Council Regulation (EC) No 73/2006 of 13 January 2006 amending Regulation (EC) No 92/2002 imposing definitive anti-dumping duty and collecting definitively the provisional anti-dumping duty imposed on imports of urea originating in Belarus, Bulgaria, Croatia, Estonia, Libya, Lithuania, Romania and the Ukraine

COUNCIL REGULATION (EC) No 73/2006

of 13 January 2006

amending Regulation (EC) No 92/2002 imposing definitive anti-dumping duty and collecting definitively the provisional anti-dumping duty imposed on imports of urea originating in Belarus, Bulgaria, Croatia, Estonia, Libya, Lithuania, Romania and the 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)], and in particular Articles 8 and 9 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

(1) On 21 October 2000, by means of a notice published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding[(2)] in respect of imports of urea ('the product concerned') originating in Belarus, Bulgaria, Croatia, Egypt, Estonia, Libya, Lithuania, Poland, Romania and the Ukraine.

(2) This proceeding resulted in provisional anti-dumping duties being imposed in July 2001 on imports of urea originating in Belarus, Bulgaria, Croatia, Estonia, Libya, Lithuania, Romania and the Ukraine and a termination of the proceeding concerning imports of urea originating from Egypt and Poland by Commission Regulation (EC) No 1497/2001[(3)].

(3) In the same Regulation, the Commission accepted an undertaking offered by the exporting producer in Bulgaria, Chimco AD. Subject to the conditions set out in Regulation (EC) No 1497/2001, imports of the product concerned into the Community from this company were exempted from the said provisional anti-dumping duties, pursuant to Article 3(1) of the same Regulation.

(4) Definitive duties were later imposed on imports of urea originating in Belarus, Bulgaria, Croatia, Estonia, Libya, Lithuania, Romania and the Ukraine by Council Regulation (EC) No 92/2002[(4)]. Subject to the conditions set out therein, this Regulation

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 73/2006. (See end of Document for details)*

also granted goods produced and directly exported to the first independent customer in the Community by Chimco AD an exemption to the definitive anti-dumping duties as an undertaking had already been accepted definitively from this company at the provisional stage of the proceeding. As mentioned in recital 137 of the definitive Regulation, the minimum price of the undertaking was adapted due to a change in the injury elimination level.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

(5) The undertaking offered by Chimco AD obliges the company concerned, *inter alia*, to export the product concerned to the Community at or above certain minimum import price levels ('MIPs') specified therein. This minimum price level has to be respected on a quarterly weighted average. The company also undertakes not to circumvent the undertaking by making compensatory arrangements with any other party. Furthermore, Chimco AD is obliged to send to the European Commission a quarterly report of all its exports sales of the product concerned to the European Community.

(6) Chimco AD failed to submit more data for two quarterly reports in a technically acceptable manner. Further, afterwards, Chimco AD no longer submitted any data in respect of the quarterly reports. It is therefore found, that the company did not respect its obligation to send to the European Commission quarterly reports of all its exports sales of the product concerned to the European Community and had therefore breached the undertaking.

(7) Commission Regulation (EC) No 2082/2005[(5)] sets out in more detail the nature of the breaches found.

(8) In view of these breaches, acceptance of the undertaking offered by Chimco AD (Taric additional code A272) has been withdrawn by Commission Regulation (EC) No 2082/2005 and a definitive anti-dumping duty should be imposed forthwith on imports of the product concerned when produced and exported by Chimco AD.

(9) In accordance with Article 8(9) of Regulation (EC) No 384/96, the rate of the anti-dumping duty must be determined on the basis of the facts established within the context of the investigation which led to the undertaking. As the investigation in question was concluded with a final determination as to dumping and injury, by Regulation (EC) No 92/2002, it is considered appropriate that the definitive anti-dumping rate is set at the level and in the form imposed by that Regulation, namely EUR 21,43 per ton before duty, to the net, free-at-Community frontier price.

C. AMENDMENT OF REGULATION (EC) No 92/2002

(10) In view of the above, Regulation (EC) No 92/2002 should be amended accordingly,

HAS ADOPTED THIS REGULATION: