Council Regulation (EC) No 989/2009 of 19 October 2009 amending Regulation (EC) No 661/2008, imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia

COUNCIL REGULATION (EC) No 989/2009

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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)] (the 'basic Regulation') and in particular Article 9 paragraph 4 thereof,

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

Whereas:

A. **PREVIOUS PROCEDURE**

(1) By Regulation (EC) No 658/2002[(2)], the Council imposed a definitive anti-dumping duty on imports of ammonium nitrate falling within CN codes 3102 30 90 and 3102 40 90 and originating in Russia. Based on a request from the Community industry a product scope interim review was subsequently carried out and, by Council Regulation (EC) No 945/2005[(3)], definitive anti-dumping duties were imposed on imports of solid fertilisers with an ammonium nitrate content exceeding 80 % by weight (AN), currently falling within CN codes 3102 30 90, 3102 40 90, ex 3102 29 00, ex 3102 60 00, ex 3102 90 00, ex 3105 10 00, ex 3105 20 10, ex 3105 51 00, ex 3105 59 00 and ex 3105 90 91 and originating in Russia.

(2) Following a request for an expiry review pursuant to Article 11(2) of the basic Regulation, the Council, by Regulation (EC) No 661/2008[(4)], confirmed the anti-dumping duties on the imports of ammonium nitrate originating in Russia.

B. **PROCEEDING BEFORE THE COURT OF FIRST INSTANCE**

(3) On 14 September 2005, JSC Kirovo-Chepetsky Khimichesky Kombinat, a company incorporated under Russian law, lodged an application at the Court Registry for the annulment of the Council Regulation (EC) No 945/2005.

(4) By judgment of 10 September 2008 in Case T-348/05, as interpreted by judgment of 9 July 2009 in Case T-348/05 INTP, the Court of First Instance of the European Communities annulled Council Regulation (EC) No 945/2005 in so far as it concerned JSC Kirovo-Chepetsky Khimichesky Kombinat.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 989/2009. (See end of Document for details)*

C. **AMENDMENT OF THE MEASURES**

(5) In view of the above findings, the anti-dumping measures applicable to imports originating in Russia of ammonium nitrate, other than those falling within CN codes 3102 30 90 and 3102 40 90 manufactured and exported by JSC Kirovo-Chepetsky Khimichesky Kombinat should be repealed with retroactive effect to the date of entry into force of Council Regulation (EC) No 661/2008.

(6) Repayment or remission should be requested from national customs authorities in accordance with applicable customs legislation,

HAS ADOPTED THIS REGULATION:

Article 1

1 Subparagraph (b) of Article 2(2) of Council Regulation (EC) No 661/2008 shall be renumbered to (c).

2 The following shall be inserted into Article 2(2) of Council Regulation (EC) No 661/2008 after subparagraph (a)

(b) For goods produced by JSC Kirovo-Chepetsky Khimichesky Kombinat (TARIC additional code A959):

Product description	**CN code**	**TARIC code**	**Fixed amount of duty (EUR per tonne)**
— Ammonium nitrate other than in aqueous solutions	3102 30 90	—	47,07
— Mixtures of ammonium nitrate with calcium carbonate or other inorganic non-fertilising substances with a nitrogen content exceeding 28 % by weight	3102 40 90	—	47,07

For goods mentioned in Article 2(1) produced by JSC Kirovo-Chepetsky Khimichesky Kombinat and which are not mentioned in the table above, no anti-dumping duty shall apply.

Article 2

The definitive anti-dumping duties paid on imports from JSC Kirovo-Chepetsky Khimichesky Kombinat to the European Community of the product concerned pursuant to Council Regulation (EC) No 661/2008, with the exception of those levied on import of products falling within CN codes 3102 30 90 and 3102 40 90, shall be repaid or remitted.