# Commission Implementing Regulation (EU) 2019/576 of 10 April 2019 imposing a provisional anti-dumping duty on imports of mixtures of urea and ammonium nitrate originating in Russia, Trinidad and Tobago and the United States of America

## COMMISSION IMPLEMENTING REGULATION (EU) 2019/576

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## imposing a provisional anti-dumping duty on imports of mixtures of urea and ammonium nitrate originating in Russia, Trinidad and Tobago and the United States of America

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

### 1. PROCEDURE

#### 1.1. Initiation

(1) On 13 August 2018, the European Commission initiated an anti-dumping investigation with regard to imports into the Union of mixtures of urea and ammonium nitrate originating in Russia, Trinidad and Tobago and the United States of America 'the countries concerned') on the basis of Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council ('the basic Regulation'). The Notice of Initiation ('NoI') was published in the *Official Journal of the European Union*[(2)].

(2) The Commission initiated the investigation following a complaint lodged on 29 June 2018 by Fertilizers Europe ('the complainant') on behalf of producers representing more than 50 % of the total Union production of mixtures of urea and ammonium nitrate ('UAN'). The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

#### 1.2. Registration

(3) The Commission made imports of the product concerned subject to registration under Article 14(5a) of the basic Regulation by Commission Implementing Regulation (EU) 2019/455 of 20 March 2019[(3)] ('the registration Regulation').

#### 1.3. Interested parties

(4) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically

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informed the complainant, known Union producers, the known exporting producers and the authorities of the Russian Federation ('Russia'), Trinidad and Tobago ('TT'), and the United States of America ('US'), known importers and associations representing the interests of users and other associations known to be concerned about the initiation of the investigation and invited them to participate.

(5) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(6) The co-operating exporting producers in Russia and US claimed that the complainants had no standing and that there was no sufficient evidence of dumping and injury to initiate the investigation.

(7) The Commission rejected both claims. The Commission cross-checked and confirmed the conclusions contained in the Note to the file on standing available for inspection by interested parties that the complaint was lodged on behalf of producers representing more than 50 % of the total Union production of UAN. Moreover, the Commission carried out an examination of the complaint in accordance with Article 5 of the basic Regulation, coming to the conclusion that the requirements for initiation of an investigation were met, namely that the adequacy and accuracy of the evidence presented by the complainant was sufficient. According to Article 5(2) of the basic Regulation, a complaint shall contain such information as is reasonably available to the complainant on the factors indicated therein. On the basis of the evidence provided, as confirmed by the Commission's own assessment, that requirement was satisfied.

1.4. **Sampling**

(8) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

1.4.1. *Sampling of the Union producers*

(9) In the Notice of Initiation, the Commission stated that it had decided to limit to a reasonable number the Union producers that would be investigated by applying sampling and that it had provisionally selected a sample of Union producers. The Commission selected the provisional sample on the basis of the reported production and Union sales volume, by the Union producers, in the context of the pre-initiation standing assessment analysis. The provisional sample thus established consisted of three Union producers that accounted for around 70 % of Union production and sales according to the information available. Details of this provisional sample were made available in the file for inspection by interested parties and the Commission invited interested parties to comment.

(10) Shortly after initiation, one of the provisionally sampled producers, Yara Sluiskil B.V., informed the Commission that it did not want to cooperate. Moreover, two Union producers sent replies in response to the pre-initiation standing assessment after the publication of the Notice of Initiation. The Commission took into account those Union producers' data on production and sales in order to establish the final sample.

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(11) Several interested parties submitted further comments with regard to the provisional sample. The Commission considered the comments and explained in the note added to the open file on 5 September 2018 why those comments did not have an impact on the final sample selection.

(12) The Commission's approach to apply sampling, pursuant to Article 17 of the basic anti-dumping Regulation, on the basis of volume of production and sales of the like product in the Union during the investigation period, was consequently maintained.

(13) Given that Yara Sluiskil B.V. did not wish to cooperate, the Commission decided to replace it with OCI Nitrogen. The final sample of Union producers, comprising AB Achema, Grupa Azoty Zaklady Azotowe Pulawy S.A. and OCI Nitrogen B.V., accounted for more than 50 % of the total Union production and sales volumes of the like product. The sample is representative of the Union industry.

1.4.2. *Sampling of importers*

(14) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(15) Several unrelated importers made themselves known as interested parties, although only three provided the requested information and agreed to be included in the sample. In view of the low number of replies received, the Commission decided that sampling was not necessary. All three importers were invited to complete a questionnaire.

1.4.3. *Sampling of exporting producers in Russia, TT and US*

(16) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in Russia, TT and US to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Russian Federation to the European Union, the Mission of Trinidad and Tobago to the European Union, and the Mission of the United States of America to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(17) Two exporting producers in Russia, one exporting producer in TT, and one exporting producer in US provided the requested information and agreed to be included in the sample.

(18) In view of the low number of responses from exporting producers, the Commission decided that sampling was not necessary.

(19) All known exporting producers concerned, and the authorities of the countries concerned, were informed on the selection of the companies to be investigated by note of 21 August 2018. No comments were received.

1.5. **Replies to the questionnaire**

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(20) The Commission sent questionnaires to the three sampled Union producers, the complainant, the three unrelated importers which had made themselves known, the four exporting producers in the countries concerned and all users' associations and economic operators which made themselves known and requested a questionnaire.

(21) In the complaint, the complainant provided sufficient evidence of raw material distortions in Russia regarding the product concerned. Therefore, as announced in the Notice of Initiation, the investigation covers these raw material distortions to determine whether to apply the provisions of Article 7(2a) and 7(2b) of the basic Regulation with regard to Russia. For this reason, the Commission sent an additional questionnaire to the Government of Russia ('GOR').

(22) Questionnaire replies were received from the three sampled Union producers, Fertilizers Europe, three unrelated importers, the four exporting producers in the countries concerned and seventeen different economic operators, including some representing the interests of users.

(23) A questionnaire reply was also received from the GOR. However, the GOR's reply was significantly incomplete and lacked the basic information needed by the Commission to examine the allegations of raw material distortions in Russia and to assess whether a duty lower than the margin of dumping would be sufficient to remove injury. The GOR did not reply to the Commission's request with regard to an on-spot verification of the data provided in the questionnaire reply.

(24) The Commission informed the GOR by two notes of 22 October and 19 December 2018 of the deficiencies of the response to the questionnaire and the lack of reply to the Commission's request to verify the provided data. The Commission indicated that by not providing the necessary information, it would make its findings with regard to the existence of raw material distortions in Russia on the basis of the facts available. The GOR failed to provide the necessary information in response to those notes.

1.6. **Verification visits**

(25) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, raw material distortions with regard to the product concerned in Russia, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

(a) Union producers and their associations
- AB Achema, Jonava, Lithuania
- Grupa Azoty Zaklady Azotowe Pulawy S. A., Pulawy, Poland
- OCI Nitrogen BV, Geleen, Netherlands
- Fertilizers Europe, Brussels, Belgium

(b) Unrelated importers

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— UnionInvivo, Paris, France

— Interore, Wavre, Belgium

(c) Exporting producers:

Exporting producers in Russia:

Acron Group:

— PJSC Acron (‘Acron’), Veliky Novgorod, Russia (producer)

— Agronova Belgorod (‘Agronova’), Moscow, Russia (domestic trader)

EuroChem Group:

— Novomoskovsky Azot, JSC, Novomoskovsk, Russia (producer)

— Nevinnomyssky Azot, JSC, Nevinnomyssk, Russia (producer)

— EuroChem Trading Russia, Moscow, Russia (domestic trader)

Exporting producer in TT:

— Methanol Holdings (Trinidad) Limited (‘MTHL’), Point Lisas, TT

Exporting producer in US:

— CF Industries Holdings, Inc. (‘CFI’), Deerfield, Illinois, US

(d) Related importers:

— Acron France SAS (‘Acron SAS’), Paris, France (importer related to Acron Group)

— EuroChem Agro GmbH, Mannheim, Germany (importer related to EuroChem Group)

— EuroChem Agro France SAS, Paris, France (importer related to EuroChem Group)

— Helm AG (‘HAG’), Hamburg, Germany (importer related to MHTL)

— Helm Engrais France (‘HEF’), Paris, France (importer related to MHTL)

(e) Related exporters:

— Acron Switzerland AG (‘Acron AG’), Baar, Switzerland (exporter related to Acron Group)

— EuroChem Trading GmbH, Zug, Switzerland (exporter related to EuroChem Group).

1.7. **Investigation period and period considered**