COUNCIL REGULATION (EC) No 1675/2003

of 22 September 2003

amending Regulation (EC) No 1995/2000 imposing, *inter alia*, a definitive anti-dumping duty on imports of solution of urea and ammonium nitrate originating in Algeria, Belarus, Lithuania, Russia and Ukraine

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 Article 8 and Article 11(3) thereof,

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

Whereas:

A. **EXISTING MEASURES**

(1) Pursuant to Regulation (EC) No 1995/2000 [2], the Council imposed a definitive anti-dumping duty on imports of solutions of urea and ammonium nitrate, hereinafter referred to as 'UAN', originating, *inter alia*, in Lithuania. The form of the duty set out in that Regulation was a specific duty of EUR 3,98 per tonne for all Lithuanian exporting producers.

B. **REQUEST FOR A REVIEW**

(2) In September 2002, a request for a partial interim review pursuant to Article 11(3) of the basic Regulation was lodged by SC Achema, hereinafter referred to as 'the applicant', an exporting producer in Lithuania. The request was limited in scope to the examination of the form of the measure and, in particular, to the examination of the acceptability of an undertaking offered by the applicant.

(3) The request was based on the grounds that the applicant committed itself to a price discipline in respect of UAN within the framework of another anti-dumping proceeding concerning urea and presented evidence that it was ready to provide, also in the framework of the UAN proceeding, an undertaking of a similar nature, which would remove the injurious effects of dumping and could be monitored.

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a partial interim review, the Commission published a notice in the *Official Journal of the European Communities* [3] and commenced an investigation.

C. **PROCEDURE**

(5) The Commission officially advised the authorities of the exporting country of the initiation of the interim review and gave all parties directly concerned the opportunity to make their views known in writing and to request a hearing. The European Fertilizer Manufacturers Association, on behalf of the European complainant producers of the original investigation, hereinafter referred to as 'the Community industry', requested, within the time limits, to take part in this investigation as an interested party.

(6) The applicant made the Commission a formal offer of price undertaking.

(7) The Commission further sought and verified all the information it deemed necessary for the purpose of examining the acceptance of this undertaking and all the aspects relating to the monitoring of it. A verification visit was carried out at the premises of the applicant.

(8) The applicant and the Community industry were informed of the facts and considerations of the investigation and were given an opportunity to comment.

D. **INVESTIGATION**

(9) The applicant exports three kinds of nitrogen fertilisers to the EU: urea, ammonium nitrate, hereinafter referred to as 'AN', and UAN. Urea and UAN originating in Lithuania are subject to anti-dumping measures in the form of specific duties, imposed by Regulations (EC) No 1995/2000 and (EC) No 92/2002 [4] respectively.

(10) Pursuant to Commission Decision 2002/498/EC [5], an undertaking offered by the applicant concerning imports of urea was accepted. By this undertaking, the applicant accepted, in order to avoid cross-compensation via exports of other fertilisers, to respect a pricing discipline and to report exports to the Community for its other two fertilisers, i.e. the ammonium nitrate and UAN as well. The applicant's exports of UAN were as a result found to be subject to both a minimum import price and an anti-dumping duty (by nature of Regulation (EC) No 1995/2000).

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
[2] OJ L 238, 22.9.2000, p. 15.
[3] OJ C 314, 17.12.2002, p. 2.
[4] OJ L 17, 19.1.2002, p. 1.
[5] OJ L 168, 27.6.2002, p. 51.