COMMISSION REGULATION (EEC) No 2623/88

of 24 August 1988

imposing a provisional anti-dumping duty on imports of urea originating in Austria, Hungary, Malaysia, Romania, the USA and Venezuela

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community (1), and in particular Article 11 thereof,

After consultations within the Advisory Committee as provided for by the above Regulation.

Whereas :

A. PROCEDURE

(1) On 11 October 1986 the Commission announced that it had commenced an investigation in respect of imports of urea originating in Czechoslovakia, the German Democratic Republic, Kuwait, Libya, Saudi Arabia, the USSR, Trinidad and Tobago and Yugoslavia (2). A provisional anti-dumping duty was imposed on imports of urea originating in these countries by Commission Regulation (EEC) No 1289/87 (3). This provisional duty was extended for a maximum period of two months by Council Regulation (EEC) No 2691/87 (4).

(2) In September 1987 the Commission received a supplementary complaint from CMC-Engrais (Common Market Committee of the Nitrogen and Phosphate Fertilizer Industry) on behalf of producers representing all Community production of urea in which it was requested to extend the then pending proceeding to include imports of this product originating in Austria, Hungary, Malaysia, Romania, the USA and Venezuela.

This request contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the extension of the proceeding. The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* (5), the extension of the anti-dumping proceeding concerning imports into the Community of urea falling within Common Customs Tariff subheadings 31.02 B and ex 31.02 C corresponding to NIMEXE subheadings 31.02-15 and 31.02-80, now falling within CN codes 3102 10 10 and 3102 10 99, in order to include imports of this product originating in Austria, Hungary, Malaysia, Romania, the USA and Venezuela.

This notice also referred to allegations made by the complainants with regard to the conditions under which anti-dumping measures may be taken with retroactive effect.

(3) The Council imposed a definitive anti-dumping duty on imports of urea originating in Libya and Saudi Arabia, accepted undertakings given in connection with imports of urea originating in Czechoslovakia, the German Democratic Republic, Kuwait, the USSR, Trinidad and Tobago and Yugoslavia and terminated these investigations by Regulation (EEC) No 3339/87 (6).

(4) With regard to the extension of the proceeding, the Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainants and gave the parties directly concerned the opportunity to make known their views in writing and to request a hearing.

(5) The majority of the known producers, exporters and importers made their views known in writing. However, given that several importers did not, after a second warning, submit a non-confidential summary of their replies to the Commission's questionnaire, no account was taken of their submissions, as allowed for under the second sub-paragraph of Article 8 (4) of Regulation (EEC) No 2423/88. Several producers/exporters and the European Fertilizer Import Association requested and were granted hearings.

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No C 254, 11. 10. 1986, p. 3.
(3) OJ No L 121, 9. 5. 1987, p. 11.
(4) OJ No L 254, 5. 9. 1987, p. 20.
(5) OJ No C 271, 9. 10. 1987, p. 4.
(6) OJ No L 317, 7. 11. 1987, p. 1.

(6) A submission was made on behalf of Community users of urea.

(7) The Commission sought and verified all information it deemed necessary for the purposes of a preliminary determination and carried out investigations at the premises of the following:

(a) EEC producers:

Italy:

— Agrimont Spa, Milano (a subsidiary of Montedison),

— Enichem Agricultura, Milano (a subsidiary of Enichem);

(b) Non-EEC producers/exporters:

Austria:

Chemie Linz AG, Linz;

Malaysia:

— Producer:

Asean Bintulu Fertilizer Sdn. Bhd. (ABF), Bintulu, Sarawak,

— Exporter:

Petroliam Nasional Berhad (Petronas), Kuala Lumpur;

USA:

— Producers:

— Agrico Chemical Company, New Orleans, Louisiana,

— First Mississippi Corporation, Jackson, Mississippi,

— Exporters:

— Agrico Chemical Company, New Orleans, Louisiana,

— First Mississippi Corporation, Jackson, Mississippi;

Venezuela:

— Producers:

— Petroquimica de Venezuela SA (Pequiven), Caracas,

— Venezolana del Nitrogeno CA (Nitroven), Caracas (a subsidiary of Pequiven);

— Exporter:

Venezolana del Nitrogeno CA (Nitroven), Caracas.

(8) The Commission requested and received detailed written submissions from complainant Community producers, most exporters and the majority of importers.

The American producers investigated less than 50 % of imports of urea originating in the USA during the first nine months of 1987. No written information was received with regard to the remainder of these imports.

(9) The investigation of dumping covered the period from 1 October 1986 to 30 September 1987.

B. DUMPING

I. Normal value

(a) *Austria*

(10) Normal value was provisionally determined on the basis of the domestic prices of Chemie Linz which exported urea to the Community and provided sufficient evidence. It was found that representative quantities of urea had been sold on the Austrian market during the investigation period.

(b) *Malaysia and Venezuela*

(11) Given that the average sales price on the domestic market in both these countries during the investigation period was lower than the costs of production, as defined in Article 2 (3) (b) (ii) of Regulation (EEC) No 2423/88, normal value was provisionally determined on the basis of the constructed value, i.e. by adding together the costs of production and a reasonable margin of profit. The costs of production were computed on the basis of all costs in the ordinary course of trade, both fixed and variable, of materials and manufacture plus a reasonable amount for selling, administrative and other general expenses. The producers/exporters concerned agreed with this method. With regard to the profit margin to be added to the costs of production, it was considered reasonable to use 2,5 % for the reasons explained in the eighth, ninth and eleventh recitals of Regulation (EEC) No 3339/87.

(12) However, the Malaysian producer/exporter requested that account be taken of the following factors:

(i) With regard to financing costs relating to the construction of the factory it was argued that these were not incurred in the ordinary course of trade, given that they were abnormally high because of unusual exchange rate fluctuations between the currency of the loans (Japanese yen) and the local currency and because the terms of the loans had been negotiated at government level. However, the Commission clearly found that these costs were effectively borne by the company as shown in its records. The fact that these loans were concluded in a foreign currency and therefore subject to exchange fluctuation and that a government was involved in this negotiation is not abnormal. Thus, it cannot be considered that for those reasons the costs concerned were not incurred in the ordinary course of trade.

(ii) The company claimed that the costs of amortization should be allocated on the basis of the estimated real lifetime of the plant, i.e. 25 years, instead of on the basis of the 15-year period used by the company for accounting purposes. However, this claim was rejected because a 15-year amortization period corresponded with generally accepted accounting principles for chemical factories, as recognized by the company itself. Furthermore, it was considered that in the present case the most reasonable method was that actually applied by the company in its own accounting system.

(iii) For computing the costs of production on a per-unit basis it was requested that costs be allocated over a larger quantity than was actually produced during the investigation period because of an allegedly exceptional shutdown of the plant for one month during that investigation period. In this respect it was argued that the investigation period was not representative because it included a shutdown for maintenance of the plant and did not take into account a full production cycle of 18 months. The Commission did not grant this request because an investigation period is fixed in a neutral manner for all parties involved in an anti-dumping investigation and it is not possible to deviate from such a period in favour of one or other party. Furthermore, the reference period in this case was already twice the minimum specified in Article 7 (1) (c) of Regulation (EEC) No 2423/88. It was therefore considered that the reference period used in this proceeding was not unreasonable. In any event the constructed value should not be determined on the basis of a hypothetical quantity.

(13) Contrary to what had been indicated in the complaint it was found during the investigation that, although in Venezuela there were two producers of urea, i.e. Nitroven and Pequiven, only the former exported urea to the Community. No information was submitted by the latter with regard to its costs of production.

However, given that both companies, though legally separate entities, belonged to the same economic entity and sold urea through the same sales organization on the domestic market, constructed value should be determined on the basis of the costs of production of both plants. This determination was therefore made, on the one hand, on the basis of the verified information supplied by Nitroven and, on the other hand, on the basis of the facts available as far as the Pequiven plant was concerned.

(14) As far as selling, administrative and other general expenses were concerned, both for sales on the Malaysian and Venezuelan markets, an amount was added for the expenses incurred by related companies acting as sales branches.

(c) *USA*

(15) Given that the average sales price of Agrico on the domestic market during the reference period was lower than the costs of production, normal value was provisionally determined on the basis of constructed value, as described in the 11th recital above.

(16) With regard to First Mississippi Corporation, normal value was provisionally determined on the basis of domestic prices charged during the investigation period.

(17) The US companies who cooperated with the Commission during the investigation represented less than 50 % of the imports of urea originating in the USA during ther reference period. Normal value with regard to the exporters which neither replied to the Commission's questionnaires nor otherwise made themselves known was provisionally determined in conformity with Article 7 (7) (b) of Regulation (EEC) No 2423/88, on the basis of the facts available, i.e. the facts presented in the complaint.

(d) *Hungary and Romania*

(18) In order to establish whether the imports from Hungary and Romania were dumped, the Commission had to take account of the fact that these countries do not have market economies and the Commission therefore had to base its determinations on the normal value in a market economy country. In this connection the complainants had suggested the constructed value in Austria.

(19) The Hungarian exporter suggested that normal value be established in Hungary. However the suggestion cannot be followed as it would be contrary to Article 2 (5) of Regulation (EEC) No 2423/88.

Alternatively, the Hungarian exporter suggested that due to the monopoly position of the Austrian producer it would be more appropriate to establish normal value on the basis of constructed value than on the basis of domestic prices. This argument was refuted for the reasons set out under the 21st recital.

(20) The Romanian exporter did not object, in principle, to the use of the constructed value in Austria, but requested an adjustment to take account of the advantage resulting from the cost of the raw material, i.e. gas — which was available in Romania but not in Austria — used for the production of ammonia from which urea is derived. However, this adjustment could not be allowed, since it is uncertain how this advantage, if it really existed and could be satisfactorily quantified, and was not counterbalanced by competitive disadvantages, would be reflected in the normal value if the same conditions existed in the market economy non-member country, as prices are not only a function of costs, but also of demand. Moreover, even if it were possible to determine exactly the existence and importance of such advantages and disadvantages, any adjustment of costs established in a market economy country on such a basis would involve relying on costs in a non-market economy country, which Article 2 (5) of Regulation (EEC) No 2423/88 was specifically designed to exlude.

Another analogue market was suggested well outside the time limit set by the Commission in the notice of initiation.

(21) The Commission provisionally determined that it was appropriate and not unreasonable to use domestic prices in Austria as the basis for calculating normal value for the following reasons :

— although there was only one domestic supplier in Austria there were substantial imports,

— prices charged in Austria by the domestic supplier were not in an unreasonable proportion to the production costs,

— the product originating in Austria was similar to that originating in the State-trading countries concerned,

— on the basis of the facts available there were no significant differences in technology and production processes of urea.

II. Export price

(22) Export prices were determined on the basis of the prices actually paid or payable for the product sold for export to the Community.

With regard to the imports of urea originating in the USA for which the Commission received no cooperation from the exporters, the export prices were established on the basis of the facts available, i.e. export prices presented in the complaint.

III. Comparison

(23) In comparing normal value with export prices the Commission took account, where appropriate, of differences affecting price comparability, such as credit terms, transport, insurance, commissions, packaging, handling and other ancillary costs.

(24) The comparison of export prices with normal value was made on a transaction by transaction basis at ex factory level.

IV. Dumping margins

(25) The margin of dumping was calculated for each exporter as the amount by which the normal value as established exceeds the price for each export transaction to the Community.

(26) The preliminary examination of the facts showed the existence of dumping in respect of most producers/exporters involved in this investigation.

These margins vary according to the exporter, the weighted average margin for each of the exporter investigated being as follows :

	%
(a) *Austria :*	
Chemie Linz	59
(b) *Malaysia :*	
ABF/Petronas	41
(c) *Venezuela :*	
Pequiven/Nitroven	35
(d) *USA :*	
— Agrico	6,4
— First Mississippi Corporation	0
— Other exporters	21
(e) *Hungary :*	
Chemolimpex	147
(f) *Romania :*	
ICE Chimica	150

C. INJURY

Volume of dumped imports

(27) With regard to the injury caused by the dumped imports, figures available show that imports into the Community originating in Austria, Hungary, Malaysia, Romania, the USA and Venezuela increased from 152 328 tonnes in 1984 to 160 832 tonnes in 1985, i.e. by 5,6 %, then to 203 104 tonnes in 1986, i.e. by 26,3 %. During the first nine months of 1987 these imports rose to 341 665 tonnes. Over the full year 1987 these imports amounted to 580 613 tonnes, an increase of 186 % compared with 1986.

The imports (in tonnes) from each of the countries involved in these proceedings developed between 1984 and 1987 as follows :

	1984	1985	1986	1987 9 months	1987 full year
Austria	115 092	128 205	85 845	64 154	92 241
Hungary	18 702	14 932	43 511	38 937	46 735
Malaysia	—	—	16 739	37 753	59 698
Romania	18 523	17 688	56 198	105 614	142 762
USA	11	7	811	61 902	188 445
Venezuela	—	—	—	33 305	50 732
Total	152 328	160 832	203 104	341 665	580 613

Market share of dumped imports

(28) This total volume represented an increase in the Community market share of these countries from 3,88 % in 1984 to 3,96 % in 1985 and to 3,97 % in 1986. During the first nine months of 1987 it increased to 9,2 % and to an estimated 11,5 % in 1987 as a whole.

If the quantity of urea manufactured by the Community producers and destined for captive use is deducted from total consumption in the Community, this total represents an increase in market share held by the dumped imports from approximately 5 % in 1984, 1985 and 1986 to approximately 12 % in the first nine months of 1987 and to an estimated 15 % in 1987 as a whole.

Agricultural urea makes up the bulk of the dumped imports sold in this sector. The development of imports of agricultural urea in relation to the consumption of agricultural urea (all of which is non-captive) represented an increase in market share from approximately 5 % in 1984 and 1985 to approximately 5,5 % in 1986, and to approximately 14 % during the first nine months of 1987 and to an estimated 20 % during the full year 1987.

Together with the dumped imports subject to the anti-dumping measures imposed by Regulation (EEC) No 3339/87 a combined share of approximately 20 % of the total Community urea market is reached by all dumped imports for 1987.

(29) When assessing the development of the market share held by the dumped imports in the Community account should be taken of the development of urea consumption. In this respect it was found that between 1984 and 1986 total urea consumption increased by approximately 30 % from 3 925 000 tonnes to 5 111 120 tonnes. In 1987, however consumption of urea decreased slightly to an estimated 5 059 075 tonnes, i.e. by approximately 1 %.

Price undercutting

(30) With regard to the prices of these imports, the evidence available to the Commission shows that during the reference period the prices of the imports concerned were significantly lower than those charged by the Community producers. The levels of price undercutting in the main Community markets (Italy, France, the United Kingdom and Ireland) were as follows:

Austria	around 11 % and up to 20 %
Hungary	around 6 % and up to 17 %
Malaysia	around 16 % and up to 25 %
Romania	around 10 % and up to 38 %
Venezuela	around 36 %
USA:	
Agrico Chemical Company	around 34 %

Impact on Community industry

— *Production*

(31) With regard to the impact on Community production, the Commission noted the following.

From 1984 to 1985 Community production of urea fell by 12,5 % from 5 567 049 tonnes to 4 869 820 tonnes and by a further 7 % to 4 535 940 tonnes in 1986. In 1987 production amounted to an estimated 4 564 529 tonnes, assuming that the rate of production for the first nine months of 1987 (3 423 396 tonnes) continued during the remaining months of the year.

The quantity of urea produced for the free market (i.e. total production minus captive use) fell from an estimated 4 397 756 tonnes in 1984 to an estimated 3 703 340 tonnes in 1985 and to an estimated 3 412 451 tonnes in 1986. This would represent a decrease of 16% and 8% respectively when compared with preceding years. In 1987 this quantity may have risen slightly, i.e. by approximately 0,5% to an estimated 3 431 233 tonnes.

— *Capacity utilization*

(32) As far as capacity utilization by the Community industry is concerned, it fell from approximately 85 % in 1984 to approximately 77 % in 1985 and to approximately 70 % in 1986. In 1987 capacity utilization remained relatively stable.

— *Sales*

(33) Total sales in the Community of urea manufactured within the Community remained relatively stable in 1984 and 1985 at about 3 630 000 tonnes, rising by approximately 3 % to 3 740 568 tonnes in 1986 and decreasing by approximately 1 % to an estimated 3 714 565 tonnes in 1987, assuming that the trend in the first nine months of 1987 continued for the last three months of the year. Sales by Community urea producers of material destined for the free market in the Community increased from 2 457 890 tonnes in 1984 to 2 617 079 tonnes in 1986, an increase of approximately 6 % and slightly decreased by approximately 1 % to an estimated 2 581 269 tonnes in 1987. Sales of agricultural urea rose by approximately 5 % from 1 870 511 tonnes to 1 961 684 tonnes in 1986 and fell by approximately 3 % to an estimated 1 902 678 tonnes in 1987. These trends are in contrast with the development of the consumption in the Community — see the 29th recital.

— *Market share*

(34) The market share of Community producers in the Community fell from approximately 92 % in 1984 to approximately 90 % in 1985 and further to approximately 73 % in 1986. In 1987 their share increased to approximately 75 %. The share of the non-captive urea market in the Community held by the Community producers fell from approximately 89 % in 1984 to approximately 85 % in 1985 and further to approximately 66 % in 1986 and 1987. These producers' share of the agricultural urea market decreased from approximately 89 % in 1984 to approximately 84 % in 1985 and to approximately 62 % in 1986. In 1987 it increased to approximately 63 %. The trend towards a slight improvment in the market share of Community producers may have been a result of the announcement of the previous anti-dumping investigation and the anti-dumping measures taken against eight exporting countries (see the first and third recitals). These trends are particularly apparent in the most important Community urea markets.

(35) In Italy, which represents the main market for urea, consumption amounted to 1 030 488 tonnes in 1984, representing approximately 37 % of total consumption of the free urea market in the Community. While between 1984 and 1986 this consumption rose by 22 %, the Community producers' share fell from approximately 89 to 79 % whereas the market share held by the dumped imports originating in the countries subject to this investigation decreased from approximately 7 to 3 %. In 1987 consumption rose by approximately 8 %, while the market share of Community producers fell to 70 % and those of the dumped imports in question increased to 5 %.

In France, consumption of urea in the free market amounted to approximately 522 933 tonnes in 1984, representing approximately 20 % of total free urea consumption in the Community. Consumption rose to 626 802 tonnes in 1986, an increase of 20 % compared with 1984, and to 704 779 tonnes in 1987, a further increase of 12 %. During this period the Community producers' share of the free urea market fell from approximately 96 to 73,5 % in 1986 and to 69 % in 1987 and that of the dumped imports involved in this procedure rose from 3,8 to 15,4 %.

In Ireland, in the free urea market, the market share of Community producers fell from 100 % in 1984 and 1985 to approximately 74 % in 1986 and to 73 % in 1987, whilst consumption in this market rose by approximately 67 % between 1984 and 1986 and remained stable between 1986 and 1987. The share of the imports from the six countries involved increased from approximately 6 % in 1986 to 10 % in 1987.

In the United Kingdom, in the free urea market, the market share held by the domestic producer between 1984 and 1987 remained relatively stable at about 44 % whilst consumption of urea in this market increased by 12 % and the market share of the dumped imports concerned rose from approximately 6 to 10 %.

These developments show that in general, the Community producers could not take advantage of the increased consumption in the main markets and that only the dumped imports, including those subject to (EEC) Regulation No 3339/87, seemed to benefit.

— *Prices*

(36) As regards prices charged by Community producers during the reference period the Commission found that the prices of agricultural urea developed as follows :

	October 1986 to September 1987
Company A	+ 37 %
Company B	+ 20 %
Company C	+ 20 %
Company D	+ 28 %
Company E	+ 14 %

In spite of the improvment in sales prices during the reference period these prices were so low, because of substantial rates of price undercutting, that their increase was insufficient to enable Community producers to become profitable.

— *Profits*

(37) The profitability of the Community producers developed as follows :

	1985	September 1986	October to December	July to September 1987
Company A	7,4	– 8,3	– 49,4	– 25,8
Company B	4,4	N/A	– 27,3	– 62,8
Company C	– 17,8	4,8	– 49,3	– 30,1 (9 months 1987)
Company D	11,0	– 27,2	– 82,4	– 44,9
Company E	– 2,0	– 40,0	– 4,4	– 19,4

These figures show that in 1986, when the most significant increase in the dumped imports took place, the financial results of the Community industry significantly deteriorated in comparison with 1985. As far as the reference period is concerned, these results remained very unsatisfactory despite the price increases which had taken place.

Cumulation

(38) In establishing the impact of the dumped imports on the Community industry the effects of all dumped imports from the countries subject to this investigation were considered. In analysing whether aggregation was appropriate, the Commission considered whether the dumped imports in question had contributed to the material injury sustained by the Community.

In reaching its conclusions the Commission considered the comparability of the imported products in terms of chemical and physical characteristics, the extent to which each of the imported products competed in the Community with the like product of the Community industry, the volumes imported, the increase in volume of imports since 1984 from each of the exporting countries and the pricing policy of these exporters.

With regard to the comparability of the imported products it was found, as in the previous investigation, that the chemical and physical characteristics of the products concerned, irrespective of their country of origin, were very similar. Also, the product originating in Malaysia, which is granulated material, was found to be a like product given that prilled and granulated urea are products used interchangeably (both within the agricultural and technical sectors). It was also found that the product originating in each of the exporting countries involved in this investigation competed with the Community product.

As far as the volumes of the dumped imports were concerned, it was found that each of the exporting countries concerned held a significant share of the Community urea market. With regard to their development between 1984 and 1987, it was found that significant increases took place, except for Austria, of which the imports decreased between 1984 and 1986 but increased in 1987, and remained at a significant level in comparison with that of the dumped imports from the other countries concerned, as shown under the 27th recital.

In addition, the prices at which these products were sold in the Community all significantly undercut the prices of the Community products.

On the basis of this analysis the Commission concluded that for the purposes of assessing the injury sustained by the Community industry regard should be paid to the effect of the dumped imports aggregated from all countries subject to this investigation.

Causality and other factors

(39) With regard to the reference period of the current investigation, it was established that the dumped imports from the countries involved in this investigation benefited almost exclusively, both in terms of volume and market share, whilst in general the production of Community producers and consumption in the Community remained stable and the market share of other third countries decreased significantly.

Furthermore, the impact of these dumped imports on the prices charged in the Community has been very important, forcing the Community industry to maintain prices at levels insufficient to cover costs, despite an improvement in sales prices.

(40) The Commission examined whether the injury suffered by the Community producers had been caused by other factors such as the worldwide glut of urea, the unused production capacity or the drop in sales of Community producers outside the Community.

In this respect the Commission found that a worldwide glut of urea and unused production capacity remained during the reference period and that the Community producers of urea lost part of

their exports to third countries. However this did not explain the fact that during this period the market share of Community producers stagnated whilst that of the dumped imports gained, at the time when Community consumption was fairly stable.

Under these circumstances the effects of the dumped imports of urea originating in the countries concerned in this proceeding, taken in isolation, have to be qualified as causing material injury to the Community industry.

D. COMMUNITY INTEREST

(41) One importers' association argued that it was not in the Community's interest that action be taken as it would increase the purchase price of urea to be paid by farmers. However, no evidence was submitted to show that protective measures would have a significant impact on the costs of production of farmers or that they would be prevented from passing on such an increase to the consumers.

(42) Furthermore, it was argued that it was not in the Community's interests to take protective measures against countries such as Malaysia. First of all, the imposition of protective measures would be in conflict with the Community's general policy of increasing commercial cooperation with the ASEAN countries and on the other hand could force the ASEAN governments to reconsider their very open policy towards the Community fertilizer sector.

The Commission considered that although the maintenance of good relations with ASEAN countries was in the Community's interest, the maintenance of a multilateral free-trading system, which was in the interests of all participants, implied that sales did not take place at dumped prices. Also, the Community would be acting in a discriminatory manner if it took protective measures against exporters in some countries which sold at dumped prices in the Community but not against exporters in other countries which were engaged in the same practices.

(43) In view of the serious difficulties confronting the Community industry concerned, the Commission concluded that it was in the Community interest to take steps to eliminate the injury caused to Community producers of urea.

E. PROVISIONAL DUTY

(a) Rate of duty

(44) In determining the rate of the provisional duty, the Commission took into account the dumping margins and the level of duty needed to eliminate the injury. To that end, it compared, as it had done in Regulation (EEC) No 3339/87, import prices with the production costs of the most representative Community producer, plus a reasonable profit margin.

The representative Community producer was chosen by taking into consideration the company's size, the variety of products, the age and efficiency of the plant and overall production costs.

The profit margin selected was 2,5 % on costs of production. This margin appeared to be necessary in the previous investigation to enable a producer of urea to maintain plant at a reasonable level of modernization (see the 45th recital of Regulation (EEC) No 3339/87).

The costs of production plus the said profit margin were compared with the free-at-Community-frontier export prices plus customs duties and a profit margin for the importer.

The amount of the provisional anti-dumping duties to be imposed should correspond to the amount needed to remove injury except for Venezuelan exports and those of Agrico (USA), for which the amounts should be equal to the dumping margin, given that in these cases the injury threshold was higher.

(b) Form

(45) To ensure that these defensive measures are effective and to facilitate customs clearance, the Commission considered that the provisional duty should take the form of an *ad valorem* duty.

F. FINAL PROVISION

(46) In the interests of good administration, a reasonable period should be fixed within which the parties can make known their views on the findings set out in this Regulation and request a hearing,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of urea falling within CN codes 3102 10 10 and 3102 10 99 and originating in Austria, Hungary, Malaysia, Romania, the USA and Venezuela.

2. The amount of that duty, calculated on the basis of the free-at-Community-frontier price of the product, not cleared through customs, shall be :

1,7 % for urea originating in Austria

51,0 % for urea originating in Hungary

31,5 % for urea originating in Malaysia

54,2 % for urea originating in Romania

12,0 % for urea originating in the USA, with the exception of urea produced and exported by Agrico Chemical Company, New Orleans, where the rate shall be 6 %

35,0 % for urea originating in Venezuela.

3. The duty specified in this Article shall not apply to the product produced and exported by the First Mississippi Corporation, Jackson, Mississippi, United States.

4. The provisions in force concerning customs duties shall apply.

5. Release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the lodging of a security equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties may make known their views in writing and request a hearing with the Commission within one month of the entry into force of this Regulation.

Article 3

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

Subject to Articles 11, 12 and 14 of Regulation (EEC) No 2423/88, it shall apply for a period of four months or until the Council adopts definitive measures, whichever is the earlier.

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

Done at Brussels, 24 August 1988.

For the Commission

Stanley CLINTON DAVIS

Member of the Commission