COMMISSION REGULATION (EC) No 1506/94

of 27 June 1994

imposing provisional duties on imports of urea ammonium nitrate solution originating in Bulgaria and Poland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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], as last amended by Council Regulation (EC) No 522/94 [2] and in particular Article 11 thereof,

After consultations within the Advisory Committee,

Whereas:

A. PROCEDURE

(1) The Commission in May 1993 announced by way of a notice published in the *Official Journal of the European Communities* [3] the initiation of an anti-dumping proceeding concerning imports into the Community of urea-ammonium-nitrate solution ('UAN') originating in Bulgaria and Poland falling under CN code 3102 80 00.

(2) This notice followed the receipt of a written complaint lodged by the European Fertilizer Manufacturer Association ('EFMA') allegedly representing a major proportion of the total Community production of UAN. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom. This evidence was considered sufficient to justify the initiation of a proceeding.

(3) The Commission officially advised the producers and exporters in the exporting countries and importers known to be concerned, the representatives of the exporting countries and the complainant. Parties directly concerned were given the opportunity to make their views known in writing and to request a hearing.

(4) The Polish producers, one Polish exporter, one Bulgarian producer, one Bulgarian exporter, the complainant companies and two importers made their views known in writing.

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

(a) *Community producers*

DSM AGRO BV Netherlands,
Grande Paroisse SA, France,
Hydro Agri Rostock GmbH, Germany,
Hydro Agri Sluiskil BV, Netherlands,
Hydro Azoe France,
Kemira BV, Netherlands,
Stickstoffwerke AG, Germany.

(b) *Producers and exporters in Poland*

CIECH, Warsaw
Zaklady Azotowe Kedzierzyn, Kedzierzyn ('ZAK')
Zaklady Azotzowe Pulawy, Pulawy ('ZAP')

(c) *Producers located in the analogue countries*

Duslo Statny Podnik, Duslo, Slovak Republic
Severoceske Chemicke Zavody, Lovosice, Czech Republic

(6) The investigation of dumping covered the period from 1 April 1992 to 31 March 1993.

(7) With respect to the initiation of the anti-dumping proceeding, the Bulgarian exporter has argued that the Commission had illegally initiated the present anti-dumping investigation covering the total territory of the Community. In this context it was claimed, that, given that Bulgarian exports were made only to one Member State — France — during the investigation period, that the producers located in thatMember State sold their product only locally and that imports of the product concerned into that Member State from producers located in other Member States were limited, the Commission should have investigated the effect of Bulgarian imports only with respect to that Member State in accordance with Article 4 (5) of Regulation (EEC) No 2423/88 (the 'Basic Regulation').

(8) In this context, the Commission notes that although Bulgarian imports were made to one Member State only during the investigation period, in previous 12-month periods exports had also been made to other Member States. Furthermore, contrary to the allegations put forward by the Buglarian exporter, the market of the Member State

[1] OJ No L 209, 2. 8. 1988, p. 1.
[2] OJ No L 66, 10. 3. 1994, p. 10.
[3] OJ No C 123, 5. 5. 1993, p. 5.

concerned is supplied to a significant degree by imports from producers located in other Member States. Consequently, the Commission maintains that the effect of allegedly dumped Bulgarian imports on the industry concerned should be investigated Community-wide.

B. PRODUCT UNDER INVESTIGATION; LIKE PRODUCT

(9) The product concerned is urea-ammonium-nitrate solution, which is a mixture of urea and ammonium nitrate in water.

UAN is used as nitrogen ('N') fertilizer in agriculture and has an N-content of between 28 and 32 %.

Traditionally, UAN of different N-contents is used in different geographic regions in the Community but, fundamentally, there is no difference in the physical characteristics and the usage of the product.

(10) The complaint and notice of initiation cover UAN of different grades as defined in recital (9). UAN produced and exported originating in Bulgaria and Poland is comparable to UAN produced by the Community industry and in particular has the same technical and physical characteristics and the same usage.

C. DUMPING

(a) General

(11) With regard to the determination of dumping, Poland and the Czech and Slovak Republics — the last two seing used as analogue countries for Bulgaria (see recital (24)) — have been regarded as market economies. Accordingly, normal value and, where appropriate, adjustments to export prices, such as for transport costs, were established using data relating to the producer ' domestic sales prices or their respective costs.

(b) Poland

1. *Normal Value*

(12) The Commission established in its investigation that neither the Polish producers nor the Polish exporter had made any sales of UAN during investigation period or in previous years on the domestic market.

Consequently, the normal value was constructed in accordance with Article 2 (3) (b) (ii) of the Basic Regulation, on the basis of the producers full fixed and variable manufacturing costs to which an amount for selling general and administrative expenses ('SG&A') as well as as reasonable profit margin was added. Given the absence of any domestic sales on the domestic market of the product concerned and in accordance with Article 2 (3) (b) (ii) of the Basic Regulation, the SG&A and profit amounts to be used were based on the producers' domestic sales in the same business sector, namely fertilizers. Both producers had substantial sales of fertilizer on the domestic market in the investigation period.

(13) One producer had made a series of adjustments to its manufacturing costs specifically for the purpose of the compilation of the production costs submitted to the Commission in the framework of the anti-dumping investigation. The producer concerned was not in a position to justify the adjustments made to supply documents supporting its claim. Therefore, the Commission at the provisional stage of the investigation and in accordance with Article 7 (7) (b) of the Basic Regulation has decided to use that producer's production costs as calculated in its internal cost accounting for the purpose of establishing the producer's normal value.

The other producer had not included any financing costs in the production costs submitted, although such costs had been incurred. The Commission, in accordance with Article 7 (7) (b) of the Basic Regulation, included those costs for the purpose of establishing the producer's normal value.

2. *Export prices*

(14) The two Polish producers have sold UAN for export to the Community via two sales routes:

— directly, to unrelated importers in the EC, and

— indirectly, via the exporter located in Poland.

The exporter had handled all exports of chemicals before the market liberalization in Poland which started in 1989. During the investigation period the exporter handled a share of the total exports made by both producers.

For one of the producers the volume of product exported via the exporter represented a relatively minor share. The Commission concluded therefore that it would be appropriate to base the assessment of the export price on that producers's direct exports sales to the Community only — that is, on the balance of its sales.

For the other producer, the share exported via the exporter represented a significant share of total exports. Accordingly, the export price was established taking into account both the producer's export prices for direct sales transactions with independent importers in the Community and its sales to the exporter for further export to the Community.

(15) As regards the export sales via the exporter, the Commission notes that it will further investigate the relationship between the producer and the exporter. At the present stage of the investigation, the Commission considered provisionally that the price paid by the exporter to the producer should be taken as the producer's export price, since it was sold by the producer for export to the Community.

(16) With regard to exports made directly to independent importers in the Community, export prices were determined on the basis of the prices actually paid or payable.

In that respect, during the verification at the premises of one producer, the Commission was not satisfied as to the completeness of the reporting of this producer's export transactions. Accordingly the Commission adjusted this producers's export tansactions and, in doing so based their assessment on the facts available in accordance with Article 7 (7) (b) of the Basic Regulation.

(17) For sales made via the exporter the export prices were determined the basis of the prices actually paid or payable to the producer of the product concerned.

However, with respect to these sales, neither the exporter nor the producer could provide the appropriate information on the policy during the investigation period determining the commission paid by the producer to the exporter and deducted from the exporter's export price in order to determine the price paid or payable to the producer. Moreover, the specific amounts given in the response to the questionnaire did not correspond to the amounts actually paid. During the on-spot verification the latter were determined as substantially higher.

Accordingly, the Commission based its determination of the amount payable on the facts available in accordance with Article 7 (7) (b) of the Basic Regulation and used a commission rate of 4 %, which was the highest rate determind during the on-spot verification. It should be noted that this rate is still lower than the rate applicable to sales by this producer of other fertilizer products via the exporter.

3. *Comparison of export prices with normal normal value and dumping margins*

(18) As the normal value was constructed on the basis of the producers' production costs, the comparison between normal value and export price was made for identical product types according to different N-contents.

(19) The export prices as established in recitals (14) to (17) were adjusted according to the actual transport, insurance, handling and ancillary cots as well as on the direct salespersons' salaries for the export sales, in accordance with Article 2 (9) and (10) of the Basic Regulation in order to establish the expot prices at the ex-factory level — that is, at the same level as the normal value.

(20) The ex-factory export prices of UAN were compared on a transaction-by transaction basis with the normal value established as described in recitals (12) and (13).

This comparison revealed that the ex-factory prices of all export transactions for both producers were below normal value, the dumping margin being equal to the amounts by which the normal value exceeded the export price. These amounts were aggregated for all export transactions and the over all dumping margin, as expressed as a percentage of the total CIF value free-at-Community-frontier, is is as follows for the two producers located in Poland :

1. ZAK : 40,0 %
2. ZAP : 33,8 %.

(21) For the case of any other exporting producer lor exporter which failed to reply to the Commission's questionnaire or did noth otherwise make itself known, dumping was determined on the basis of the facts available in accordance with the provisions of Aricle 7 (7) (b) of the Basic Regulation.

In that connection, the Commission considered that the higher dumping margin as determined for a producer which had cooperated in the framework of this investigation was appropriate.

This approach was considered necessary in order not to provide an unacceptable bonus for non-cooperation and to avoid creating an opportunity for circumvention.

(c) **Bulgaria**

1. *Normal value*

(22) Bulgaria was considered to be a non-market economy country for purpose of the present anti-dumping investigation. Accordingly, the normal value to be compared with the Bulgarian export prices was established by the Commission based on prices and costs of a market economy analogue country, in accordance with Article 2 (5) of the Basic Regulation.

(23) In this respect the European Fertilizer Import Association ('EFIA') requested that Bulgaria should not be treated as a non-market economy country, as the Community was in the process of concluding an Interim Agreement with that country. However, since the exports originating in Bulgaria took place at a time when Bulgaria was a country to which Council Regulation (EEC) No 1765/82 [1], as last amended by Regulation (EEC) No 848/92 [2], applied, the Commission was required to establish normal value in accordance with the provisions of Article 2 (5) of the Basic Regulation — in the present case, by reference to prices and costs in a market economy, the former Czechoslovakia.

(24) The complainant companies had suggested that the former Czechoslovakia would be a reasonable choice — as an anlogue country.

The Bulgarian exporter claimed that former Czechoslovakia should not be used as an analogue country as it now formed two independent countries. In this context, the Commission notes that for most of the investigation period former Czechoslovakia existed as one country and it is therefore concluded that the normal value could reasonably be based on the activities of the two UAN producers located in the Czech Republic and the Slovak Republic on the territory of former Czechoslovakia.

Moreover, on the basis of the investigation carried out, the Commission considers former Czechoslovakia to be an appropriate choice for an analogue country at the provisional stage because :

— there is a substantial domestic market for the product concerned, which is considered representative as compared to the export quantities originating in Bulgaria,

— there are two domestic producers of a considerable size,

— there are significant imports of UAN from third countries,

— the production technology used by the domestic producers is comparable to that used in Bulgaria,

— the situation with respect to the access to raw materials in former Czechoslovakia is very similar to Bulgaria : both countries are supplied by Russia with natural gas, the most costly input, at world market prices, and

— the verification of the accounting data of the companies concerned satisfied the Commission that the data were reliable and in accordance with acceptable accounting standards.

In view of the above considerations the Commission considers it appropriate on balance to take former Czechoslovakia as the analogue country for Bulgaria in this specific anti-dumping investigation.

(25) Normal value has been based on the domestic sales prices and costs of the two producers which operate in former Czechoslovakia. Domestic sales prices were those paid or payable by independent customers net of all discounts, in accordance with Article 2 (3) (a) of the Basic Regulation.

In the case of one producer, part of the domestic prices were below its production costs and normal value was therefore determined in accordance with Article 2 (3) (b) (ii) of the Basic Regulation on the basis of the producer's full fixed and variable manufacturing costs, to which were added an amount for SG&A and a reasonable profit margin, as determined by the producer's profitable sales of the like product on the domestic market, and on the basis of the prices charged in the producer's remaining profitable sales.

2. *Export price*

(26) With regard to exports, all UAN export transactions since 1991 were handled by one Bulgarian exporter, namely Chimimport Investment and Fertilizer Inc. This exporter submitted information on its export transactions with independent importers in the Community. For these sales export prices were determined on the basis of the prices actually paid or payable.

[1] OJ No L 195, 5. 7. 1982, p. 1.
[2] OJ No L 89, 4. 4. 1992, p. 1.

3. *Comparison of export prices with normal value and dumping margins*

(27) The product concerned sold on the domestic market in former Czechoslovakia has an N-content of 30 % whereas the exported product originating in Bulgaria has an N-content of 32 %. Otherwise the two products have the same physical characteristics and the same use as agricultural fertilizer. Consequently, when comparing the normal value and the export price the normal value was adjusted on the basis of the N-content of the two products concerned.

(28) Furthermore, the export prices and the normal value as established in recitals (25) and (26) were adjusted according to the actual transport, insurance, handling, loading and ancillary costs in accordance with Article 2 (9) and (10) of the Basic Regulation in order to establish the export prices and value at the ex-factory level — that is to say, at the same level.

(29) The adjusted export prices of UAN were compared on a transaction-by-transaction basis with the normal value as adjusted. This comparison revealed that the ex-factory prices of all export transactions of the Bulgarian exporter were below the normal value, the dumping margin being equal to the amounts by which the normal value exceeded the export price. These amounts were aggregated for all export transactions of the exporter concerned and the overall dumping margin expressed as a percentage of the total CIF value, free-to-Community-frontier is as follows for exports from Bulgaria :

Chimimport Investment and Fertilizer Inc. 33,3 %

(30) For any other exporting producer or exporter who failed to reply to the Commission's questionnaire or did not otherwise make itself known, dumping was determined on the basis of the facts available in accordance with the provisions of Article 7 (7) (b) of the Basic Regulation.

In this connection, the Commission considered that the dumping margin determined with regard to the exporter which had cooperated in the framework of this investigation was appropriate.

D. INJURY

(a) Volume of Community market

(31) According to market research information, the information supplied in the framework of the present anti-dumping proceeding and import statistics, total Community consumption of UAN slightly decreased from 2,9 million tonnes measured in 32 % N-UAN in 1991 to 2,8 million tonnes in 1992 and the investigation period. While an increase in the German market did occur, it could not fully compensate for the decrease in the French and Spanish markets.

(b) Cumulation of dumped Bulgarian and Polish imports

(32) The Bulgarian exporter argued that exports originating from Bulgaria should not be cumulated with exports from Poland as Eurostat import statistics show a decreasing trend in Bulgarian imports into the Community from 1991 to 1992.

(33) The Commission notes in general that the information collected in the present investigation from the producers and exporters concerned, located both in Bulgaria and in Poland is considered to be more accurate than Eurostat figures and that the information provided by the producers and exporters individually allows a specific and detailed assessment of the situation with respect to imports. In particular, the Commission has established that the information on imports into the Community provided by the Bulgarian exporter, which according to its own information is the only Bulgarian exporter of the product concerned, shows a substantial increase over the time period above at prices similar to those charged by the Polish producers.

Furthermore, it was established in the course of the investigation that UAN originating in Bulgaria and Poland as well as UAN produced in the Community had similar physical characteristics, was sold through similar if not identical channels and had the same end use as a fertilizer.

(34) Consequently the Commission considers that the argument put forward by the Bulgarian exporter is not valid and that the imports of UAN originating in Bulgaria and Poland should in accordance with the normal practice of the Community institutions be aggregated.

(c) Volume and prices of dumped Bulgarian and Polish imports

(35) The volume of dumped Bulgarian and Polish UAN imports into the EC, measured in tonnes shows a large increase over the period from 1991 to the

investigation period from nearly 500 000 tonnes of 32 % N-UAN in 1991 to more than 750 000 tonnes during the investigation period — an increase of more than 50 %.

On the basis of the total Community consumption, this development corresponds to a rise in market share held by dumped imports from 16 % in 1991 to more than 27 % in the investigation period.

The Commission considered it important to assess both developments above, namely total sales volumes and market share, in particular in the light of the short time span during which they occurred in order to evaluate the impact of the imports on the Community market in UAN.

(36) The prices of UAN imported from Bulgaria and Poland have declined by about 7 % between 1991 and 1992, a trend that continued in the investigation period. Those prices, which did not cover the production costs, have consistently undercut the prices of Community producers and have thus had a continuous and substantial depressive effect on Community producers' prices and sales revenues.

(37) A detailed evaluation of the prices charged by Bulgarian and Polish exporters and producers for UAN imports to the Community during the period of investigation as compared to those charged by Community producers at a comparable level of trade reveals that the Bulgarian and Polish exporters and producers substantially undercut the prices of their Community competitors. The comparison was carried out on the basis of the detailed transaction-by-transaction sales reports by the Bulgarian and Polish exporters and producers and the Community producers for identical UAN grades sold by both the Community producers and the Bulgarian and Polish producers, and revealed undercutting of around 7 % by the Bulgarian exporter and between 6 and 10 % by the Polish producers.

The price depression and the price undercutting rates have been especially harmful in the Community UAN market, which is a commodity market with little scope for product differentiation. Consequently, the Community producers have had little choice but to match the prices from those exporting countries in order to keep their position in the market and keep the production facilities utilized at a relatively economical level.

(d) **Community industry :**

(38) Based on market research and the investigation conducted, the Commission concluded that the complainant producers represent a major proportion of the Community production of the product concerned (more than 65 %) within the meaning of Article 4 (5) of the Basic Regulation. The other producers located in the Community, namely in France, Italy, Spain and the United Kingdom, have not participated in the investigation.

(39) This industry, in response to the substantially increasing levels of dumped imports over a short period has adopted the strategy of following the price decreases of the exporting countries concerned in order to keep its position in the Community market.

In parallel, the Community industry reduced its production capacity by around 5 %, closing down two plants in France, in the period between 1991 and the investigation period. This trend has continued even since the investigation period.

These cuts in production capacity have allowed the Community industry to utilize its facilities at a more economical level. However, since it was forced to match the prices of the dumped imports, its financial situation has deteriorated considerably, leading to considerable financial losses in the investigation period. Indeed, the improved capacity utilization resulting from factory closures was not sufficient to compensate for the reduced turnover of the Community industry.

(40) As far as market share was concerned, the Community industry's strategy was successful, as its market share decreased only slightly from 40 % in 1991 to 38 % in 1992 and increased to 42 % in the investigation period. In line with this development the total production of the Community industry dropped from 1991 to 1992, to increase again in the investigation period to a level similar to that in 1991, namely around 1,2 millions tonnes of 32 % N-UAN and its sales volume dropped from 1991 to 1992 to increase again in the investigation period to a level similar to that in 1991, marginally less than 1,2 million tonnes of 32 % N-UAN.

(e) **Conclusion**

(41) In conclusion, the significant price depression in the Community market and the negative development for the Community industry incurring significant financial losses, led the Commission to conclude that the Community UAN industry has been suffering material injury within the meaning of Article 4 (1) of the Basic Regulation.

E. CAUSATION

(a) **Effect of dumped imports**

(42) The rapid increase in Bulgarian and Polish dumped imports over a short time at prices which undercut the Community producers' prices substantially, coincided with the depression of Community market prices for UAN between 1991 and the investigation period. Although the Community industry has not faced reduced sales volumes and market share, the stability in its position on the Community market could only be acheived by following the low prices of imports and, as a consequence, by incurring substantial and increasing losses between 1992 and the investigation period. Since UAN is a commodity, its market is highly price-sensitive. Consequently, the Community producers, when faced with low-priced imports of increasing volume, had no choice but to realign their prices to those of the dumped imports.

(b) **Other factors**

(43) As was stated in recital (30), the Community market for UAN was fairly stable. The situation of the Community industry therefore cannot be attributed to a contraction in consumption.

(44) Moreover, imports of UAN from other countries than Bulgaria and Poland have entered the Community in the period from 1991 to the investigation period but overall, these imports have decreased in volume. The main share of these imports originates in the United States of America. These US imports have substantially decreased in the above periods, from a volume corresponding to a 35 % market share in 1991 to a 10 % market share in the investigation period according to Eurostat information. The remaining imports have increased, but they are spread among several countries none of which has a significant share of the Community market overall.

(c) **Conclusion :**

(45) Imports from countries other than Bulgaria and Poland have either increased from 1991 to the investigation period but remained low in absolute terms or have been significant but falling in the period from 1991 to the investigation period. Consequently, the Commission has concluded that high volume, low-priced dumped imports of UAN originating in Bulgaria and Poland, taken in isolation, have caused material injury to the Community industry particularly in the form of heavy financial losses in accordance with Article 4 (1) of the Basic Regulation.

F. COMMUNITY INTEREST

(46) The purpose of anti-dumping measures is to remedy an unfair trading practice which has an injurious effect on a Community industry. Such a remedy should result in the re-establishment of a fair competitive situation which, as such, is in the interest of the Community.

(47) In the framework of the investigation it has been established that the Community industry is facing an injurious situation in the form of substantial financial losses caused by significant and increasing volumes of dumped imports. Without a remedy the Community industry would be threatened in its viability, a consequence which has already been foreshadowed by the closure of several Community producers' UAN plants.

(48) On the other hand, it is true that farmers have benefited in the short term from the low prices of dumped imports. However it must also be borne in mind that purchases of UAN account for a relatively small percentage of farmers' total costs. On balance, the possible gain of the farmers is not considered to be sufficient to deny the Community industry protection against unfair imports of UAN.

(49) The Bulgarian exporter has claimed that taking anti-dumping action against Bulgarian UAN imports would not be consistent with the increased cooperation between the Community and Bulgaria. This argument has been extended to Polish imports by EFIA.

It was furthermore claimed by the Bulgarian exporter that any anti-dumping measures would have a catastrophic effect on the Bulgarian economy and would lead to a loss of employment and possibly to political destabilization.

(50) In this context the Commission notes that the Community will pursue the aim of increasing its economic links with Bulgaria and Poland. At the same time, however, it expects Bulgarian and Polish producers and exporters to operate on the Community markets in accordance with international agreements on fair trade. With respect to the alleged effect on Bulgaria in particular, it should be noted that UAN exports to the Community represent only a small fraction of total Bulgarian exports. The Commission, therefore considers that it is not realistic to claim that anti-dumping measures imposed in order to re-establish fair trade in this market sector will have a significant impact on the overall economic activity in Bulgaria. This is equally true of the effect on the labour market in Bulgaria as its fertilizer production is not labour intensive. Furthermore, it should be noted that the imposition of anti-dumping measures should not remove products originating in the exporting countries concerned from the Community market but should only ensure that a fair competitive environment is re-established.

(51) Finally, the contention that anti-dumping measures imposed with respect to UAN might economically and politically destabilize the country does not seem realistic.

(52) In conclusion, it is considered that, on balance, it is in the interest of the Community to impose provisional anti-dumping measures concerning imports of UAN originating in Bulgaria and Poland.

G. PROVISIONAL DUTY

(53) Based on the conclusions on dumping, injury, causality and Community interest above, the Commission had to consider what form and what level of anti-dumping measure would be required in order to restore fair competitive conditions on the Community's UAN market.

In the present circumstances, the overall loss-making situation of the Community's UAN industry had to be taken into account.

(54) Accordingly, the Commission calculated the level of prices at which the Community industry would be able to cover its average costs of production and to obtain a reasonable return.

With respect to a reasonable level for profit, the Community industry has put forward a variety of profit targets used internally in the companies concerned. These targets vary significantly and, in a number of cases, were not established specifically for products but were the result of an overall group policy in the assessment of investment projects. In these circumstances, the Commission considered that particular account had also to be taken of the fact that the product concerned as well as the Community market are relatively mature needing only moderate amounts for investment and research and development. Therefore a profit rate of 5 % on turnover was considered reasonable.

(55) On a basis and, taking account of the Community industry's cost of production, a minimum import price was calculated which would permit the Community industry to raise its price to a profitable level.

(56) It was established that the injury thresholds thus established are lower than the dumping margins of both producers located in Poland and of the exporter located in Bulgaria as established in recitals (19) and (29).

(57) Given the material injury suffered by the Community industry in the form of financial losses, given the possibility of the absorption of an *ad-valorem* duty with a detrimental effect on the price situation in the Community market for this seasonal and highly price-sensitive product and given the existence of a number of import channels via third-country companies, the Commission considers it appropriate to impose a variable duty at the level which would permit the Community industry to raise its prices to profitable levels overall for imports invoiced directly by Bulgarian or Polish producers or by parties which have exported the product concerned during the investigation period and of a specific duty on the same basis for all other imports in order to avoid the circumvention of the anti-dumping measures.

H. FINAL PROVISION

(58) In the interest of administration, a period should be fixed within which parties concerned may make their views known in writing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of urea ammonium nitrate solution originating in Bulgaria and Poland and falling within CN code 3102 80 00.

2. The amount of anti-dumping duty shall be the difference between the price of ECU 89 per tonne of product and the CIF price plus the duty payable per tonne of product in all cases where the CIF price plus the duty payable per tonne of product is less than the minimum import price and where the imports put into free circulation are directly invoiced to the importer by the following exporters or producers located in Bulgaria:

— Chimimport Investment and Fertilizer Inc., Sofia,
— Agropolychim, Devnya,
(Taric additional Code: 8791);

or in Poland:

— CIECH, Warsaw,
— Zaklady Azotowe Kedzierzyn, Kedzierzyn,
— Zaklady Azotowe Pulawy, Pulawy,
(Taric additional Code: 8793).

3. For imports put into free circulation which are not directly invoiced by one of the exporters mentioned in paragraph 2 to the importer, the following specific duty is set:

(a) for the product originating in Bulgaria: ECU 20 per tonne of product (Taric additional Code: 8792);

(b) for the product originating in Poland: ECU 22 per tonne of product (Taric additional Code: 8794) with the exception of the product certified as having been produced by Zaklady Azotowe Pulawy for which the specific duty is ECU 19 per tonne product (Taric additional Code: 8795)

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

5. The release for free circulation in the Community of the products referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

The parties concerned may make known their views in writing within one month of the date of entry into force of this Regulation.

Article 3

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, 27 June 1994.

For the Commission
Leon BRITTAN
Member of the Commission