



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

imposing a definitive anti-dumping duty on imports of urea originating in Russia

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 4 March 2000, the Commission initiated an expiry review investigation of the measures in force in respect of imports of urea originating in Russia further to a request made by the European Fertiliser Manufacturers Association indicating that the expiry of the measures would be likely to lead to a continuation or recurrence of injurious dumping.
2. The attached proposal for a Council Regulation is based on the findings on the likelihood of recurrence of dumping and injury, as well as on the assessment of Community interest in this context.
3. The investigation confirmed the likelihood of recurrence of injurious dumping should the measures be repealed in respect of the country concerned and that continuation of the measures is not against the Community interest.
4. It is therefore proposed that the Council adopt the attached proposal for a Regulation that would prolong the existing measures.

Proposal for a
COUNCIL REGULATION

imposing a definitive anti-dumping duty on imports of urea originating in Russia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community¹, and in particular Article 11(2) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Previous investigations

- (1) In 1987, the Commission imposed a provisional anti-dumping duty² on imports of urea originating, amongst others, in the former Soviet Union. By Regulation (EEC) No 3339/87³, the Council accepted undertakings in respect of imports of urea from, amongst others, the former Soviet Union. By Commission Decision 89/143/EEC⁴, these undertakings were confirmed. In March 1993 the Commission initiated a review of the decision accepting undertakings for imports of urea originating in, *inter alia*, the former Soviet Union⁵. This resulted in the imposition of a definitive anti-dumping duty by Council Regulation (EC) No 477/95⁶ on urea, originating in the Russian Federation ('Russia'). The amount of the duty imposed was the difference between ECU 115 per tonne and the net, free-at-Community frontier price, before customs clearance, if this price was lower.

¹ OJ L 56, 6.3.1996, p. 1. as last amended by Council Regulation (EC) No 2238/2000, OJ L 257, 11.10.2000, p. 2.

² OJ L 121, 9.5.1987, p. 11

³ OJ L 317, 7.11.1987, p. 1

⁴ OJ L 52, 24.2.1989, p. 37

⁵ OJ C 87, 27.3.1993, p. 7

⁶ OJ L 49, 4.3.1995, p. 1

2. Investigations concerning other countries

- (2) In October 2000 an anti-dumping investigation was initiated concerning imports of urea originating in Belarus, Bulgaria, Croatia, Egypt, Estonia, Lithuania, Libya, Poland, Romania and Ukraine⁷. The investigation is currently ongoing.

3. Present investigation

3.1 Request for review

- (3) In September 1999, the Commission published a notice of impending expiry⁸ of the anti-dumping measures in force on imports of urea originating in Russia. The Commission subsequently received a request to review these measures pursuant to Article 11(2) of Council Regulation (EC) No 384/96⁹ (the 'Basic Regulation'). The request was lodged on 3 December 1999 by the European Fertilizer Manufacturers Association (EFMA) on behalf of producers representing a major proportion of Community production of urea (the 'product concerned'). The request was based on the grounds that the expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry.

3.2 Notice of initiation

- (4) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation pursuant to Article 11(2) of the Basic Regulation in March 2000¹⁰.

3.3 Period of investigation

- (5) The investigation period for the examination of continuation or recurrence of dumping and injury covered the period from 1 January 1999 to 31 December 1999 (the 'IP'). The examination of trends relevant for the assessment of continuation or recurrence of injury (the 'period under review') covered the period from 1 January 1996 up to the end of the IP.

3.4 Parties concerned by the investigation

- (6) The Commission officially advised the applicant Community producers, the exporting producers in Russia, the importers, users and associations known to be concerned, and the representatives of the exporting country concerned of the initiation of the review. The Commission sent questionnaires to exporting producers, Community producers, importers, users and associations known to be concerned and to those who made themselves known within the time limit set in the notice of initiation. In addition, the sole producer in the Slovak Republic, which was considered as a suitable analogue country, was advised and sent a questionnaire.

⁷ OJ C 301, 21.10.2000, p. 2

⁸ OJ C 252, 3.9.1999, p. 2

⁹ OJ L 56, 6.3.1996, p. 1. as last amended by Council Regulation (EC) No 2238/2000, OJ L 257, 11.10.2000, p. 2.

¹⁰ OJ C 62, 4.3.2000, p. 19

- (7) 11 Community producers, one analogue country producer, one importer, one users' association and one user replied to the questionnaires. With respect to the exporting country concerned, no replies to the questionnaires were received.

3.6 Verification of information received

- (8) The Commission sought and verified all information it deemed necessary for the purpose of a determination of the continuation or recurrence of dumping and injury and of the Community interest. The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

- (9) Verification visits were carried out at the premises of the following companies:

Community producers:

Hydro Agri Brunsbüttel, Germany

Hydro Agri Italia S.p.A., Italy

Irish Fertilizer Industries Ltd., Ireland

Analogue country producer:

Duslo, a.s., Šal'a, Slovakia

Unrelated importer:

Cargill B.V., Amsterdam, Netherlands

Users/Users' association:

Sadepan Chimica S.R.L., Viadana, Italy

Svenska Lantmännen, Stockholm, Sweden

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (10) The product concerned by this proceeding is the same as in the previous investigation, i.e. urea. It is produced mainly from ammonia which is itself produced from natural gas. It may take a liquid or a solid form. Solid urea can be used for agricultural and industrial purposes. Agricultural grade urea can be used either as a fertiliser, which is spread onto the soil, or as an animal feed additive. Industrial grade urea is a raw material for certain glues and plastics. Liquid urea can be used both as a fertiliser and for industrial purposes. All kinds of urea have the same basic physical and chemical characteristics and may be regarded for the purposes of the present review as a single product.
- (11) The product concerned falls within CN codes 3102 10 10 and 3102 10 90. One importers' association claimed that urea imported under CN code 3102 10 90 should be excluded from the present review, as there have been no such imports for a number of years.

- (12) In relation to this claim, it is to be noted that, even if there were no imports for a number of years under CN code 3102 10 90, the product classifiable under this CN code clearly belongs to the single category of product forming the "product concerned" and moreover it cannot be excluded that such imports will be carried out in the future.

2. Like product

- (13) The investigation has shown that the product produced and sold by the Community producers on the Community market is alike in all respects to the urea produced in Russia and exported to the Community. It is therefore considered to be a like product within the meaning of Article 1(4) of the Basic Regulation. It was also found that urea exported from Russia to the Community and urea produced and sold on the domestic market of Slovakia, which served as an analogue country, were alike.

C. RECURRENCE OR CONTINUATION OF DUMPING

- (14) In accordance with Article 11(2) of the Basic Regulation, it was examined whether or not the expiry of measures would lead to a continuation and/or recurrence of dumping.
- (15) During the IP, 25 Ktonnes of urea were imported from Russia (as compared to 117 Ktonnes imported during the previous IP (1992) and 271 Ktonnes in 1986). This represents a market share of 0.4%.

1. Likelihood of a continuation of dumping

1.1. Analogue country

- (16) Normal value was based, in accordance with Article 2(7) of the Basic Regulation, on information obtained in a market economy third country where the product concerned was produced and sold. In the Notice of Initiation the Commission suggested the Slovak Republic as an appropriate analogue country due to the fact that it was used as an analogue country in the last investigation and that production processes and access to raw materials in the Slovak Republic are comparable to those prevailing in Russia.
- (17) An importers' association objected to the choice of the Slovak Republic as analogue country for the following reasons: the Slovak Republic, unlike Russia, has no natural gas production. Since gas is the basic raw material for the production of urea, it is the main element in the cost of the final product. Moreover, it was claimed that the Slovak Republic is totally dependent on Russian gas and pays a very high price for it. It was therefore claimed that the use of the Slovak Republic as analogue country would artificially inflate normal value and thus result in an artificially high dumping margin.
- (18) Secondly, the importers' association submitted that, given the importance of gas in the production of urea, any analogue country in this case should be a gas-producing country. The importers' association proposed Norway, Canada or Saudi Arabia as alternative analogue countries.
- (19) With regard to the first allegation, it should be pointed out that Russian gas prices are heavily discounted on the Russian market and are not determined by market forces. In addition, no evidence was provided that gas prices in the Slovak market were higher than gas prices in other market economies. Nor did the Commission find any

indication that this was the case when comparing gas prices in Slovakia during the IP to gas prices in other market economies. It cannot therefore be accepted that the choice of the Slovak Republic as analogue country serves to artificially inflate normal value. With regard to the second argument, the Commission analysed whether any of the countries proposed were more appropriate. Norway would obviously not have been a suitable choice due to the fact that it does not produce urea. Saudi Arabia was considered inappropriate because this country's legislation allows for artificially low raw material prices for the national industry using natural gas and provides investment incentives for its fertiliser industry. As regards Canada, no co-operation could be obtained from the Canadian urea industry.

- (20) The choice of the Slovak Republic as analogue country was therefore upheld on the following grounds: it was used as an analogue country in the previous investigation; production processes and access to raw materials in the Slovak Republic are comparable to those prevailing in Russia; prices of natural gas in the Slovak Republic were competitive and not higher than gas prices in other market economies; a high level of co-operation from that country could be obtained. The sole Slovak producer agreed to co-operate in the investigation and it was also established that domestic sales made by the latter producer were representative in comparison with the volume of exports to the Community from Russia.
- (21) On this basis, it was concluded that the Slovak Republic was an appropriate and not unreasonable choice of analogue country in order to establish normal value for imports of urea originating in Russia.

1.2. Normal value

- (22) Firstly, it was examined whether the domestic sales made by the co-operating Slovak producer were representative when compared to the imports into the Community concerned by the investigation. In this context and, it was considered appropriate to exclude sales to related parties, as not having been made in the ordinary course of trade. After exclusion of the latter sales, it was established that direct sales by the co-operating Slovak producer were sufficiently representative as they were made in significant quantities, measured against the average volume of exports recorded as sold into the Community by the exporting producers in Russia during the IP.
- (23) It was then established that these direct sales to unrelated customers could be considered as having been made in the ordinary course of trade, comparing domestic prices and costs of production.
- (24) Normal value was therefore established as the weighted average of the actual prices of all direct sales to unrelated customers on the Slovak market.

1.3. Export price

- (25) As no exporting producers co-operated, the export price was determined on the basis of the facts available, in accordance with Article 18(1) of the Basic Regulation. In this case this was by reference to the average import price reported by Eurostat.

1.4. Comparison

- (26) As urea is a bulk product with transport costs representing a large proportion of the selling price, it was considered appropriate that the comparison should be carried out

on an ex-works basis. Due allowance in the form of adjustments was made for differences affecting price comparability, in accordance with Art 2(10) of the Basic Regulation. In particular, an adjustment to the normal value was made for packing costs while the export price was adjusted for transport costs incurred in Russia and freight from Russia to the Community on the basis of the information contained in the complaint and other available information.

1.5. Dumping margin

- (27) In accordance with Art 2(11) of the Basic Regulation, the dumping margin was determined by comparing the weighted average normal value in the analogue country with the average export price per tonne based on Eurostat data.
- (28) The comparison showed the existence of significant dumping (above 35%). The level of dumping is thus higher than in the previous investigation (28.2%).

1.6. Conclusion

- (29) Nothing found during the investigation suggests that the level of dumping found would disappear or even decrease should the anti-dumping measures be repealed. It was therefore concluded that, should the measures be repealed, there is a likelihood that imports from Russia will continue at dumped prices. However, in view of the limited export volume during the IP, it was considered appropriate to also examine whether there was a likelihood of recurrence of dumping in increased export volumes should the existing measures be repealed.

2. Likelihood of recurrence of dumping

2.1. Analysis of the situation of the country concerned

- (30) As outlined above, imports into the Community were found to be made at dumped prices. However, the import volumes during the IP were low (0,4 % of Community consumption). Therefore it was further examined whether other circumstances might indicate the likelihood of a recurrence of further dumped imports, should the measures be repealed.

2.1.1. Production capacity and capacity utilisation

- (31) In the absence of co-operation from the Russian exporters, the Commission, in accordance with Article 18(1) of the Basic Regulation, based its analysis on information provided in the review request as well as on information obtained from an independent specialised market study submitted by the complainant in the course of the investigation.
- (32) According to the above-mentioned sources, Russian production capacity for urea in recent years is estimated at around 5.300 Ktonnes p.a.. The same sources rate actual Russian production at about 3.700 Ktonnes p.a.. Consequently, the Russian producers would be in a position to produce an additional 1.600 Ktonnes p.a., representing 26,5 % of Community consumption in 1999.

2.1.2. Russian exports to Brazil, Mexico, and Turkey

- (33) As concerns the possibility of increased Russian sales in third country markets, the Commission found that exports of Russian urea to third countries are already taking place. Large volumes of exports to Brazil, Mexico and Turkey were registered in 1999 and there is no indication that domestic consumption in these countries will increase significantly in the coming years. These markets are therefore unlikely to fully absorb any additional quantities that the Russian producers have the capacity to produce.
- (34) Concerning the export prices, it was found that the price of the Russian material sold on the Brazilian, Mexican and Turkish markets was substantially below the price level for Russian deliveries to the Community.
- (35) Imports into Brazil, Mexico and Turkey therefore appear to be made at prices that are dumped to a larger degree than Russian imports into the Community.
- (36) Given the proximity of the Russian producers to the European market and the higher possible margin on the export prices there, it is likely that at least part of Russian exports to Brazil, Mexico and Turkey would be redirected to the Community should measures be repealed.

2.2. Conclusion

- (37) The large unused Russian production capacity, the substantial Russian export volumes to Brazil, Mexico and Turkey and the low price level of these exports (even lower than the Russian export prices to the Community, which are already dumped to a significant extent and which are generally lower than the prices of the Community industry) indicate that there is a likelihood that the expiry of the current anti-dumping measures against imports of the product concerned from Russia would lead to a recurrence of significant volumes of dumped exports on to the Community market.
- (38) Without measures, Russian export volumes could indeed easily reach the level of the previous IP, 117 Ktonnes, or even 1994 levels, 300 Ktonnes. This is all the more likely given the proximity of Russia to the Community market. Russian export prices charged to Brazil, Mexico and Turkey during the IP can serve as an indication of the price level of possible future exports to the Community. Consequently, there is a likelihood of a recurrence of high dumping in significant volumes.

E. DEFINITION OF THE COMMUNITY INDUSTRY

- (39) The investigation established that, during the IP, the 11 applicant Community producers represented more than 85% of Community production of urea. Therefore, they constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the Basic Regulation.

F. ANALYSIS OF THE SITUATION IN THE COMMUNITY MARKET

1. Consumption

- (40) The apparent Community consumption of urea was established on the basis of the sales volumes of the Community industry on the Community market, the sales volume of other Community producers as well as imports into the Community of urea from the

country concerned and all other third countries. Production for captive use was not taken into consideration when establishing Community consumption since this production is not sold on the free market but further processed into different end-products, for which the product under consideration is only one of the components. The Community industry did not import or otherwise purchase urea for captive use. Therefore sales of urea produced for and used in the captive market were not in competition with sales of urea produced for and sold in the non-captive market and were thus not likely to be subject to the effects of the dumped imports.

- (41) On this basis, consumption increased steadily by 25.8% during the period under review, from around 4.8 million tonnes in 1996 to around 6 million tonnes in the IP.

2. Imports from the country concerned

2.1. Volume and market share

- (42) It should be noted that import volumes from Russia were still significant between 1990 and 1994, reaching a level of 300 Ktonnes in 1994. During this time anti-dumping measures were in place in the form of an undertaking. On the basis of Eurostat figures, after the form of the measure had been changed into a duty in 1995, there was a sharp drop between 1995 and 1996. A reason for this decline was the change in the form of the measure. Import volumes then remained stable between 1996 and 1998 and dropped significantly again in the IP. It cannot be excluded that the significant increase in exports to the Community from other third countries contributed to this decline.
- (43) The market share of the imports from the country concerned in the Community decreased from 0.9% in 1996 to 0.4% in the IP.

2.2. Prices

- (44) The average CIF import prices of the imports concerned increased substantially following the imposition of the anti-dumping duty, based on a minimum import price, in 1995. As from 1998, a significant decline in import prices was found to have occurred. However, since 1997, and even more markedly since 1998, the Russian prices of urea were at the high end of the range of prices charged in the Community by exporting producers of other third countries, which partly explains why imports originating in Russia could not gain market shares.
- (45) An importers' association claimed that the Commission should, for the purpose of price comparisons, take into account the quality differences between Russian urea and urea produced by the Community industry. In this respect, the measures currently in place incorporate a 10% quality adjustment. Moreover, the scope of an expiry review, unlike the scope of certain interim reviews, does not require new calculations of injury margins based on price comparisons.

3. Economic situation of the Community industry

3.1. Production

- (46) The total production of urea by the Community industry for sale on the Community market, i.e. excluding production for captive use which represented around 25% of

total production, has increased by 7.5% between 1996 and the IP. A significant increase took place between 1996 and 1997, while production fell slightly between 1998 and the IP.

3.2. Capacity and capacity utilisation

- (47) The capacity utilisation rate was relatively stable at around 86% in 1996 and 1997. Afterwards it decreased to 84.7% in 1998 and to 82.5% during the IP.
- (48) However, the ammonium used for the production of urea can also be used for the production of other fertilisers. The capacity utilisation rate for urea production as well as its development is accordingly also affected by the development of other fertilisers.

3.3. Sales in the Community

- (49) The total sales volume of the Community industry on the Community market went up from around 3.2 million tonnes in 1996 to around 3.8 million tonnes in the IP, which represents an increase of 17%. The sales increase was most notable between 1997 and 1998.

3.4. Stocks

- (50) The level of stocks is not considered a valid injury indicator due to the seasonality of the sales, to the fact that urea used for captive use is stored together with the urea sold as such on the market and to the fact that urea is partly stored by the producers themselves and partly by co-operatives of farmers.

3.5. Market share

- (51) In an overall expanding market, despite the increase in sales volumes, the Community industry's market share in the Community market decreased from around 67% in 1996 to around 63% in the IP, thus not benefiting from the expansion of the market.

3.6. Prices

- (52) The average sales price of the Community industry fell in each year from 1996 until the IP, leading to an overall decrease of almost 40% between 1996 and the IP, in line with the general price trend in the market. The factors influencing this trend appear to be the presence of imports from other third countries on the Community market and the dumping found concerning other fertilisers such as ammonium nitrate and urea ammonium nitrate solutions, which had a price depressive effect on all nitrogen fertilisers. Moreover it should be noted that in April 1997 the People's Republic of China imposed an import ban on urea. The Chinese market is roughly four times larger than the Community market and was, prior to that decision, mainly supplied by imports. The import ban therefore had an impact on the urea prices in the Community, since many third countries used to deliver a sizeable portion of their exports to the People's Republic of China. The declining energy prices (natural gas being the main raw material for the production of urea) may also have had an influence on the sales prices.

3.7. Profitability and return on investment

- (53) The profitability of the Community industry, expressed as a percentage of net sales value, decreased steadily between 1996 and the IP. This trend has to be seen in the light of the price evolution, which showed indeed a similar pattern. Profitability became negative in 1998 and the level of losses increased significantly in the IP.
- (54) The return on investments followed the decreasing trend in profitability during the period under review. This negative trend is even more marked due to the joint effect of the decrease in profitability and the increase in investments.

3.8. Cash flow

- (55) The cash flow generated by the Community industry in relation to sales of urea followed very closely the profitability trend.

3.9. Ability to raise capital

- (56) Companies manufacturing urea form a part of larger groups. No difficulties have been reported.

3.10. Employment, productivity and wages

- (57) Employment decreased from 1638 employees in 1996 to 1469 employees in the IP, a decrease of about 10%. Productivity steadily increased during the period under review. With respect to wages, they dropped in 1997, but then followed the trend in productivity.

3.11. Investments

- (58) The Community industry carried out considerable investments between 1996 and the IP. It should be noted that investments made in ammonium plants, which is an upstream investment, are also partly included. Investments were mainly related to direct investments in plant and machinery of the urea and ammonium production processes.

4. Imports from other third countries

- (59) The import volume of urea from third countries other than Russia increased between 1996 and the IP by around 665 Ktonnes, from 1187 Ktonnes to 1852 Ktonnes, on the basis of Eurostat.
- (60) It seems that this increase should be seen in the light of the ban of urea imports in the People's Republic of China in April 1997, which led some countries to redirect their exports to other countries. These other third countries increased their market share in the Community by 6 percentage points between 1996 and the IP. The corresponding average CIF import prices, based on Eurostat, decreased significantly between 1996 and the IP.

5. Conclusion

- (61) While consumption on the Community market increased, in 1996, i.e. immediately after the imposition of the duty in 1995, the market share of Russia had already fallen

below 1%. The average price of these imports, as declared at customs, decreased and, in the IP, were below the minimum import price of 115 ECU/tonne. Russian imports were not able to gain market shares, which was also due to the increasing presence of other third countries on the Community market, the prices of which were lower than the Russian ones as from 1997.

- (62) The expected improvement of the situation of the Community industry did not materialise, in principle due to the increased presence of other third country suppliers on the market. While production and sales volumes increased, other economic indicators deteriorated significantly, i.e. capacity utilisation, market shares, prices, profitability, return on investment, cash flow, employment. In particular the sharp decrease in the sales prices of the Community industry had a negative effect on its profitability. This situation should be seen in the light of the increased presence in the Community market of imports from other third countries, which have gained significant market shares after the imposition of the measures. It is to be noted that an anti-dumping investigation has been initiated in October 2000 concerning imports of urea originating in a number of other third countries (Belarus, Bulgaria, Croatia, Egypt, Estonia, Lithuania, Libya, Poland, Romania and Ukraine). The Community industry, therefore, is still in a difficult situation.

G. LIKELIHOOD OF A RECURRENCE OF INJURY

- (63) With regard to the likely effect on the Community industry of the expiry of the measures in force the following factors were considered, in line with the elements summarised in recitals (37) and (38).
- (64) There are clear indications that imports originating in Russia will continue at dumped prices. Moreover, there is a likelihood that import volumes would increase significantly given that the Russian exporting producers have the potential to raise their production and export volume in view of their large unused production capacity. In addition, domestic consumption in Russia is likely to stay at relatively low levels in the near future.
- (65) Having regard to the Russian exporters' export price behaviour on third country markets, namely Brazil, Turkey and Mexico, it is likely that the Russian exporting producers will adopt an aggressive price behaviour in the Community in order to regain their lost market shares. [Indeed, as established in earlier proceedings concerning fertilisers, even small volumes at low price can have significant distorting and injurious effects on this commodity market.]
- (66) The Community industry is still in a difficult situation having regard in particular to its profitability, which markedly improved just after the imposition of the measures under consideration, but significantly deteriorated again thereafter. Given the precarious situation of the Community industry, the likely volumes and prices of imports from Russia subsequent to any repeal of measures would put the Community industry at further risk. Their impact on the Community industry would be in all likelihood material.
- (67) On the basis of the above, it is concluded that, should the measures be repealed, there is a likelihood of a recurrence of injury from imports of urea from Russia.

H. COMMUNITY INTEREST

1. Introduction

- (68) Pursuant to Article 21 of the Basic Regulation, it was examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers and traders as well as the users of the product concerned. In order to assess the likely impact of a continuation or non-continuation of the measures, the Commission requested information from all interested parties mentioned above.
- (69) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, it should be noted that the present investigation is a review, thus analysing a situation in which anti-dumping measures have already been in place. The present review therefore took into consideration any undue negative impact on interested parties during the period following the imposition of the measures.
- (70) The Commission sent questionnaires to 44 importers, one importers association, five users associations and one user of the product concerned and received replies from one importer, one user, one users association and from the importers association.
- (71) On this basis it was examined, whether, despite the conclusions on dumping, on the situation of the Community industry and on the likelihood of recurrence of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

2. Community industry

- (72) It is considered that without maintaining the anti-dumping measures imposed in the previous investigation, injurious dumping is likely to recur and that the situation of the Community industry, which worsened during the period under review, will further deteriorate.
- (73) The Community industry has proven to be a structurally viable industry, able to adapt to the changing conditions on the market. This has been shown in particular by the industry's profits achieved until 1997 and its investment in state of the art production capacity. The success of these efforts strongly depends on existence of fair competition on the Community market. In this respect, it should be pointed out that in October 2000 an anti-dumping investigation was initiated concerning imports of urea originating in Belarus, Bulgaria, Croatia, Egypt, Estonia, Lithuania, Libya, Poland, Romania and Ukraine. On the other hand, the deterioration in employment, profitability and sales prices was such that the Community industry recently closed down significant nitrogen fertiliser capacities.

3. Importers

- (74) Of the 44 importers who received questionnaires, only one replied. As a matter of principle, it claimed to be against the continuation of the measures. However, given

the negligible importance of urea for its business, it was concluded that that importer would not be seriously affected by a continuation of the measures.

- (75) In view of the low level of co-operation, the fact that importers generally deal with a wide range of fertilisers, of which urea is only one, and the fact that urea was available from numerous other sources not presently subject to anti-dumping measures, it was concluded that any negative impact of the continuation of measures on importers would not be a compelling reason against the continuation of measures.

4. Users

- (76) The users of the product concerned are mainly farmers and companies manufacturing glues and plastics. The Commission sent questionnaires to several users' associations at the European and national levels. One users' association representing 11 co-operatives of farmers, and one user replied to the questionnaire. Both are, as a matter of principle, against the continuation of the measures. However, neither used urea originating in Russia during the IP. The members of the users association purchased very small quantities of urea originating from other sources throughout the period under review. The individual user has encountered no problems in sourcing urea from other third countries whilst the measures have been in force.
- (77) It is to be noted that, as also established in previous investigations, fertilisers represent only a small part of total production costs of farmers. With regard to the above and to the low level of co-operation, it was concluded that the measures currently in force did not have a significant negative impact on the users of urea. In this respect it should be noted that none of the users claimed that there had been a general price increase of urea and/or reduction of their profitability since the current measures had been imposed. In view of the above and having regard to the low level of co-operation, it was concluded that any negative impact of the continuation of measures on users would not be a compelling reason against the continuation of measures.

5. Conclusion

- (78) Given the above, it was concluded that there are no compelling reasons of Community interest against the continuation of the measures.

I. ANTI-DUMPING MEASURES

- (79) All parties concerned were informed of the essential facts and considerations on the basis of which it was intended to recommend the maintenance of the existing anti-dumping duty in respect of imports of urea originating in Russia. They were also granted a period within which to make representations subsequent to this disclosure. No comments were received which were of a nature to change the above conclusions.
- (80) It follows from the above that, as provided for by Article 11(2) of the Basic Regulation, the anti-dumping measures currently in force with regard to imports of urea originating in Russia should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of urea falling within CN codes 3102 10 10 and 3102 10 90 originating in Russia.
2. The amount of the definitive anti-dumping duty shall be the difference between the minimum import price of EURO 115 per tonne and the net, free-at-Community-frontier price, before duty, in all cases where the latter is less than the minimum import price.
3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93, the minimum import price set out above shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced minimum import price and the reduced net, free-at-Community-frontier price, before customs clearance.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

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

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

Done at Brussels,

For the Council
The President
[...]