Commission Regulation (EC) No 588/2005 of 15 April 2005 amending Regulation (EC) No 1002/2004 accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of potassium chloride originating in the Republic of Belarus, the Russian Federation or Ukraine

COMMISSION REGULATION (EC) No 588/2005

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 member of the European Communities[(1)] (the basic Regulation) and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 992/2004[(2)] of 17 May 2004 amending Regulation (EEC) No 3068/92 imposing a definitive anti-dumping duty on imports of potassium chloride originating in Belarus, Russia or Ukraine and in particular Article 1 thereof,

After consulting the Advisory Committee,

Whereas:

(1) The Council, by Regulation (EEC) No 3068/92[(3)], imposed a definitive anti-dumping duty on imports of potassium chloride originating, *inter alia*, in the Russian Federation ('Russia'). By Regulation (EC) No 969/2000[(4)], the Council amended and extended the period of application of the measures originally imposed by Regulation (EEC) No 3068/92 on imports of potassium chloride originating, *inter alia*, in Russia.

(2) In March 2004, by means of a notice published in the *Official Journal of the European Union*[(5)], the Commission launched, on its own initiative, a partial interim review of the measures in force on imports of potassium chloride from, *inter alia*, Russia to examine whether they should be amended to take account of the enlargement of the European Union to 25 Member States (Enlargement).

(3) The results of that partial interim review showed that it was in the interests of the Community to provide for the temporary adaptation of the measures so as to avoid a sudden and excessively negative economic impact on importers and users in the 10 new Member States (EU10) immediately following Enlargement.

(4) The Council, by Regulation (EC) No 992/2004, authorised the Commission to accept undertaking offers respecting the conditions set out in recitals 27 to 32 of the same Regulation. On this basis, and pursuant to Articles 8, 11(3), 21 and 22(c) of the

basic Regulation, the Commission, by Regulation (EC) No 1002/2004[6], accepted undertaking offers from two exporting producers in Russia.

(5) In the case of one exporting producer, the Commission accepted a joint undertaking for imports of potassium chloride produced by JSC Uralkali, Berezniki, Russia and sold by a trading company, Fertexim Ltd, Limassol, Cyprus which acted as the exclusive distributor for JSC Uralkali's sales to the Community.

(6) JSC Uralkali has informed the Commission that it would, henceforth, sell to the Community through a different company called Uralkali Trading SA, Geneva, Switzerland. To take account of this change, JSC Uralkali and Fertexim Ltd requested that the relevant provisions of Regulation (EC) No 1002/2004 accepting the joint undertaking be amended. To this end, JSC Uralkali and Uralkali Trading SA have jointly offered a revised undertaking.

(7) JSC Uralkali has also pointed out that the undertaking accepted by Regulation (EC) No 1002/2004 did not allow for direct sales from JSC Uralkali to the first independent customer in the Community. By the revised undertaking, JSC Uralkali also undertakes to respect the terms thereof for direct sales to the Community.

(8) The Commission has examined the undertaking offer. It was concluded that the revised undertaking fulfilled all the necessary criteria for acceptance laid down in Regulation (EC) No 992/2004, namely that: (i) the sales prices of the companies concerned would be at levels which significantly contribute to the elimination of injury; (ii) the companies would observe certain import volumes for sales to customers in the EU10; and (iii) they would also broadly respect their traditional selling patterns to individual customers in the EU10. It was also considered, as had been argued by JSC Uralkali, that the transfer of the trading activities of Fertexim Ltd to Uralkali Trading SA did not affect the workability of the undertaking nor, on the basis of information provided by the companies, its effective monitoring.

(9) Furthermore, the request for exemption of JSC Uralkali's direct sales to the Community from the anti-dumping duties was considered to be acceptable as it is in line with normal practice to accept appropriate undertaking offers from producers which export directly to the Community.

(10) In light of the above, it was considered appropriate to amend the operative part of Regulation (EC) No 1002/2004 accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EC) No 1002/2004 shall be amended as follows:

Article 1

The undertakings offered by the exporting producers mentioned below, in connection with the anti-dumping proceeding concerning imports of potassium chloride originating in the Republic of Belarus and the Russian Federation are hereby accepted.

Country	Company	TARIC additional code