunett® Ace-K. Ex. 2, at 7, 26; Ex. 3C at ¶ 14.

24. Celanese’s centralized approach to manufacturing and considerable production expertise ensures the high quality of Sunett® Ace-K. Celanese’s seamless system processing minimizes defects and minimizes risks throughout the supply chain because each step in the production of Sunett® Ace-K is monitored for quality control and documented. Ex. 4, at 4. A vertically integrated supply chain means that critical raw materials are on the manufacturing site so there is no exposure to possible contamination during shipping. Ex. 4, at 4. And, Sunett® Ace-K is certified as best in class by AIB, HACCP, BRC, and NFPA/GMA-SAFE as well as compliant with the Food Safety and Modernization Act. Ex. 4, at 4.

25. The Food Ingredients business unit at Celanese supports the Ace-K patent portfolio and the use of Sunett® Ace-K in the market. Between January 2019 and November 2020 alone, Celanese’s Food Ingredients business unit sold over 1,500,000 kilograms of its proprietary Sunett® Ace-K within the United States for revenues of over \$25 million. Ex. 3C, at ¶ 3.

III. PROPOSED RESPONDENTS

A. Anhui Jinhe Industrial Co., Ltd.

26. On information and belief, Proposed Respondent Anhui Jinhe Industrial Co., Ltd. (“Jinhe”) is a Chinese company publicly traded under the “SZ002597” symbol with its principal place of business at 127 East Street, Lai’an County, Chuzhou City, Anhui 239200, People’s Republic of China. Exs. 17, 18.

27. Jinhe purports to be “an enterprise dedicated to serving healthy life and advanced manufacturing, and specializing in chemical, biological and new material businesses, and is a major manufacturer of sweeteners Ace-K and sucralose and spice maltol.” Ex. 17.

28. Jinhe claims to be the largest producer of Ace-K in the world. Ex. 19. On information and belief, Jinhe has two production bases, “Anhui Lai” and “Dingyuan Salt Chemical Industrial Parks,” and has set up research institutes and application R&D operations centers in Hefei and Nanjing, China, respectively. Ex. 20. On information and belief, in early 2016, Jinhe enlarged its Ace-K Production capacity from 9,000 t/a to 12,000 t/a. Ex. 20.

29. On information and belief, Jinhe sells its Ace-K Product on its global “Products” website. Ex. 21.

30. On information and belief, Jinhe sells Ace-K for importation into the United States. *See* Section VI. A, *infra*.

B. Jinhe USA LLC

31. On information and belief, Proposed Respondent Jinhe USA LLC (“Jinhe USA”) is a Delaware corporation with its principal place of business at 111 West Jackson Blvd., Suite 1350, Chicago, Illinois 60604. *See* Exs. 22, 23. Jinhe USA is a subsidiary of Proposed Respondent Jinhe. *See* Ex. 26.

32. Jinhe USA claims to be “the preferred sweeteners and food ingredients supplier for major food and beverage companies around the world.” *See* Ex. 24. Jinhe USA lists Ace-K as one of its sweetener products available for purchase on its company website. *Id*; Ex. 25.

33. Jinhe USA states that it receives product shipments from its parent company in China in US warehouses. *See* Ex. 26 at 2. Jinhe USA thereafter packages and ships the product, including Ace-K, based on customer specifications and preferences. *See* Ex. 26 at 2.

34. On information and belief, Jinhe USA is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. B, *infra*.

C. Agrident, Inc.

On information and belief, Proposed Respondent Agrident, Inc., (“Agrident”) is a Delaware corporation with its headquarters at 28580 Orchard Lake Road, Suite 205, Farmington Hills, Michigan 48334. *See* Ex. 27, 28. Agrident purports to have ten distribution centers across the United States. *See* Ex. 28.

35. Agrident purports to be “a nationally recognized wholesaler of a wide range of agricultural ingredients” sourced “from processing facilities all over the world.” *See* Ex. 28. Agrident sells its products under the brand name “De Tulpen” and its core product line includes sweeteners. *Id.*

36. On information and belief, Agrident is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. C, *infra*.

D. Apura Ingredients Inc.

37. On information and belief, Proposed Respondent Apura Ingredients Inc. (“Apura”) is a California corporation with its headquarters at 14168 Central Ave., Unit A, Chino, CA 91710. *See* Ex. 29. Apura purports to have additional offices in Jupiter, Florida and Augusta, Georgia and a network of warehouses across the United States, including in Chicago, Illinois, Newark, New Jersey and Los Angeles, California. *See* Ex. 30.

38. Apura purports to be a premier supplier of high-quality alternative sweeteners to the food and beverage industry. *See* Ex. 31. Apura further states that it serves manufacturers throughout North America. *Id.*

39. Apura advertises Ace-K as a “calorie-free, high intensity sweetener” that is “a white, odorless, freely flowing powder . . . approximately 200 times sweeter than sucrose.” *See* Exs. 32, 33. Apura advertises both granular and powder forms of Ace-K suggesting uses in carbonated soft drinks, juices, chewing gums, hard candy, ice cream, yogurt and pudding. *See* Exs. 34, 35.

40. On information and belief, Apura is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. D, *infra*.

E. Crossroad Ingredients

41. On information and belief, Crossroad Ingredients (“Crossroad”) is a New Jersey based corporation with its main business address at 271 Route 46 West, Suite H206, Fairfield NJ 07004. *See* Ex. 36.

42. Crossroad purports to deliver “high quality ingredients . . . for leaders in the marketing and manufacturing of food, beverages, nutritionals, [and] sport nutrition.” *See* Ex. 37. Crossroad advertises Ace-K on its website and invites potential customers to request samples of products and price quotes potential orders. *See* Exs. 38-40.

43. On information and belief, Crossroad is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. E, *infra*.

F. Hhoya USA Inc.

44. On information and belief, Hhoya USA Inc. (“Hhoya”), is a New York corporation with its headquarters at 228 East 45th Street, Suite 9E, New York, New York 10017. *See* Ex. 41.

45. On information and belief, Hhoya is affiliated with Hhoya BV located in the Netherlands and Hhoya Beijing Ltd. located in China. *See* Ex 42.

46. Hhoya purports to form “a bridge between customer and supplier in a harmonious, reliable and transparent way” and claims that by using “expertise of food technology, sourcing, sales, and distribution, Hhoya provides its customers with tailor-made [and] cost-effective healthy solutions.” *See* Ex. 43. Hhoya touts its connections to Europe and China and further claims to have “solid relationships with customers and strong partnerships with suppliers, who highly value Hhoya’s principles and fair business approach.” *Id.*

47. Hhoya describes itself as “focused on the marketing and sales of a range of no-calorie high intensity sweeteners” and advertises its sale of Ace-K on its website. *See* Exs. 44, 45.

48. On information and belief, Hhoya is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. F, *infra*.

G. Ingredis US LLC

49. On information and belief, Ingredis US LLC (“Ingredis”) is a New Jersey based company with its main business address at 5 Chandler Court, Plainsboro, New Jersey 08536. *See* Ex. 46. Ingredis also purports to have a warehouse in New Jersey located at 20 Haypress Road, Suite 321, Cranbury, New Jersey 08512. *See* Ex. 47.

50. Ingredis purports to be “a company with a very lean organization (and consequently low cost []structure) that pursues a very clear idea: transparency, integrity and reliability in the distribution of quality ingredients from quality manufacturers, combined with and outstanding level of customer service and responsiveness.” *See* Ex. 48.

51. Ingredis lists Ace-K as one of the products it supplies on its website. *See* Ex. 49.

52. On information and belief, Ingredis is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. G, *infra*.

H. NiuSource Inc

53. On information and belief, NiuSource, Inc., (“NiuSource”) is a California corporation located at 14266 Euclid Ave., Chino, California 91710. Ex. 50. NiuSource claims to have three warehouses across the United States. *See* Ex. 51 at 2.

54. NiuSource claims that it is “an integrated supplier with a strong presence across the entire value chain, from key Food & Beverage and Nutraceutical Industries to Pharmaceutical Intermediates.” *See* Ex. 52 at 1. NiuSource further claims to operate through “a network of dedicated global sales offices and major global manufacturers” and claims to have enjoyed significant growth, increasing both its customer base and expanding its global operations. *Id.*

55. NiuSource “specializes in and distributes a diverse list of food additives; these include the sweetener[] . . . Ace-K.” *See* Ex. 52 at 1; *see also* Ex. 53. NiuSource “always keeps inventory in the United States.” *See* Ex. 51 at 1.

56. NiuSource advertises granular and powder Ace-K on its website and invites potential customers to contact NiuSource to connect with a representative. *See* Ex. 54 at 4.

57. On information and belief, NiuSource is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States *See* Section VI. H, *infra*.

I. Prinova US LLC

58. On information and belief, Proposed Respondent Prinova US LLC (“Prinova”) is a Delaware corporation with its principal place of business at 6525 Muirfield Drive Hanover Park, IL 60133. *See* Exs. 55, 56.

59. Prinova touts its “comprehensive portfolio of sweeteners and sugar reduction/sweetness enhancing ingredients.” *See* Ex. 57. Prinova advertises Ace-K on its website and invites potential customers to contact a Prinova team member for additional information. *Id. see also* Ex. 56.

60. On information and belief, Prinova is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States and selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. I, *infra*.

J. Prosweetz Ingredients Incorporated d/b/a Panasource Ingredients Inc.

61. On information and belief, Proposed Respondent Prosweetz Ingredients Incorporated. (“Prosweetz”) is a New Jersey based corporation with its headquarters at 98-A Mayfield Ave, Edison, New Jersey 08837. *See* Ex. 58.

62. On information and belief, Prosweetz also does business as Panasource Ingredients Inc. (“Panasource”). *See* Ex. 58 at 6. Prosweetz and Panasource share both a physical address. *Compare* Exs. 58, 59. Panasource also has a warehouse in Downey, CA. *See* Ex. 60.

63. Panasource purports to be “a leading distribution partner for the US and global chemical and food industry.” *See* Ex. 60. Panasource advertises Ace-K on its website and invites potential customers to request a quote. *See* Ex. 61.

64. On information and belief, Panasource is a distributor of Jinhe Ace-K.

Panasource's website posts ISO, FSSC, kosher and halal certifications for Jinhe Ace-K. *See* Exs 61-67.

65. On information and belief, Ace-K manufactured by Jinhe is imported into the United States by Panasource and sold after importation into the United States by Panasource. *See* Section VI. J, *infra*.

K. Suzhou-Chem Inc.

66. On information and belief, Proposed Respondent Suzhou-Chem Inc. ("Suzhou-Chem") is a Massachusetts based corporation with its headquarters at 396 Washington Street, Suite 318, Wellesley, Massachusetts 02481. *See* Ex. 68. Shuzo-Chem purports to "maintain a strategic network of distribution centers across North America" including warehouses in New Jersey, New York, Texas, California, Utah, and Illinois. *See* Ex. 69.

67. Suzhou-Chem purports to have 19 years of experience bringing quality products at competitive prices to customers in the United States. Suzhou-Chem further purports to "carefully partner with selected ingredients manufacturers in China to provide excellent service to [it's] customers." *See* Ex. 70. Suzhou-Chem states that it specializes in vitamin C derivatives and "high intensity sweeteners." *Id*.

68. On information and belief, Suzhou-Chem is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. K, *infra*.

L. UMC Ingredients, LLC fka JRS International LLC

69. On information and belief, UMC Ingredients, LLC ("UMC") is a Delaware corporation with its main business address located at 160 Chubb Avenue, Suite 206, Lyndhurst

New Jersey, 07071. *See* Ex. 71. UMC was formerly known as JRS International but changed its name to UMC in December 2019. *Id.* at 8.

70. On information and belief, UMC Ingredients is affiliated with United Mineral & Chemical Corp., a company operating from the same physical address and website as UMC Ingredients, LLC. *Compare* Ex. 71 and Ex. 72.

71. United Mineral & Chemical Corporation purports to have warehouses and “strategic stocking locations” across the United States. *See* Ex. 73.

72. UMC advertises Ace-K as a one of the products that it distributes across the world. *See* Ex. 74.

73. On information and belief, UMC is a distributor of Jinhe Ace-K, importing Ace-K manufactured by Jinhe into the United States selling Ace-K manufactured by Jinhe after importation into the United States. *See* Section VI. L, *infra*.

IV. THE TECHNOLOGY AND ACCUSED PRODUCTS AT ISSUE

74. The technologies at issue relate to high-purity Ace-K, processes for making same, and products containing same. Pursuant to 19 CFR 210.12(a)(12) and 210.10(b)(1), the Accused Products are Jinhe Ace-K sweetener products and manufacture processes thereof. On information and belief, Jinhe Ace-K products are manufactured via the processes claimed in Celanese’s Asserted Patents.

75. Conventional manufacture process for Ace-K generates several undesirable impurities such as 5-chloro-acesulfame potassium and acetoacetamide. Governmental regulations and customer guidelines often limit the content of these impurities in the Ace-K products. Complainants were the first to develop improved Ace-K manufacture processes that reduce or avoid generating these undesirable impurities, as further described in the

accompanying Declaration of Dr. Mollenkopf (Ex. 75C), one of the foremost experts in the manufacture of Ace-K.

V. THE ASSERTED PATENTS AND NON-TECHNICAL DESCRIPTION OF THE INVENTIONS

A. Ownership of the Asserted Patents

76. Celanese owns by assignment the entire right, title, and interest in and to each of the Asserted Patents. Certified copies of the assignments for each of the Asserted Patents are attached as Exs. 10-14.

B. Introduction to the Asserted Patents

77. The Asserted Patents are all directed to processes for manufacturing high-purity Ace-K and fall into two families of patents. The '004 and '098 patents claim priority to, and share a specification with, the '546 patent. The '095 patent claims priority to, and shares a specification with, the '163 patent.

78. As a general matter, commercial production of Ace-K involves the cyclization of an acetoacetamide salt with sulfur trioxide in a halogenated solvent such as dichloromethane.

Ex. 94C (DeFilippi Declaration) ¶¶ 28-29. [REDACTED]

[REDACTED] Each of the asserted patents is directed to improvements to this basic process that result in the production of high-purity Ace-K.

C. U.S. Patent No. 10,023,546

79. The '546 patent, entitled "Acesulfame Potassium Compositions and Processes for Producing the Same" and issued on July 17, 2018, names Christoph Mollenkopf, Peter Groer, and Arvind Yadav as inventors. The '546 patent is issued from U.S. Patent Application Serial No. 15/704,457, filed on September 14, 2017, and expires on September 14, 2037.

80. A certified copy of the '546 patent is attached as Ex. 5.

81. A certified copy of the assignment for the '546 patent is attached as Ex. 10.

82. A certified copy of the prosecution history of the '546 patent is attached as Appendix A. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '546 patent are attached as Appendices F and G.

83. The '546 patent has 30 claims, 1 independent claim and 29 dependent claims. Complainants are asserting claims 1, 11-13, 15-18, 22, and 27.

84. The '546 patent relates generally to acesulfame potassium and to processes for producing acesulfame potassium, specifically to processes for producing high purity acesulfame potassium. The inventors of the '546 patent discovered a manufacture process that can provide a finished acesulfame potassium composition with less than 35 wppm 5-chloro-acesulfame potassium, which is an impurity that is difficult to be removed using standard purification procedures such as crystallization. In the first step of the process, a cyclizing agent and a solvent are contacted to form a cyclizing agent composition. In the second step, an acetoacetamide salt is reacted with the cyclizing agent in the cyclizing agent composition to form a cyclic sulfur trioxide adduct. In the third step, the finished acesulfame potassium composition is formed from the cyclic sulfur trioxide adduct. The contact time from the beginning of the first step to the beginning of the second step is less than 60 minutes.

D. U.S. Patent No. 10,208,004

85. The '004 patent, entitled "Acesulfame Potassium Compositions and Processes for Producing the Same" and issued on February 19, 2019, names Christoph Mollenkopf, Peter Groer, and Arvind Yadav as inventors. The '004 patent is issued from the U.S. Patent Application Serial No. 16/014,552, filed on June 21, 2018, and expires on September 14, 2037.

86. A certified copy of the '004 patent is attached as Ex. 6.

87. A certified copy of the assignment for the '004 patent is attached as Ex. 11.

88. A certified copy of the prosecution history of the '004 patent is attached as Appendix B. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '004 patent are attached as Appendix F.

89. The '004 patent has 43 claims, 1 independent claim and 42 dependent claims. Complainants are asserting claims 1-5, 7-9, 11-13, 21-33, and 35-42.

90. The '004 patent relates generally to acesulfame potassium and to processes for producing acesulfame potassium, specifically to processes for producing high purity acesulfame potassium. The inventors of the '004 patent discovered a manufacture process that can provide a finished acesulfame potassium composition with less than 35 wppm 5-chloro-acesulfame potassium, which is an impurity that is difficult to be removed using standard purification procedures such as crystallization. In the first step of the process, a solvent at an initial temperature and a cyclizing agent at an initial temperature are provided. In the second step, the solvent and the cyclizing agent are contacted to form a cyclizing agent composition. In the third step, an acetoacetamide salt is reacted with the cyclizing agent composition to form a cyclic sulfur trioxide adduct, wherein prior to being reacted with the acetoacetamide salt, the cyclizing agent composition has a temperature that is lower than the initial temperature of the cyclizing agent and/or the initial temperature of the solvent. In the fourth step, the finished acesulfame potassium composition is formed from the cyclic sulfur trioxide adduct. The contact time from the beginning of the second step to the beginning of the third step is less than 60 minutes.

E. U.S. Patent No. 10,590,098

91. The '098 patent, entitled "Acesulfame Potassium Compositions and Processes for Producing the Same" and issued on March 17, 2020, names Christoph Mollenkopf, Peter Groer, and Arvind Yadav as inventors. The '098 patent is issued from the U.S. Patent Application Serial No. 16/273,454, filed on February 12, 2019, and expires on September 14, 2037.

92. A certified copy of the '098 patent is attached as Ex. 7.
93. A certified copy of the assignment for the '098 patent is attached as Ex. 12.
94. A copy of the prosecution history of the '098 patent is attached as Appendix C.

Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '098 patent are attached as Appendix F.

95. The '098 patent has 39 claims, 1 independent claim and 38 dependent claims. Complainants are asserting claims 1-5, 7-9, 11-12, 20-32, 34, and 36-38.

96. The '098 patent relates generally to acesulfame potassium and to processes for producing acesulfame potassium, specifically to processes for producing high purity acesulfame potassium. The inventors of the '098 patent discovered a manufacture process that can provide a finished acesulfame potassium composition with less than 35 wppm 5-chloro-acesulfame potassium, which is an impurity that is difficult to be removed using standard purification procedures such as crystallization. In the first step of the process, a solvent at an initial temperature and a cyclizing agent at an initial temperature are provided. In the second step, the solvent and the cyclizing agent are contacted to form a cyclizing agent composition. In the third step, an acetoacetamide salt is reacted with the cyclizing agent composition to form a cyclic sulfur trioxide adduct, wherein prior to being reacted with the acetoacetamide salt, the cyclizing agent composition has a temperature that is lower than the initial temperature of the cyclizing agent and/or the initial temperature of the solvent. In the fourth step, the finished acesulfame potassium composition is formed from the cyclic sulfur trioxide adduct. The contact time from the beginning of the second step to the beginning of the third step is less than 15, minutes.

F. U.S. Patent No. 10,233,163

97. The '163 patent, entitled "Acesulfame Potassium Compositions and Processes for Producing the Same" and issued on March 19, 2019, names Christoph Mollenkopf, Peter Groer,

and Arvind Yadav as inventors. The '163 patent is issued from the U.S. Patent Application Serial No. 16/014,431, filed on June 21, 2018, and expires on September 14, 2037.

98. A certified copy of the '163 patent is attached as Ex. 8.

99. A certified copy of the assignment for the '163 patent is attached as Ex. 13.

100. A copy of the prosecution history of the '163 patent is attached as Appendix D.

Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '163 patent are attached as Appendices F and H.

101. The '163 patent has 37 claims, 1 independent claim and 36 dependent claims.

Complainants are asserting claims 1, 4-5, 7-11, 13, 15-16, 18-19, and 22-37.

102. The '163 patent relates generally to acesulfame potassium and to processes for producing acesulfame potassium, specifically to processes for producing high purity acesulfame potassium. The inventors of the '163 patent discovered a manufacture process that can provide a finished acesulfame potassium composition with less than 33 wppm acetoacetamide. In the first step of the process, a crude acesulfame potassium composition is provided, which includes acesulfame potassium, acetoacetamide and water. In the second step, the crude acesulfame potassium composition is concentrated to form a water stream and an intermediate acesulfame potassium composition. In the third step, the intermediate acesulfame potassium composition is separated to form the finished acesulfame potassium composition. The second step concentrating operation is conducted at a temperature below 90 °C. The third step separating operation is conducted at a temperature at or below 35 °C.

G. U.S. Patent No. 10,590,095

103. The '095 patent, entitled "Acesulfame Potassium Compositions and Processes for Producing the Same" and issued on March 17, 2020, names Christoph Mollenkopf, Peter Groer,

and Arvind Yadav as inventors. The '095 patent is issued from the U.S. Patent Application Serial No. 16/273,358, filed on February 12, 2019, and expires on September 14, 2037.

104. A certified copy of the '095 patent is attached as Ex. 9.

105. A certified copy of the assignment for the '095 patent is attached as Ex. 14.

106. A copy of the prosecution history of the '095 patent is attached as Appendix E.

Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '095 patent are attached as Appendix F.

107. The '095 patent has 39 claims, 1 independent claim and 38 dependent claims.

Complainants are asserting claims 1, 4-5, 7-11, 13, 15, 18-19, and 22-39.

108. The '095 patent relates generally to acesulfame potassium and to processes for producing acesulfame potassium, specifically to processes for producing high purity acesulfame potassium. The inventors of the '095 patent discovered a manufacture process that can provide a finished acesulfame potassium composition with less than 33 wppm acetoacetamide. In the first step of the process, a crude acesulfame potassium composition is provided, which includes acesulfame potassium, acetoacetamide and water. In the second step, the crude acesulfame potassium composition is concentrated to form a water stream and an intermediate acesulfame potassium composition. In the third step, the intermediate acesulfame potassium composition is separated to form the finished acesulfame potassium composition. The second step concentrating operation is conducted at a temperature below 85 °C. The third step separating operation is conducted at a temperature at or below 20 °C

H. Foreign Counterparts of the Asserted Patents

109. A list of each foreign patent, each foreign patent application, and each foreign application that has been denied abandoned, or withdrawn corresponding to the Asserted Patents, with an indication of the prosecution status of each such foreign patent application, is attached as

Ex. 76. Complainants are aware of no other foreign patent, foreign patent application, or foreign application that has been denied, abandoned, or withdrawn corresponding to the Asserted Patents.

VI. RESPONDENTS' UNLAWFUL AND UNFAIR ACTS

110. Proposed Respondents sell for importation, import, and/or sell in the United States after importation certain high-potency sweeteners, processes for making same, and products containing same that were manufactured using a process that practices one or more claims of the Asserted Patents. Specific instances of importation, sale for importation into the United States, and/or sale within the United States after importation of Accused Products by the Proposed Respondents are set forth below. Specific examples of infringing products imported into and sold within the United States by or on behalf of the Proposed Respondents are also set forth below in detail. These instances and examples are exemplary in nature and not intended to restrict the scope of any exclusion order or other remedy the International Trade Commission may order.

111. [REDACTED]

112. [REDACTED]

A. Anhui Jinhe Industrial Co., Ltd.

113. On information and belief, Anhui Jinhe imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation into the United States, and/or sells accused Jinhe Ace-K after importation to the United States. *See* Ex. 101C.

114. U.S. customs records obtained from Import Genius identify Anhui Jinhe as the shipper-of-record for more than 100 shipments that include Jinhe Ace-K into the United States between January 1, 2019 and February 24, 2021 with gross weights totaling 4,065,845 pounds. *See* Ex. 77.

115. On information and belief, Anhui Jinhe manufactures the accused Jinhe Ace-K in China according to claims 1, 11-13, 15-18, 22, and 27 of the '546 patent, claims 1-5, 7-9, 11-13, 21-33, and 35-42 of the '004 patent, and claims 1-5, 7-9, 11-12, 20-32, 34, and 36-38 of the '098 patent. *See* Ex. 101C, and photographs of Jinhe Ace-K below.



1kg size package



25kg size package

Photographs of Jinhe Ace-K product (*See* Exs. 102 and 103)

116. Jinhe's Ace-K Product Manual shows that its Ace-K product contains 5-chloro-Ace-K at ≤ 20 wppm, which is less than 35 wppm as claimed in the '546, '004, and '098 patents. *See* Ex. 100 at 5.

117. [REDACTED]

118. [REDACTED]

[REDACTED] Specifically, in the first step, a cyclizing agent and a solvent are contacted to form a cyclizing agent composition, the solvent is selected from certain halogenated aliphatic hydrocarbons such as dichloromethane. In the second step, an acetoacetamide salt and the cyclizing agent in the cyclizing agent composition are reacted to form a cyclic sulfur trioxide adduct. In the third step, a finished Ace-K composition including non-chlorinated Ace-K and 5-chloro-Ace-K is formed from the cyclic sulfur trioxide adduct. *See* Declaration of Dr. DeFilippi (Ex. 94C at ¶¶ 85-88).

119. [REDACTED]

[REDACTED] First, the '546 patent discloses that the 5-chloro-Ace-K impurity cannot be efficiently separated from Ace-K, which indicates that the low level of the 5-chloro-Ace-K impurity in Jinhe Ace-K are a result of the manufacturing conditions used by Jinhe. Second, using a reduced contact time at less than 60 minutes produces Ace-K at the alleged impurity levels at lower cost than not using the reaction parameter. Third, as the largest manufacturer of Ace-K in the world,

Jinhe has a strong incentive to capture the cost savings achievable with the claimed methods. *See* Declaration of Dr. DeFilippi (Ex. 94C at ¶ 89).

120. An exemplary claim chart showing infringement of independent claim 1 of the '546 patent by the Jinhe Ace-K product is attached as Ex. 78C.

121. [REDACTED]

122. An exemplary claim chart showing infringement of independent claim 1 of the '004 patent by the Jinhe Ace-K product is attached as Ex. 79C.

123. [REDACTED]

124. An exemplary claim chart showing infringement of independent claim 1 of the '098 patent by the Jinhe Ace-K product is attached as Ex. 80C.

125. On information and belief, Anhui Jinhe manufactures the accused Jinhe Ace-K in China according to claims 1, 4-5, 7-11, 13, 15-16, 18-19, and 22-37 of the '163 patent, and claims 1, 4-5, 7-11, 13, 15, 18-19, and 22-39 of the '095 patent.

126. [REDACTED]

[REDACTED] Specifically, in the first step, a crude Ace-K composition comprising Ace-K, acetoacetamide and water is

provided. In the second step, the crude Ace-K composition is concentrated to form a water stream and an intermediate Ace-K composition. In the third step, the intermediate Ace-K composition is separated to form the finished Ace-K composition comprising Ace-K and acetoacetamide. Also *see* Declaration of Dr. DeFilippi (Ex. 94C at ¶ 95).

127. [REDACTED]

[REDACTED]

128. Jinhe's Ace-K Product Manual shows an overall organic impurity level of less than 20 wppm. *See* Ex. 100 at 5.

129. [REDACTED]

[REDACTED]

[REDACTED] First, using a lowered temperature below 90 °C for the concentrating step two and a lowered temperature at or below 35 °C for the separating step three produce Ace-K at the alleged impurity levels at lower cost than not using the reaction parameters. Second, as the largest manufacturer of Ace-K in the world, Jinhe has a strong incentive to capture the cost savings achievable with the claimed methods. *See* Declaration of Dr. DeFilippi (Ex. 94C at ¶ 96).

130. An exemplary claim chart showing infringement of independent claim 1 of the '163 patent by the Jinhe Ace-K product is attached as Ex. 81C.

131. [REDACTED]

[REDACTED]

[REDACTED]

132. An exemplary claim chart showing infringement of independent claim 1 of the '095 patent by the Jinhe Ace-K product is attached as Ex. 82C.

B. Jinhe USA LLC

133. On information and belief, Jinhe USA imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶¶ 32-33 and Exs. 25-26.

134. U.S. customs records obtained from Import Genius identify Jinhe USA as the consignee for 2 shipments that include Jinhe Ace-K into the United States between March 1 and March 25, 2019 with gross weights totaling 77,378 pounds. *See* Ex. 83.

C. Agrident, Inc.

135. On information and belief, Agrident imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶ 35 and Ex. 28.

136. U.S. customs records obtained from Import Genius identify Agrident as the consignee for 2 shipments that include Jinhe Ace-K into the United States between March 10, 2019 to June 10, 2019 with gross weights totaling 90,586 pounds. *See* Ex. 84.

D. Apura Ingredients Inc.

137. On information and belief, Apura imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* Ex. 101C; ¶ 39 and Exs. 32-35.

138. U.S. customs records obtained from Import Genius identify Apura as the consignee for a shipment that includes Jinhe Ace-K into the United States on May 26, 2019 with a gross weight totaling 40,902 pounds. *See* Ex. 85.

E. Crossroad Ingredients

139. On information and belief, Crossroad imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶ 42 and Ex. 38.

140. U.S. customs records obtained from Import Genius identify Crossroad as the consignee for 4 shipments that include Jinhe Ace-K into the United States between July 7, 2019 and November 23, 2020 with gross weights totaling 158,831 pounds. *See* Ex. 86.

F. Hhoya USA Inc.

141. On information and belief, Hhoya imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶ 47 and Exs. 44-45.

142. U.S. customs records obtained from Import Genius identify Hhoya as the consignee for two shipment that include Jinhe Ace-K into the United States between April 19, 2020 and August 6, 2020 with gross weights totaling 62,181 pounds. *See* Ex. 87.

G. Ingredis US LLC

143. On information and belief, Ingredis imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶ 51 and Ex. 49.

144. U.S. customs records obtained from Import Genius identify Ingredis as the consignee for three shipments that include Ace-K into the United States between April 19, 2019 and January 12, 2021 with gross weights totaling 58,924 pounds. *See* Ex. 88.

H. NiuSource Inc.

145. On information and belief, NiuSource imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶¶ 55-56 and Exs. 52-54.

146. U.S. customs records obtained from Import Genius identify NiuSource as the consignee for 2 shipments that include Jinhe Ace-K into the United States between January 6, 2019 and May 7, 2019 with gross weights totaling 77,376 pounds. *See* Ex. 89.

I. Prinova US LLC

147. On information and belief, Prinova imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶ 59 and Ex. 57.

148. U.S. customs records obtained from Import Genius identify Prinova as the consignee for a shipment that includes Jinhe Ace-K into the United States on February 6, 2021 with a gross weight totaling 42,768 pounds. *See* Ex. 91.

J. Prosweetz Ingredients Incorporated d/b/a Panasource Ingredients Inc.

149. On information and belief, Prosweetz/Panasource imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶¶ 63-64 and Exs. 61-67.

150. U.S. customs records obtained from Import Genius identify Panasource as the consignee for a shipment that includes Jinhe Ace-K into the United States on March 19, 2020 with a gross weight totaling 44,000 pounds. *See* Ex. 90.

151. U.S. customs records obtained from Import Genius identify Prosweetz as the consignee for 16 shipments that include Jinhe Ace-K into the United States between March 9, 2019 and November 22, 2020 with gross weights totaling 821,157 pounds. *See* Ex. 90.

K. Suzhou-Chem Inc.

152. On information and belief, Suzhou-Chem imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶ 67 and Ex. 70.

153. U.S. customs records obtained from Import Genius identify Suzhou-Chem as the consignee for 10 shipments that include Jinhe Ace-K into the United States between June 4, 2019 and May 10, 2020 with gross weights totaling 442,040 pounds. *See* Ex. 92.

L. UMC Ingredients, LLC fka JRS International LLC

154. On information and belief, UMC imports the accused Jinhe Ace-K into the United States, sells accused Jinhe Ace-K for importation, and/or sells accused Jinhe Ace-K after importation to the United States. *See* ¶ 72 and Ex. 74.

155. U.S. customs records obtained from Import Genius identify JRS International, UMC's predecessor, as the consignee for 2 shipments that include Jinhe Ace-K into the United States between April 15, 2019 and October 28, 2019 with gross weights totaling 48,800 pounds. *See* Ex. 93.

VII. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE

156. On information and belief, the Accused Products fall within at least Heading No. 2106 of the Harmonized Tariff Schedules of the United States ("HTSUS"). More specifically, the Accused Products may be classified under the following HTSUS subheadings: 2106.90.6600, 2106.90.99 and/or 2106.90.9972. These classifications are intended for illustrative purposes only, as reflective and representative of a broader set of HTSUS headings, and are not intended to restrict the scope or type of Accused Products.

VIII. RELATED LITIGATION

157. Pursuant to 19 CFR 210.12(a)(5), Complainants certify that concurrent with filing this Complaint, Celanese also is asserting each of the Asserted Patents against Proposed Respondents Jinhe, Jinhe USA, Apura, NiuSource, ProSweetz and Suzhou-Chem in the United States District Court for the Central District of California. The Asserted Patents have not previously been the subject of any district court litigation or post-grant Patent Office proceedings.

158. The foreign patents that are counterparts to the United States patents that are the subject of this Complaint are the subject of the following legal proceedings:

- (a) EPO Opposition Proceeding against EP3317260B1, the European counterpart of the '546 patent, the '004 patent, and the '098 patent.

IX. LICENSEES

159. The Asserted Patents have not been licensed to any non-Celanese entities. Celanese Corporation is the global corporate parent of Complainants Celanese International Corporation, Celanese (Malta) Company 2 Limited, and Celanese Sales U.S. Ltd. Celanese International Corporation is the owner of the asserted patents. Celanese (Malta) Company 2 Limited is the exclusive licensee of the Asserted Patents [REDACTED]. [REDACTED]. The relevant corporate licensing documents are attached as Confidential Exhibit 15C.

X. DOMESTIC INDUSTRY

A. Products that Practice the Asserted Patents (Technical Prong)

160. For purposes of this complaint, Complainants submit that each of the Asserted Patents is used to manufacture at least Celanese's Sunett® Ace-K product, as described in the accompanying Declaration of Dr. DeFilippi (Ex. 94C). "Sunett® acesulfame potassium (Ace-K)

is a zero calorie, tooth-friendly high intensity sweetener that is 200 times sweeter than sugar.”

See Ex. 105 at page 1.²



A photograph of Celanese Sunett® Ace-K product (*See Ex. 104*)

161. Celanese’s Sunett® Ace-K product is manufactured using a process that practices at least claim 1 of the ’546 patent.

162. An exemplary claim chart showing that Sunett® is manufactured by a process that practices at least claim 1 of the ’546 patent is attached as Ex. 95C.

163. Celanese’s Sunett® Ace-K product is manufactured using a process that practices at least claim 1 of the ’004 patent.

164. An exemplary claim chart showing that Sunett® is manufactured by a process that practices at least claim 1 of the ’004 patent is attached as Ex. 96C.

165. Celanese’s Sunett® Ace-K product is manufactured using a process that practices at least claim 1 of the ’098 patent.

166. An exemplary claim chart showing that Sunett® is manufactured by a process that practices at least claim 1 of the ’098 patent is attached as Ex. 97C.

² Samples of Celanese’s domestic industry products are available for the Commission upon request.

167. Celanese's Sunett® Ace-K product is manufactured using a process that practices at least claim 1 of the '163 patent.

168. An exemplary claim chart showing that Sunett® is manufactured by a process that practices at least claim 1 of the '163 patent is attached as Ex. 98C.

169. Celanese's Sunett® Ace-K product is manufactured using a process that practices at least claim 1 of the '095 patent.

170. An exemplary claim chart showing that Sunett® is manufactured by a process that practices at least claim 1 of the '095 patent is attached as Ex. 99C.

B. United States Economic Activity Relating to the Domestic Industry Products and the Asserted Patents (Economic Prong)

171. A domestic industry as defined under 19 U.S.C. § 1337(a)(3) exists, comprised of Celanese's significant and substantial investments in plant and equipment and employment of labor and capital in the United States with respect to articles protected by the Asserted Patents. Celanese engages in a broad range of domestic activities, including manufacturing, research, quality control, technical support, technical sales and marketing, and training activities related to the Domestic Industry Sunett® Products.

172. The activities and investments described above are discussed in greater detail in the Confidential Declaration of Thomas Kelly, Senior Vice President, Engineered Materials for Celanese Corporation, attached as Exhibit 3C.

XI. RELIEF REQUESTED

173. Complainants respectfully request that the Commission:

(a) Institute an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to Proposed Respondents' violations of that section arising from the importation into the United States, sale for importation, and/or the sale within

the United States after importation of the Accused Products that infringe one or more claims of the Asserted Claims of the Asserted Patents;

(b) Schedule and conduct a hearing pursuant to Section 337(c) for the purposes of: (i) receiving evidence and hearing argument concerning whether there has been a violation of Section 337; and (ii) following the hearing, determining that there has been a violation of Section 337;

(c) Issue a permanent limited exclusion order directed to products manufactured, designed, offered for sale, and/or sold by the Proposed Respondents, their subsidiaries, their related companies, and/or agents pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States of the Accused Products that infringe one or more claims of the Asserted Patents;

(d) Issue a permanent cease and desist order pursuant to 19 U.S.C. § 1337(f) prohibiting the Proposed Respondents, their subsidiaries, their related companies, agents, and/or other affiliates from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), soliciting United States agents or distributors, or aiding and abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of the Accused Products that infringe one or more claims of the Asserted Patents;

(e) Impose a bond during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337 (e)(1) and (f)(1) to prevent further injury to Celanese's domestic industry related to each of the Asserted Patents;

(f) Issue such other and further relief as the Commission deems just and proper under the law, based on the facts determined by the investigation and the authority of the Commission.

Dated: April 8, 2021

Respectfully submitted,

By: /s/ Aaron Wainscoat

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*Counsel for Complainants Celanese International
Corporation, Celanese (Malta) Company 2 Limited,
and Celanese Sales U.S. Ltd.*

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

In the Matter of

**CERTAIN HIGH-POTENCY
SWEETENERS, PROCESSES FOR
MAKING SAME, AND PRODUCTS
CONTAINING SAME**

Investigation No. 337-TA-_____

VERIFICATION OF COMPLAINT

I, Thomas Kelly, am Senior Vice President, Engineered Materials for Celanese Corporation and am duly authorized by Complainants to execute this verification of the accompanying Complaint under Section 337 of the Tariff Act of 1390, as Amended, on behalf of Complainants. I have read the Complaint and am aware of its contents. To the best of my knowledge, information and belief and based upon a reasonable inquiry under the circumstances, I hereby certify that:

1. The allegations contained in the Complaint are well grounded in fact and have evidentiary support, or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;
2. The claims and other legal contentions set forth in the Complaint are warranted by existing laws or by a good faith, non-frivolous argument for extension, modification, or reversal of existing law, or by the establishment of new law; and
3. The Complaint is not being filed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

Dated: April 6, 2021

By:



Thomas Kelly
Senior Vice President, Engineered Materials
Celanese Corporation