Commission Regulation (EC) No 1795/2004 of 15 October 2004 initiating a 'new exporter' review of Council Regulation (EC) No 1995/2000 imposing a definitive anti-dumping duty on imports of solutions of urea and ammonium nitrate originating, inter alia, in Algeria, repealing the duty with regard to imports from one exporter in this country and making these imports subject to registration

COMMISSION REGULATION (EC) No 1795/2004

of 15 October 2004

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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[(1)] of 22 December 1995 on protection against dumped imports from countries not members of the European Community (the basic Regulation), and in particular Article 11(4) thereof,

After consulting the Advisory Committee,

Whereas:

A. REQUEST FOR A REVIEW

The Commission has received an application for a 'new exporter' review pursuant to Article 11(4) of the basic Regulation. The application was lodged by Fertial SPA (the applicant), an exporting producer in Algeria (the country concerned).

B. PRODUCT

The product under review is mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution originating in Algeria (the product concerned), currently classifiable within CN code 3102 80 00.

C. EXISTING MEASURES

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 1995/2000[(2)] under which imports into the Community of the product concerned originating in Algeria, and produced by the applicant, are subject to a definitive anti-dumping duty of EUR 6,88 per tonne with the exception of imports from a company expressly mentioned from which un undertaking has been accepted.

D. GROUNDS FOR THE REVIEW

The applicant alleges that it did not export the product concerned to the Community during the period of investigation on which the anti-dumping measures were based, i.e. the period from 1 June 1998 to 31 May 1999 (the original investigation period) and that

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1795/2004. (See end of Document for details)*

it is not related to any of the exporting producers of the product concerned which are subject to the above mentioned anti-dumping measures.

The applicant further alleges that it has exported the product concerned to the Community since the end of the original investigation period.

E. PROCEDURE

Community producers known to be concerned have been informed of the above application and have been given an opportunity to comment. No comments have been received.

Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of a 'new exporter' review, pursuant to Article 11(4) of the basic Regulation, with a view to determining the applicant's individual margin of dumping and, should dumping be found, the level of the duty to which its imports of the product concerned into the Community should be subject.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant.

(b) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence.

Furthermore, the Commission may hear interested parties, provided that they make a request in writing showing that there are particular reasons why they should be heard.

F. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS

Pursuant to Article 11(4) of the basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned which are produced and sold for export to the Community by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic Regulation, in order to ensure that, should the review result in a finding of dumping in respect of the applicant, anti-dumping duties can be levied retroactively from the date of the initiation of this review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceedings.

G. TIME LIMITS

In the interest of sound administration, time limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in paragraph E(a) of this Regulation or provide any other information to be taken into account during the investigation,

— interested parties may make a written request to be heard by the Commission.

H. NON COOPERATION

In cases in which any interested party refuses access to or otherwise does not provide the necessary information within the time limits, or significantly impedes the investigation,

findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party does not cooperate, or cooperates only partially, and findings are therefore based on facts available in accordance with Article18 of the basic Regulation, the result may be less favourable to that party than if it had co-operated.

HAS ADOPTED THIS REGULATION:

Article 1

A review of Council Regulation (EC) No 1995/2000 is hereby initiated pursuant to Article 11(4) of Council Regulation (EC) No 384/96 in order to determine if and to what extent the imports of mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution falling within CN code 3102 80 00 originating in Algeria, produced and sold for export to the Community by Fertial SPA (TARIC additional code: A573) should be subject to the anti-dumping duty imposed by Council Regulation (EC) No 1995/2000.

Article 2

The anti-dumping duty imposed by Council Regulation (EC) No 1995/2000 is hereby repealed with regard to the imports identified in Article 1 of the present Regulation.

Article 3

The customs authorities are hereby directed, pursuant to Article 14(5) of Council Regulation (EC) No 384/96, to take the appropriate steps to register the imports identified in Article 1 of this Regulation. Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

1 Interested parties, if their representations are to be taken into account during the investigation, must make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in paragraph E(a) of this Regulation or any other information, unless otherwise specified, within 40 days of the entry into force of this Regulation. Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the aforementioned period.

Interested parties may also apply in writing to be heard by the Commission within the same 40-day time limit.

2 All submissions and requests made by interested parties must be made in writing (not in electronic format unless otherwise specified) and must indicate the name, address, e-mail address, telephone, and fax and/or telex numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as '*Limited Distribution*'[(3)] and, in accordance with Article 19(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'FOR INSPECTION BY INTERESTED PARTIES'.

Any information relating to the matter and any request for a hearing should be sent to the following address: