Commission Implementing Regulation (EU) 2019/455 of 20 March 2019 making imports of mixtures of urea and ammonium nitrate originating in Russia, Trinidad and Tobago and the United States of America subject to registration

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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)] as last amended by Regulation (EU) 2018/825 of the European Parliament and of the Council of 30 May 2018[(2)] (the 'basic Regulation'), and in particular Article 14(5a) thereof,

After informing the Member States,

Whereas:

(1) On 13 August 2018, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union*[(3)] ('the notice of initiation'), the initiation of an anti-dumping proceeding 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 following a complaint lodged on 29 June 2018 by Fertilizers Europe ('the complainant') on behalf of producers representing more than 25 % of the total Union production of urea and ammonium nitrate solutions.

1. PRODUCT SUBJECT TO REGISTRATION

(2) The product subject to registration ('the product concerned') is mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution ('UAN'), currently falling within CN code 3102 80 00.

2. GROUNDS FOR REGISTRATION

(3) According to Article 14(5a) of the basic Regulation, the Commission must direct the customs authorities to take the appropriate steps to register imports during the period of pre-disclosure under Article 19a, so that measures may subsequently be applied against those imports from the date of such registration, unless it has sufficient evidence that the requirements either under Article 10(4)(c) or Article 10(4)(d) are not met.

(4) The Commission verified whether the importers were aware, or should have been aware, of the dumping as regards the extent of the dumping and the injury alleged or found. It also analysed whether there was a further substantial rise in imports which,

in the light of its timing and volume and other circumstances, was likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied.

(5) The Commission thus examined the evidence at its disposal in light of Article 10(4) of the basic Regulation. For this analysis, the Commission relied on the statistical data of imports under CN code 3102 80 00 at its disposal.

(6) On 30 January 2019, the Commission also invited interested parties to comment on its preliminary findings with regard to import trends after the initiation of the investigation and these comments have also been included in its analysis.

2.1. **Awareness of the importers of the dumping, the extent thereof and the alleged injury**

(7) The Commission has at its disposal sufficient evidence that imports of the product concerned from Russia, Trinidad and Tobago and the United States of America are being dumped.

(8) The notice of initiation for this proceeding published on 13 August 2018 highlighted that the dumping margins calculated are significant for all countries. As a whole, and given the extent of the alleged dumping margins ranging from 43 % to 83 %, the evidence in the complaint provides sufficient support at this stage that the exporting producers practice dumping.

(9) The complaint also provided sufficient evidence of alleged injury to the Union industry, including a decline in market share and a negative development of other key performance indicators of the Union industry.

(10) By its publication in the *Official Journal of the European Union*, the notice of initiation is a public document accessible to all importers. Furthermore, as interested parties in the investigation, importers have access to the non-confidential version of the complaint and the non-confidential file. Therefore, the Commission considered that, on this basis, the importers were aware, or should have been aware, of the alleged dumping practices, the extent thereof and the alleged injury.

(11) Several exporting producers argued that Article 10(4)(c) was not met as there had not been a history of dumping. However, Article 10(4)(c) mandates that either there has been a history of dumping or that there was awareness of the extent of the dumping and injury alleged. As explained in recitals 7)to 10, on the basis of the notice of initiation and the information contained in the complaint, the Commission considered that the importers were aware, or should have been aware, of the alleged dumping practices, the extent thereof and the alleged injury.

(12) On the basis of the above, the Commission concluded that there is no evidence that the requirement of Article 10(4)(c) of the basic Regulation was not met.

2.2. **Further substantial rise in imports**

(13) On the basis of statistical data summarised in table 1 below, the Commission found that the volume of UAN imports from the countries concerned into the Union

increased by 23 % during the period September 2018-December 2018, i.e. after initiation of the case, when compared to the period September 2017-December 2017, i.e. the same period of the previous year and part of the investigation period (period going from 1 July 2017 to 30 June 2018). In addition, the average monthly volume of imports from the countries concerned into the Union in the period from September 2018 to December 2018 was 34 % higher than the average monthly volume of imports to the Union during the investigation period. Therefore, in view of this further substantial rise in imports from the countries concerned, the Commission concluded that there is no evidence that this requirement was not met.

Table 1

Import volumes (MT)

Origin	September 2017 — December 2017	September 2018 — December 2018	Δ	Monthly average investigation period	Average September 2018 — December 2018	Δ
Russia	226 319	270 449	+ 19,5 %	51 491	67 612	+ 31,3 %
Trinidad & Tobago	150 497	167 852	+ 11,5 %	30 681	41 963	+ 36,8 %
USA	200 757	333 393	+ 66,1 %	61 848	83 348	+ 34,8 %
All 3	577 573	771 694	+ 33,6 %	144 020	192 924	+ 34,0 %

Source: Eurostat

2.3. **Undermining of the remedial effect of the duty**

(14) As concluded in section 2.2, there was a further substantial increase in imports of the product concerned since the initiation of the current investigation. Those volumes represent more than 48 000 additional metric tonnes on a monthly basis as compared with the volumes imported from the countries concerned during the investigation period. This increase alone represents 10 % of Union consumption in 2017.

(15) According to the import statistics summarised in table 2 below, the average price in euros per metric tonne of imports from the countries concerned into the Union during the period September 2018 to December 2018 was 19,5 % higher than the average import price from these countries observed during the investigation period. A steep increase in import prices could be observed for imports from each of the countries subject to the investigation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/455. (See end of Document for details)*

Table 2

Import prices (average, EUR/MT)

Origin	September 2017 — December 2017	September 2018 — December 2018	Δ	Monthly average investigation period	Average September 2018 — December 2018	Δ
Russia	129,1	160,1	+ 24,0 %	125,9	160,1	+ 27,2 %
Trinidad & Tobago	136,0	175,4	+ 28,9 %	139,8	175,4	+ 25,4 %
USA	118,0	136,6	+ 15,7 %	124,5	136,6	+ 9,7 %
All 3	127,1	153,3	+ 20,6 %	128,3	153,3	+ 19,5 %

Source: Eurostat.

(16) A number of exporting producers and importers submitted that the significant price increase of the imports from the countries concerned entailed that these imports would not cause negative price effects in the market. These exporting producers also mentioned that there was no stockpiling since initiation. Therefore, it was argued, the remedial effect of the definitive anti-dumping duty, if applied, would not be seriously undermined.

(17) The complainant, however, submitted sufficient evidence showing that the price increase was modest as compared to the increase in costs (in particular gas over the summer and autumn in 2018). Moreover, even if there is no conclusive evidence on stockpiling since initiation, the complainant provided further evidence that the steep increase in import volumes since the initiation of the investigation had further aggravated the injurious situation of the Union producers (including increased losses after the investigation period).

(18) On that basis, the Commission established that the evidence on file does not allow the conclusion that this requirement was not met.

2.4. **Conclusion**

(19) In light of the above, the Commission found that there is no conclusive evidence showing that the registration of imports of the product concered during the period of the pre-disclosure is not merited in this case. Since the publicacion of the notice of initiation, when exporting producers were aware or should have been aware of the alleged dumping and injury, imports of the product concerned have further increased in a manner which may seriously undermine the remedial effect of the anti-dumping duties also during the pre-disclosure period.

(20) The findings remain the same even on the basis of the latest statistical data available to the Commission.