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COUNCIL REGULATION (EC) No 1995/2000

of 18 September 2000

imposing a definitive anti-dumping duty and collecting definitively the provisional duties imposed on imports of solutions of urea and ammonium nitrate originating in Algeria, Belarus, Lithuania, Russia and Ukraine, and terminating the anti-dumping proceeding in respect of imports originating in the Slovak Republic

(OJ L 238, 22.9.2000, p. 15)

Amended by:

	Official Journal		
	No	page	date
►**M1** Council Regulation (EC) No 1675/2003 of 22 September 2003	L 238	4	25.9.2003

Corrected by:

►**C1** Corrigendum, OJ L 63, 3.3.2001, p. 67 (1995/2000)

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COUNCIL REGULATION (EC) No 1995/2000

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imposing a definitive anti-dumping duty and collecting definitively the provisional duties imposed on imports of solutions of urea and ammonium nitrate originating in Algeria, Belarus, Lithuania, Russia and Ukraine, and terminating the anti-dumping proceeding in respect of imports originating in the Slovak Republic

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 Community ([1]), and in particular Article 9 thereof,

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

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 617/2000 ([2]) (the 'provisional Regulation') imposed a provisional anti-dumping duty on imports of solutions of urea and ammonium nitrate (UAN) falling within CN code 3102 80 00 and originating in Algeria, Belarus, Lithuania, Russia and Ukraine and accepted, on a provisional basis, an undertaking offered by an exporting producer in Algeria.

(2) In the same Regulation, it was provisionally concluded that no anti-dumping duty should be imposed on imports of the product concerned originating in the Slovak Republic, also subject to the same investigation, since these imports were not found to have caused material injury to the Community industry.

B. SUBSEQUENT PROCEDURE

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional measures on imports of solutions of UAN originating in Algeria, Belarus, Lithuania, Russia and Ukraine ('disclosure'), several interested parties submitted comments in writing. The parties who so requested were also granted an opportunity to be heard orally.

(4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings.

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.

(6) The oral and written comments submitted by the parties were considered, and, where appropriate, the provisional findings have been modified accordingly.

C. PRODUCT CONCERNED AND LIKE PRODUCT

(7) As outlined in recital 8 of the provisional Regulation, the product concerned is solutions of UAN, a liquid nitrogen fertiliser used in agriculture. Whatever their nitrogen content, all

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

([2]) OJ L 75, 24.3.2000, p. 3.

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solutions of UAN are considered to have the same basic physical and chemical characteristics and therefore constitute a single product for the purpose of this investigation.

(8) In view of the above and since no new arguments were put forward by any of the parties concerned with respect to the Commission's provisional findings on the product concerned and the considerations made on the like product, the facts and findings as set out in recitals 8 and 9 of the provisional Regulation are confirmed.

D. **DUMPING**

1. **Algeria**

(a) *Normal value*

(9) The cooperating exporting producer claimed that its cost of production had been miscalculated because the Commission had not taken into account the fact that no import duty was paid on imported raw materials used in manufacturing the product concerned for export. It also claimed that the Commission had incorrectly determined the transport costs from the factory to the port.

(10) Both claims were examined. As far as the import duty is concerned, the claim was found to be correct. The constructed normal value was therefore recalculated taking into account this element. With regard to transport costs, the claim was rejected, since no information to support it had been provided. The remaining findings on normal value, as set out in recitals 11 and 12 of the provisional Regulation, are confirmed.

(b) *Export price, comparison*

(11) In the absence of any comments under these headings, the provisional findings, as set out in recitals 13 and 14 of the provisional Regulation, are confirmed.

(c) *Dumping margin*

(12) In the absence of any comments concerning the methodology used for the calculation of the dumping margin, the methodology described in recital 15 of the provisional Regulation is confirmed. On this basis, the definitive dumping margin for the cooperating exporting producer, expressed as a percentage of the cif Community frontier price, is now 9,7 %.

Since the sole known exporting producer accounted for all Algerian exports of the product concerned to the Community, the residual dumping margin is set at the same level.

2. **Lithuania**

(a) *Normal value*

(13) The Lithuanian producer objected to the Commission's provisional findings, claiming that its normal value, which had been constructed in the absence of domestic sales of the product concerned, was too high and had resulted in an excessive dumping margin (7,6 %). In particular, it claimed that its selling, general and administrative (SG & A) expenses had been overstated and that these same expenses had been taken from a different set of accounts (the audited accounts for 1998) to that used for calculating the manufacturing cost (internal management accounts covering the investigation period, June 1998 to May 1999), thereby distorting the results.

(14) Since it was found that there were no domestic sales of the product concerned, the amounts for SG & A expenses had to be determined in accordance with Article 2(6) of Regulation (EC)

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No 384/96 (hereafter referred to as the 'Basic Regulation'). As there were no other Lithuanian producers whose SG & A amounts could be used, the sole Lithuanian producer's SG & A amounts were determined for 'the same general category of products for the exporter or producer in question in the domestic market of the company of origin'. In this regard, it should be mentioned that the company did not originally provide any information at all on its global SG & A expenses in its reply to the questionnaire. In fact, this information was provided following a deficiency letter by the Commission but when sent was not only incorrect, but incomplete in that financial expenses had been omitted. It had therefore been considered appropriate to make use of a reliable source of information (the 1998 audited accounts) for the purposes of the provisional determination.

(15) Following the publication of the provisional Regulation, the SG & A expenses were recalculated on the basis of the same internal management accounts which had been used in the provisional findings to determine the manufacturing cost of the product concerned. The Commission requested further clarification of the company's figures and reviewed all the information it had obtained since the beginning of the investigation. It reached the conclusion that the figures provided a basis which was indeed reliable enough to be used. As a result of the recalculation of SG & A expenses, the normal value was adjusted downwards.

(16) Following disclosure of the definitive findings, the Lithuanian producer raised further objections.

In general terms, the company claimed that the revised methodology had led to a number of inconsistencies due to the fact that the accounts used for the determination of SG & A expenses were incomplete or inaccurate. Regarding this general comment, it should be noted that these were the same accounts used for the determination of the cost of manufacturing, and had not been contested by the company at the provisional stage — indeed, the company had argued strongly that these accounts should also be used for determining the SG & A expenses.

The company then made a number of specific claims. Firstly, it claimed that the internal management accounts covering the investigation period understated both its total and its domestic turnover. The claim was rejected because the company had had sufficient opportunity since the beginning of the investigation to provide a complete and accurate picture of its situation. It had made no mention of the possible inaccuracy of the figures it had provided until it had decided to contest the definitive findings and even then did not provide an explanation for the turnover discrepancies.

Secondly, the company claimed that its export SG & A costs were understated in the management accounts because the latter did not include SG & A costs for exports to markets other than the Community; consequently, the Commission should have deducted a larger amount from its total SG & A costs in order to arrive at the correct amount for domestic SG & A. This claim was rejected because the costs in question represented an extremely high proportion of the income from export sales to these other markets, compared with exports to the Community, and because no mention of this inconsistency had been made earlier in the proceeding and no explanation for the failure to include these expenses being missing in the management accounts had been provided.

Thirdly, the company claimed that some of its financial expenses were not attributable to the production of UAN since a large part of its business consisted of holding activities. Here it should be pointed out that fertiliser production accounts for the vast bulk of the company's business and, moreover, that the company failed to include any data on financial expenses in its reply to the questionnaire, arguing that no such expenses were attribu-

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table to UAN. It is considered that all expenses which are not directly attributable to a particular product should nonetheless be attributed and that, in the absence of any more reasonable approach, turnover is an appropriate basis for allocation of these expenses. This claim was therefore rejected, except in respect of 'financial brokerage expenses', which, it was found, did not need to be taken into account since they would have had no impact on the definitive findings.

Fourthly, it was claimed that the general and administrative expenses (G & A) should only have been included insofar as they related to production activities. The company produced a table containing figures prepared on this basis by its external auditors. This claim was rejected because the auditors, in a letter to which the table was attached, had expressly declined to give an opinion on the figures. In addition, the argument in the preceding paragraph concerning the across-the-board allocation of costs is equally relevant here. A similar claim contesting the allocation of G & A expenses incurred in connection with trading activities, and for which no supporting evidence was provided, was also rejected.

(17) The complainant, the European Fertilisers Manufacturers' Association (EFMA), also made comments on the method of constructing normal value for the Lithuanian producer and claimed that the Commission should have made adjustments in respect of:

— depreciation rates, on the grounds that those applied by the producer were too low and were not in line with those applied in Western Europe, and by the Community industry in particular,

— fixed asset valuations, on the grounds that the producer's assets were not valued in accordance with international accounting standards,

— the gas price, judged to be too low, charged by the Russian gas supplier, resulting in an abnormally low cost of production. The complainant suggested that the Commission recalculate the producer's gas costs on the basis of figures obtained from a Community gas supplier showing what was considered to be the lowest reasonable price the Lithuanian producer could be expected to have paid for gas in the investigation period.

All three claims were examined. As far as concerns depreciation, most, but by no means all, of the rates used by the Lithuanian producer were longer than those used by Community producers, but were nonetheless mostly within the range of variation found in the Community; however, the depreciation charge, as a percentage of the cost of production, was not significantly different from that typically found in the Community industry. Moreover, the rates were in line with Lithuanian accounting practices. The fixed asset valuations were also found to be stated in accordance with national accounting standards. These claims were therefore rejected.

With regard to the claim concerning gas prices, this question had already been thoroughly examined at the provisional stage of the proceeding and it had been concluded that there was no evidence to suggest that the prices charged were not reliable, or did not reflect the true cost of supply. Moreover, the price paid for gas by the Lithuanian producer was found not to be lower than the price advanced by the complainant. This claim, too, was therefore rejected.

(b) *Export price, comparison*

(18) In the absence of any comments under these headings, the provisional findings, as set out in recitals 17 and 18 of the provisional Regulation, are confirmed.

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(c) *Dumping margin*

(19) In the absence of any comments concerning the methodology used for the calculation of the dumping margin, the methodology described in recital 19 of the provisional Regulation is confirmed. On this basis, the definitive dumping margin for the cooperating exporting producer, taking into account the changes mentioned above, and expressed as a percentage of the cif Community frontier price, is 5,8 %.

Since the sole known exporting producer accounted for all Lithuanian exports of the product concerned to the Community, the residual dumping margin is set at the same level.

3. **Belarus, Russia, Ukraine**

(a) *Analogue country*

(20) In the absence of any comments concerning the choice of Lithuania as market economy third country, the provisional conclusion as set out in recital 22 of the provisional Regulation is confirmed.

(b) *Russia*

(i) Individual treatment

(21) One cooperating exporting producer requested that its claim for individual treatment be reconsidered on the grounds that, with respect to its export sales, it was not subject to any interference by the State. In support of this claim, it advanced the following arguments:

— the conditions and terms of its export sales were determined freely,

— the company's supervisory board was elected annually by the shareholders, the majority of whom were private companies or individuals. All but one of the board's members were independent from the State,

— exchange rate conversions were carried out at the market rate.

(22) The Commission reviewed the claim for individual treatment focusing its analysis, at this definitive stage, mainly on those areas having a direct impact on the company's export activities. On this basis, it considered that the arguments put forward by the company were valid, and, since it was also considered that the level of state interference was not such as to permit circumvention of measures if exporters are given different rates of duty, the company's claim has been accepted.

(23) The complainant objected strongly to the granting of individual treatment to this producer at the definitive stage, given that the Commission had rejected the request at the provisional stage on the grounds that it was ‘not sufficiently free of State influence’. This fact alone should have been enough to stop the Commission reversing its decision. It argued that the Russian State's discounting of gas prices gave its fertiliser producers an unfair competitive advantage and that their export sales could therefore not be considered to be truly market-based transactions. It also expressed concern about the increased potential for circumvention of the duties, because the individual margin was slightly lower than the countrywide margin.

It should be pointed out that decisions taken at the provisional stage are always reviewed in the light of comments received and may be modified before definitive findings are reached. Whilst it remained true that the State had an influence in the setting of gas prices, the determination of normal value on the basis of constructed value in the analogue country rendered this argument irrelevant. Moreover, the company had been found to

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be free to decide what quantities to export and at what prices. In any event, accepting this argument would be tantamount to denying individual treatment to all companies which did not qualify for market economy status (i.e. because it did not meet the criteria laid down at Article 2(7)(c) of the Basic Regulation). As to the added risk of circumvention, reference is made to recital 23 dealing with the independence of the Russian company concerned from the State.

(ii) Comparison

(24) The complainant also questioned the basis on which the normal value had been compared to the export price, i.e. on a fob (ex-exporting country frontier) basis. It argued that the use of this method had distorted the findings because it did not adequately take into account the differences in internal transport costs in market and non-market economy countries, and that if the comparison had been made on an ex-works basis, the dumping margin would have been significantly greater.

The comparison of normal value with the export price should be made at the genuinely similar commercial stage, whether this is fob or ex-works. In the present case, the product concerned is a bulk product, for which the transport costs account for a very high proportion of the selling price. After careful examination of the arguments, it is considered that the fob comparison does indeed give an undue advantage to companies whose geographical location, if they were located in a market economy country, would prohibit them from exporting bulk products, and has therefore, for the purposes of the definitive determination, changed the basis of the comparison from fob to ex-works. The appropriate adjustments were therefore made to the export price in respect of the costs for transport from ex-works to port and for port services.

(iii) Dumping margin

(25) The individual dumping margin for the cooperating exporting producer granted individual treatment, and the countrywide dumping margin for all other producers were recalculated using the revised normal value of the Lithuanian producer (see recitals 13 to 15).

On this basis, the dumping margins, expressed as a percentage of the cif Community frontier price, are:

JSC Nevinnomyssky Azot:	28,5 %
All other companies:	41,0 %.

(c) *Belarus*

(i) Comparison

(26) In view of the change in the basis of comparison from fob to ex-works level (see recital 24), the appropriate adjustments were made to the export price in respect of the costs for transport from ex-works to port and for port services.

(ii) Dumping margin

(27) The dumping margin for Belarus was recalculated using the revised normal value of the Lithuanian producer (see recitals 13 to 15).

(28) The cooperating exporting producer claimed that it had not been given adequate disclosure of the provisional findings and therefore had been prevented from making any substantive or meaningful comment on the dumping margin calculation. In addition, it claimed that the quantities exported had been miscal-

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culated because returns had not been taken into account and because some of the UAN exported had a nitrogen content of 30 % instead of the more usual 32 %. Finally, it claimed that the cif value had been wrongly calculated.

(29) As far as the amount of information contained in the disclosure document on the provisional findings is concerned, it is considered that the information provided was the maximum possible without breaching the duty of confidentiality to the sole Lithuanian producer in respect of its own normal value.

(30) With regard to the other claims, the available information was reviewed and the export quantities adjusted. As regards the calculation of the cif value, the methodology adopted in the provisional Regulation is confirmed.

(31) In the absence of any other comments concerning the determination of the dumping margin, the methodology set out in recital 31 of the provisional duty Regulation is confirmed. On this basis, the countrywide dumping margin, expressed as a percentage of the cif Community frontier price, is 55,0 %.

(d) *Ukraine*

(i) Comparison

(32) In view of the change in the basis of comparison from fob to ex-works level (see recital 24), the appropriate adjustments were made to the export price in respect of the costs for transport from ex-works to port and for port services.

(ii) Dumping margin

(33) The Commission recalculated the Ukrainian dumping margin using the revised normal value of the Lithuanian producer (see recitals 13 to 15).

On this basis, the countrywide dumping margin, expressed as a percentage of the cif Community frontier price, is 50,4 %.

E. **DEFINITION OF THE COMMUNITY INDUSTRY**

(34) In the absence of any comments or new information the provisional findings as described in recitals 35 and 36 of the provisional Regulation on the definition of the Community industry are confirmed.

F. **INJURY**

1. **Cumulation**

(35) The complainant questioned the decumulation of the Slovak Republic, without however submitting any new information. In this respect it is underlined, in particular, that both the volumes and market shares of the imports originating in the Slovak Republic were the lowest of all countries concerned and that their prices did not undercut those of the Community industry. The provisional findings regarding the appropriateness of the decumulation of imports originating in the Slovak Republic are therefore confirmed.

(36) The Algerian exporting producer submitted that imports originating in Algeria should be assessed separately, on the grounds of a low dumping margin, a small average market share and a small undercutting margin. In this respect, it should be outlined that the dumping margin for the imports originating in Algeria is above the *de minimis* level and the volume of these imports during the investigation period is not negligible. Furthermore, as to the conditions of competition, there was an upward trend in the volume of imports, the price behaviour of the Algerian exporting producer was comparable to that of the other exporting producers in the other countries concerned and price undercut-

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ting was found for these imports which used the same channels of trade. For these reasons, and in accordance with Article 3(4) of the Basic Regulation, the provisional findings as described in recital 41 of the provisional Regulation are confirmed.

2. **Price undercutting**

(37) The exporting producer in Belarus submitted that the customs duty applicable for imports originating in Belarus was 6,8 % in 1998 and 6,5 % in 1999 while the Commission, in the calculation of the cif Community frontier value, ex-quay, duty paid, had used 6,5 % for all imports. The cif value was recalculated accordingly, which did not, however, change the range for the undercutting margin for imports originating in Belarus mentioned in recital 46 of the provisional Regulation.

(38) Since the customs duty applicable for imports originating in Russia also changed in 1999, the undercutting margin for imports originating in Russia was also accordingly recalculated. The revised weighted average price undercutting expressed as a percentage of the Community industry's prices amounts to 6,5 %. Otherwise, the methodology set out in recital 46 of the provisional duty Regulation is confirmed.

3. **Situation of the Community industry**

(39) Certain parties submitted that for the injury analysis the situation in 1995 should be compared to that in the investigation period, and not the situation in 1997 to that in the investigation period. In this respect it should be clarified that material injury in the investigation period is one of the conditions to be fulfilled before anti-dumping measures can be taken. It should be noted that the Basic Regulation does not require injury to occur throughout the whole period covering the examination of injury. Indeed this would amount to a requirement that the situation of the Community industry must have been continuously deteriorating over a period of four to five years before measures could be imposed. In order to establish whether such injury exists, *inter alia*, the preceding years and the developments and trends found between them and the investigation period serve as reference. In the current case, the investigation covered the period between 1995 and the investigation period and not just 1995 and the investigation period as suggested by these parties. Taking into account developments throughout this period, a marked deterioration of the situation of the Community industry has been found in particular between 1997 and the investigation period. In view of the above, the provisional findings as regards the material injury suffered by the Community industry are therefore confirmed.

G. **CAUSATION**

(40) Certain exporting producers submitted that the Commission underestimated the impact of the Chinese decision to ban imports of urea as from April 1997 on the worldwide oversupply. In this respect it should be noted that the existence or not of a situation of oversupply, whatever its importance, does not provide a justification for dumped imports causing injury to the Community industry. Therefore, in the absence of any new information, the findings as described in recitals 62 and 63 of the provisional Regulation are confirmed.

H. **COMMUNITY INTEREST**

(41) In the absence of any new information the provisional findings as described in recitals 64 to 69 of the provisional Regulation are confirmed.

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I. **ANTI-DUMPING MEASURES**

1. **Termination of the proceeding in respect of the Slovak Republic**

(42) In the light of the conclusions set out in recital 60 of the provisional Regulation, i.e. that no price undercutting has been found, that the import volume was relatively low and the market share small and stable, the proceeding concerning imports originating in the Slovak Republic is hereby terminated without the imposition of measures.

2. **Injury elimination level**

(43) For the purposes of establishing the level of definitive measures to be imposed, it is confirmed that the prices of the dumped imports should be increased to a level where injurious dumping is eliminated.

(44) The complainant submitted that a profit margin of 5 % was not realistic and that a higher level of profit should be used in determining a non-injurious price level. However, as a profit margin of 5 % has been used in previous anti-dumping cases concerning solutions of UAN and in the absence of elements pointing to a change in circumstances requiring a new evaluation, it is concluded that a margin of 5 % remains an appropriate level of profit.

(45) Furthermore, the methodology used for establishing the injury margin as described in recital 70 of the provisional Regulation was confirmed.

(46) The injury margin for Belarus was revised to take into account the fact that the customs duty applicable for imports originating in Belarus was 6,8 % in 1998 and 6,5 % in 1999 while, as mentioned above, the Commission, in the calculation of the cif Community frontier value, ex-quay, duty paid, used 6,5 % for all imports. The cif value was recalculated accordingly. The new injury margin for imports originating in Belarus is 27,5 %.

(47) Since the customs duty applicable for imports originating in Russia also changed in 1999, the injury margins for imports originating in Russia were also accordingly recalculated. Furthermore, since individual treatment was granted to one Russian exporting producer, an individual injury margin was calculated accordingly. The new injury margins for imports originating in Russia however remain below the dumping margins found.

3. **Undertakings**

(48) The undertaking accepted at the provisional stage from the Algerian exporting producer was revised in order to adjust the minimum import price on the basis of the definitive findings for the producer (see recitals 9 to 12 above).

Undertakings offered by the two cooperating Russian companies were rejected. One was rejected because the company concerned was not an exporting producer from whom such undertaking could be accepted, but an intermediate trader, purchasing the product concerned from a non-cooperating producer and selling it to a related company for export. The other undertaking offer was rejected because the company is an integrated producer of fertilisers, and therefore has a wide range of marketing options open to it when faced with measures on one of its products. It should be stressed that in these circumstances, the monitoring of the undertakings would have proved impracticable.

The undertaking offered by the cooperating Belarus exporting producer was rejected on similar grounds.

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4. **Form and level of the definitive measures**

(49) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the Basic Regulation, definitive anti-dumping duties should be imposed at the level of the injury margins found, which are lower than the dumping margins. For the reasons set out in recitals 15 and 19 of the provisional Regulation, it is confirmed that the residual duties for Algeria and Lithuania should be set at the level established respectively for the sole producer in each country.

(50) In order to ensure the efficiency of the measures and to discourage the price manipulation which has been observed in some previous proceedings involving fertilisers, it is confirmed that the duties should be imposed in the form of a specific amount per tonne. These duties amount to:

Country	Dumping margin	Basis for anti-dumping duty	Amount of duty (per tonne)
Algeria			
— Fertalge Industries	9,7	9,7	EUR 6,88
Belarus	55,0	27,5	EUR 17,86
Lithuania			
— JSC Achema	5,8	5,8	EUR 3,98
Russia			
— JSC Nevinnomyssky Azot	28,5	27,4	EUR 17,80
— All other companies	41,0	32,0	EUR 20,11
Ukraine	50,4	45,7	EUR 26,17

(51) The individual company anti-dumping duty rate specified in this Regulation was established on the basis of the findings of the present investigation. Therefore, it reflects the situation found during that investigation with respect to this company. This duty rate (as opposed to the country-wide duty applicable to 'all other companies') is thus exclusively applicable to imports of products originating in the country concerned and produced by the company and thus by the specific legal entity mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from this rate and shall be subject to the duty rate applicable to 'all other companies'.

(52) Any claim requesting the application of this individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission [1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

[1] European Commission
Directorate-General Trade
Directorate C
DM 24 - 8/38
Rue de la Loi/Wetstraat 200
B-1049 Bruxelles/Brussel

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J. **COLLECTION OF THE PROVISIONAL DUTIES**

(53) In view of the extent of the dumping margins found and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by Regulation (EC) No 617/2000, should be definitively collected at the rate of the duty definitively imposed,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution falling within CN code 3102 80 00 and originating in Algeria, Belarus, Lithuania, Russia and Ukraine.

2. The amount of duty in euro per tonne shall be as shown below for the countries concerned:

Country	Company	Amount of duty (per tonne)	TARIC additional code
Algeria	All companies	EUR 6,88	A999
Belarus	All companies	EUR 17,86	—
▼M1 Lithuania	All companies	EUR 3,98	A999
▼B Russia	JSC Nevinnomyssky Azot 357030 Russian Federation, Stavropol region Nevinnomyssk, Nizyaev st. 1	EUR 17,80	A176
	All other companies	EUR 20,11	A999
Ukraine	All companies	EUR 26,17	—

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 ([1]), the amount of anti-dumping duty, calculated on the basis of the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

4. Notwithstanding paragraph 1, the definitive duty shall not apply to imports released for free circulation in accordance with the provisions of Article 2.

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

6. The proceeding concerning imports of solutions of urea and ammonium nitrate originating in the Slovak Republic shall be terminated.

Article 2

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1. Imports declared for release into free circulation under the following TARIC additional codes which are produced and directly exported (i.e. shipped and invoiced) by a company named below to a company in the Community acting as an importer shall be exempt

([1]) OJ L 253, 11.10.1993, p. 40.

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from the anti-dumping duty imposed by Article 1 provided that such imports are imported in conformity with paragraph 2 of this Article.

Country	Company	TARIC additional code
Algeria	Fertalge Industries spa 12, Chemin AEK Gadouche Hydra Alger	A107
Lithuania	Stock Company Achema Jonalaukio k.,Ruklos sen., Jonavos r. LT-5005	A375

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2. The exemption shall be conditional upon presentation to the relevant Member State's customs services of a valid undertaking invoice issued by the exporting company containing the essential elements listed in the Annex to Regulation (EC) No 617/2000.

Article 3

The amounts secured by way of provisional anti-dumping duties pursuant to Regulation (EC) No 617/2000 on imports of solutions of urea and ammonium nitrate originating in Algeria, Belarus, Lithuania, Russia and Ukraine shall be collected at the rate of the duty definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duties shall be released. ►C1 Where the rate of the definitive duty imposed is higher than the rate of the provisional duty, only the amount secured at the level of the provisional duty shall be definitively collected. ◄

Article 4

This Regulation shall enter into force on the day following 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.