# Council Regulation (EC) No 1583/2006 of 23 October 2006 imposing a definitive anti-dumping duty on imports of ethanolamines originating in the United States of America

## COUNCIL REGULATION (EC) No 1583/2006

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## imposing a definitive anti-dumping duty on imports of ethanolamines originating in the United States of America

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)] (hereinafter referred to as the basic Regulation), and in particular Articles 9 and 11(2) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) In February 1994, the Council imposed, by Regulation (EC) No 229/94[(2)] definitive anti-dumping duties on imports of ethanolamines (product concerned) originating in the United States of America (USA). The duties took the form of minimum-price-based variable duties for the three types of ethanolamines, i.e. monoethanolamine (MEA), diethanolamine (DEA) and triethanolamine (TEA).

(2) Following a request of the Conseil européen des fédérations de l'industrie chimique (CEFIC) an expiry and interim review pursuant to Articles 11(2) and 11(3) of the basic Regulation was initiated in February 1999. By Regulation (EC) No 1603/2000[(3)] the Council concluded these reviews and imposed definitive anti-dumping measures on imports of ethanolamines originating in the USA. The form of the measures was changed as they took the form of a specific fixed duty per tonnes of all types of ethanolamine. Two of the three companies benefiting from an individual anti-dumping duty were Dow Chemical Company and Union Carbide Corporation.

(3) After disinvestment of Dow Chemical Company's ethanolamine business into the company INEOS LLC, the individual anti-dumping duty of EUR 69,40 per tonne applicable to Dow Chemical Company was attributed to INEOS LLC[(4)]. However, since the Dow Chemical Company acquired on 6 February 2001 all shares of Union Carbide Corporation, a company benefiting from an individual anti-dumping duty of EUR 59,25 per tonne, the Dow Chemical Company is still active in the ethanolamine business.

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The Union Carbide Corporation still exists but has become part of the Dow Chemical Company group and does no longer have any independent production activities.

2. Request for an expiry review

(4) Following the publication in November 2004 of a notice of impending expiry of the anti-dumping measures applicable to imports of ethanolamines originating in the USA[(5)], the Commission received on 25 April 2005 a request for a review pursuant to Article 11(2) of the basic Regulation.

(5) The request was lodged by CEFIC on behalf of producers representing a major proportion, in this case more than 75 %, of the total Community production of ethanolamine.

(6) The request was based on the grounds that expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry. Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission initiated by notice of initiation an investigation[(6)] pursuant to Article 11(2) of the basic Regulation.

3. Investigation

(7) The Commission's services officially advised the Community producers, the exporting producers in the USA, importers/traders, user industries known to be concerned, as well as the authorities of the USA of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(8) The Commission's services sent questionnaires to all parties known to be concerned and to those who requested a questionnaire within the time limit set out in the notice of initiation.

(9) The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(10) Replies to the questionnaire were received from two exporting producers in the USA and their nine related importers in the Community, one related importer in Switzerland, three Community producers (the applicant Community producers), and one industrial user in the Community. One Community producer did not fully reply to the questionnaire and only submitted succinct information and two industrial users in the Community made their views known.

(11) The Commission's services sought and verified all the information deemed necessary for the purpose of the determination of the likelihood of continuation or recurrence of dumping and injury and for the determination of the Community interest. Verification visits were carried out at the premises of the following companies:

(a) Applicant Community producers

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BASF AG, Ludwigshafen, Germany
Innovene Europe Ltd, Staines, United Kingdom
SASOL GmbH, Marl, Germany

(b) Exporting producers in the USA

The Dow Chemical Company, Midland, Michigan and Houston, Texas, USA

(c) Related importers in the Community

Dow Chemical Iberica SL, Tarragona, Spain
INEOS Oxide Ltd, Antwerp, Belgium

(d) Related importer in Switzerland

Dow Europe GmbH, Horgen, Switzerland

(e) Industrial users in the Community

Degussa Goldschmidt Espana SA, Granollers, Spain

4. Investigation period

(12) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 July 2004 to 30 June 2005 (the RIP). The examination of the trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2002 up to the end of the RIP (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(13) The product concerned is the same as that covered by the previous investigations. Ethanolamines are obtained by making ethylene oxide (EO), itself a result of a reaction of ethylene and oxygen, react with ammonia. This synthesis leads to three competing reactions and to three different types of ethanolamines: monoethanolamine (MEA), diethanolamine (DEA) and triethanolamine (TEA), depending on how many times EO is bound. The maximum number of combinations is limited by the number of hydrogen elements in ammonia, namely three. The proportions of the three types in the total output are determined by the production installation design, but can, to a certain extent, be controlled by the ammonia/EO (the molar ratio). Community installations are typically based on naphtha as energy carrier, whereas US installations are natural gas based.

(14) The product concerned is used as an intermediate and/or additive for surfactants used in detergents and personal care products, cosmetics, fertilisers and crop protection agents (glyphosate), corrosion inhibitors, lubrication oils, textile auxiliaries and fabric softeners (esterquats), photographic chemicals, paper and metalworks, as a grinding and binding aid for cement production and as a gas scrubber absorption aid (sweetening the gas by removing acids). Since late 2004, beginning 2005, the product

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is also increasingly used for wood treatment. Finally, the product can also be used by the manufacturers themselves or by their related manufacturers in the production of ethylene amines.

2. Like product

(15) As in the previous investigations, it was shown that the product concerned produced in the USA and sold to the Community is identical in terms of physical and technical characteristics to the product produced and sold in the Community by the Community producers and that there is no difference in use between those products. It has further been found that the product concerned produced in the USA and sold to the Community is identical to that sold on the US domestic market. Therefore, all these products must be considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

(16) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was currently taking place and, if so, whether or not the expiry of the measures would be likely to lead to a continuation or recurrence of dumping.

1. Preliminary remarks

(17) Of the four US exporting producers named in the complaint, two did cooperate in the investigation.

(18) The two cooperating exporting producers represented 100 % of imports to the Community during the RIP, which amounted to 41 000 tonnes. Imports into the Community of the product concerned originating in the USA represented 16,7 % of Community consumption during the RIP down from 29 % during the previous investigation period (1998).

2. Dumping of imports during the RIP

Normal value

(19) With regard to the two cooperating US exporting producers, normal value was established for each type of the product concerned, based on the price paid or payable on the domestic market in the USA by unrelated customers pursuant to Article 2(1) of the basic Regulation, since these sales were found to have been made in sufficient quantities and in the ordinary course of trade.

Export price

(20) As in the original and in the previous review investigation, this investigation showed again that the two cooperating US exporting producers exported the product concerned to the Community via companies which are related. As a consequence, and in accordance with Article 2(9) of the basic Regulation, export prices were constructed on the basis of the prices at which the imported product was first resold to independent customers in the Community. Allowance was made for all costs incurred between importation and resale, including selling, general and administrative costs and the profit realised in the Community by the importing companies during the RIP.

Comparison

(21) The normal value was compared with the average export price for each type of the product concerned, on an ex-works basis and at the same level of trade. In accordance with Article 2(10) of the basic Regulation, and for the purpose of ensuring a fair comparison, differences in factors which were claimed and demonstrated to affect price and price comparability were taken into account. Adjustments were made for inland and ocean freight, deferred rebates, handling and packaging costs, credit costs and import duties, which were all deducted from the resale prices in order to arrive at an ex-works basis.

Dumping margin

(22) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established per product type on the basis of a comparison of the weighted average normal value with the weighted average export prices at the same level of trade. This comparison showed the existence of dumping during the RIP, even if at a lower level than established in the previous review. The weighted average dumping margin expressed as a percentage of the cif value at the Community frontier was 4,8 % for INEOS and 20,3 % for Dow Chemical.

3. Development of imports should measures be repealed

Preliminary remarks

(23) Further to the analysis of the existence of dumping during the RIP, the likelihood of the continuation of dumping was examined.

Level of dumping in case the measures are repealed

(24) The removal of the measures would allow exporters to reduce their export prices. A reduction of export prices would make the US product more attractive on the Community market. If the export prices were reduced commensurate to the level of the duties, the dumping margins observed during the RIP would be 13,4 % for INEOS and 28,3 % for Dow Chemical.

Further room for exports to the Community market because of unused US production capacity

(25) It is estimated that the unused production capacity in the US during the RIP is about 90 000 tonnes. This was calculated on the basis of information from the two cooperating exporting producers as well as information from leading market journals. Compared to an estimated installed total capacity in the USA of 650 000 tonnes, total estimated fulfilled demand and captive use of 560 000 tonnes implies a capacity utilisation rate of 86 %, which is rather low given the favourable market conditions during the RIP. The relatively low capacity utilisation rate was a consequence of operational problems in certain production facilities. The spare capacity of 90 000 tonnes should be compared to the volume of exports from the US to the Community during the RIP (41 088 tonnes) and total Community consumption (246 670 tonnes). In other words, there is considerable potential to increase exports from the US and take over a large part of the Community market. The propensity of increased exports to the