

## V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON  
COMMERCIAL POLICY

## EUROPEAN COMMISSION

**Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of  
dicyandiamide originating in the People's Republic of China**

(2012/C 349/06)

Following the publication of a notice of impending expiry <sup>(1)</sup> of the anti-dumping measures in force on the imports of dicyandiamide originating in the People's Republic of China ('PRC'), the European Commission ('the Commission') has received a request for review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(2)</sup> ('the basic Regulation').

**1. Request for review**

The request was lodged on 14 August 2012 by AlzChem AG ('the applicant'), representing 100 % of the total Union production of dicyandiamide.

**2. Product under review**

The product subject to this review is 1-cyanoguanidine (dicyandiamide, 'the product under review'), currently falling within CN code 2926 20 00.

**3. Existing measures**

The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 1331/2007 <sup>(3)</sup>.

**4. Grounds for the review**

The request is based on the grounds that the expiry of the measures would be likely to result in continuation of dumping and recurrence of injury to the Union industry.

**4.1. Allegation of likelihood of continuation of dumping**

Since, in view of the provisions of Article 2(7) of the basic Regulation, the PRC ('the country concerned') is considered to

be a non-market economy country, and in the absence of production of the product under review outside the European Union and the PRC, the applicant established a constructed normal value for the imports from the PRC on the basis of a constructed normal value (manufacturing costs, selling, general and administrative costs (SG&A) and profit) in the European Union, adjusted to take into account differences in production processes and access to raw materials. The allegation of likelihood of continuation of dumping is based on a comparison of the normal value thus established with the export price (at ex-works level) of the product under review when sold for export to the Union.

On this basis, the dumping margin calculated is significant for the country concerned.

**4.2. Allegation of likelihood of recurrence of injury**

The applicant alleges the likelihood of recurrence of injury. In this respect the applicant has provided evidence that, should measures be allowed to lapse, the current import level of the product under review from the country concerned to the Union is likely to increase due to the existence of significant unused capacity in the PRC.

The applicant finally alleges that the removal of injury has been mainly due to the existence of measures and that any recurrence of substantial imports at dumped prices from the country concerned would likely lead to a recurrence of injury to the Union industry should measures be allowed to lapse.

**5. Procedure**

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of an expiry review, the Commission hereby initiates a review in accordance with Article 11(2) of the basic Regulation.

<sup>(1)</sup> OJ C 116, 20.4.2012, p. 3.

<sup>(2)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(3)</sup> OJ L 296, 15.11.2007, p. 1.

Exporting producers<sup>(1)</sup> of the product under review from the country concerned, including those that did not cooperate in the investigation(s) leading to the measures in force, are invited to participate in the Commission investigation.

### 5.1. Investigating exporting producers

In view of the potentially large number of exporting producers in the PRC involved in this expiry review and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, including the ones who did not cooperate in the investigation leading to the measures subject to the present review, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company(ies) requested in Annex A to this notice.

In order to obtain the information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities of the PRC and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the country concerned and associations of exporting producers will be notified by the Commission, via the authorities of the country concerned if appropriate, of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation with regard to exporting producers, the Commission will send questionnaires to the exporting producers selected to be in the sample, to any known association of exporting producers and to the authorities of the PRC.

<sup>(1)</sup> An exporting producer is any company in the country concerned which produces and exports the product under review to the Union market, either directly or via a third party, including any of its related companies involved in the production, domestic sales or exports of the product under review.

All exporting producers selected to be in the sample, any known association of exporting producers and the authorities of the PRC will have to submit a completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

The questionnaire will request information on, inter alia, the structure of the exporting producer's company(ies), the activities of the company(ies) in relation to the product under review, the cost of production, the sales of the product under review on the domestic market of the country concerned and the sales of the product under review to the Union.

Without prejudice to the possible application of Article 18 of the basic Regulation, companies that have agreed to their possible inclusion in the sample but are not selected to be in the sample will be considered to be cooperating ('non-sampled cooperating exporting producers').

### 5.2. Investigating unrelated importers<sup>(2)</sup> <sup>(3)</sup>

Unrelated importers of the product under review from the PRC to the Union are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this expiry review and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, including the ones who did not cooperate in the investigation leading to the measures subject to the present review, are hereby requested to make themselves known to the Commission. These parties

<sup>(2)</sup> Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex I to the questionnaire for these exporting producers. In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife; (ii) parent and child; (iii) brother and sister (whether by whole or half blood); (iv) grandparent and grandchild; (v) uncle or aunt and nephew or niece; (vi) parent-in-law and son-in-law or daughter-in-law; (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1) In this context 'person' means any natural or legal person.

<sup>(3)</sup> The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

must do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company(ies) requested in Annex B to this notice.

In order to obtain information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under review in the Union which can reasonably be investigated within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified.

The questionnaire will request information on, inter alia, the structure of their company(ies), the activities of the company(ies) in relation to the product under review and the sales of the product under review.

### **5.3. Procedure for the determination of recurrence of injury**

In order to establish whether there is a likelihood of recurrence of injury to the Union industry, the known Union producer of the product under review is invited to participate in the Commission investigation.

In order to obtain the information it deems necessary for its investigation with regard to the Union producers, the Commission will send questionnaires to the known Union producer.

The known Union producer must submit the completed questionnaire within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

The questionnaire will request information on, inter alia, the structure of their company(ies) and the financial and economic situation of the company(ies).

Any Union producer and association of Union producers is invited to contact the Commission, preferably by e-mail, immediately but no later than 15 days after the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, in order to make itself known and request a questionnaire.

### **5.4. Procedure for the assessment of Union interest**

Should the likelihood of continuation or recurrence of dumping and injury be confirmed, a decision will be reached, pursuant to Article 21 of the basic Regulation, as to whether maintaining the anti-dumping measures would not be against the Union interest. Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under review.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

### **5.5. Other written submissions**

Subject to the provisions of this notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this notice in the *Official Journal of the European Union*.

### **5.6. Possibility to be heard by the Commission investigation services**

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

### 5.7. *Instructions for making written submissions and sending completed questionnaires and correspondence*

All written submissions, including the information requested in this notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' <sup>(1)</sup>.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries must be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

Interested parties are required to make all submissions and requests in electronic format (non-confidential submissions via e-mail, confidential ones on CD-R/DVD), and must indicate their name, address, e-mail address, telephone and fax numbers. However, any powers of attorney, signed certifications, and any updates thereof, accompanying questionnaire replies must be submitted on paper, i.e. by post or by hand, at the address below. If an interested party cannot provide its submissions and requests in electronic format, it must immediately contact the Commission in compliance with Article 18(2) of the basic Regulation. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of the Directorate-General for Trade: <http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence>

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate H  
Office: N105 08/020  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

Dumping  
Fax +32 22986009  
E-mail: [TRADE-DCD-DUMPING@ec.europa.eu](mailto:TRADE-DCD-DUMPING@ec.europa.eu)

Injury  
Fax +32 22986312  
E-mail: [TRADE-DCD-INJURY@ec.europa.eu](mailto:TRADE-DCD-INJURY@ec.europa.eu)

### 6. **Non-cooperation**

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

<sup>(1)</sup> A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

### 7. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer for the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among other things, to the likelihood of a continuation or recurrence of dumping and injury.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: [http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index\\_en.htm](http://ec.europa.eu/trade/tackling-unfair-trade/hearing-officer/index_en.htm)

### 8. **Schedule of the investigation**

The investigation will be concluded, pursuant to Article 11(5) of the basic Regulation, within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

### 9. **Possibility to request a review under Article 11(3) of the basic Regulation**

As this expiry review is initiated in accordance with the provisions of Article 11(2) of the basic Regulation, the findings thereof will not lead to the level of the existing measures being amended but will lead to those measures being repealed or maintained in accordance with Article 11(6) of the basic Regulation.

If any interested party considers that a review of the level of the measures is warranted so as to allow for the possibility to amend (i.e. increase or decrease) the level of the measures, that party may request a review pursuant to Article 11(3) of the basic Regulation.

Parties wishing to request such a review, which would be carried out independently of the expiry review mentioned in this notice, may contact the Commission at the address given above.

#### **10. Processing of personal data**

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(1)</sup>.

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<sup>(1)</sup> OJ L 8, 12.1.2001, p. 1.



## ANNEX A

|                            |  |
|----------------------------|--|
| <input type="checkbox"/>   | 'Limited' version <sup>(1)</sup>               |
| <input type="checkbox"/>   | Version 'For inspection by interested parties' |
| (tick the appropriate box) |  |

**EXPIRY REVIEW INVESTIGATION OF THE ANTI-DUMPING MEASURES CONCERNING IMPORTS OF DICYANDIAMIDE ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA**

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF EXPORTING PRODUCERS IN THE PEOPLE'S REPUBLIC OF CHINA**

This form is designed to assist exporting producers in the People's Republic of China in responding to the request for sampling information made in point 5.1 of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

**1. IDENTITY AND CONTACT DETAILS**

Supply the following details about your company:

|                |  |
|----------------|--|
| Company name   |  |
| Address        |  |
| Contact person |  |
| E-mail address |  |
| Telephone      |  |
| Fax            |  |

**2. TURNOVER AND SALES VOLUME**

Indicate the turnover in the accounting currency of the company during the period 1 October 2011 to 30 September 2012 for sales (export sales to the Union for each of the 27 Member States <sup>(2)</sup> separately and in total, domestic sales and export sales to countries other than Member States of the Union separately and in total) of dicyandiamide as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume and the currency used.

|   | Tonne                                 | Value in accounting currency<br>Specify the currency used |
|---|---------------------------------------|---|
| Export sales to the Union, for each of the 27 Member States separately and in total, of the product under review, manufactured by your company      | Total                                 |   |
|   | Name each Member State <sup>(3)</sup> |   |
| Domestic sales of the product under review, manufactured by your company  |                                       |   |
| Export sales to countries other than Member States of the Union (separately and in total) of the product under review, manufactured by your company | Total                                 |   |
|   | Name each country <sup>(4)</sup>      |   |

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

<sup>(2)</sup> The 27 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovakia, Finland, Sweden, and the United Kingdom.

<sup>(3)</sup> Add additional rows where necessary.

<sup>(4)</sup> See footnote 3.



## ANNEX B

- ☐ 'Limited' version <sup>(1)</sup>  
☐ Version 'For inspection by interested parties'  
 (tick the appropriate box)

**EXPIRY REVIEW INVESTIGATION OF THE ANTI-DUMPING MEASURES CONCERNING IMPORTS OF  
DICYANDIAMIDE ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA**

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS**

This form is designed to assist unrelated importers in responding to the request for sampling information made in point 5.2 of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

**1. IDENTITY AND CONTACT DETAILS**

Supply the following details about your company:

|                |  |
|----------------|--|
| Company name   |  |
| Address        |  |
| Contact person |  |
| E-mail address |  |
| Telephone      |  |
| Fax            |  |

**2. TURNOVER AND SALES VOLUME**

Indicate the total turnover in euros (EUR) of the company, and the turnover and weight or volume for imports into the Union <sup>(2)</sup> and resales on the Union market after importation from the People's Republic of China, during the period 1 October 2011 to 30 September 2012, of dicyandiamide as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume used.

|   | Tonnes | Value in euros (EUR) |
|---|--------|----------------------|
| Total turnover of your company in euros (EUR)   |        |                      |
| Imports of the product under review into the Union  |        |                      |
| Resales on the Union market after importation from the People's Republic of China of the product under review |        |                      |

<sup>(1)</sup> This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

<sup>(2)</sup> The 27 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.



**3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES <sup>(1)</sup>**

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under review. Such activities could include, but are not limited to, purchasing the product under review or producing it under subcontracting arrangements, or processing or trading the product under review.

| Company name and location | Activities | Relationship |
|---------------------------|------------|--------------|
|                           |            |              |
|                           |            |              |
|                           |            |              |

**4. OTHER INFORMATION**

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

**5. CERTIFICATION**

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

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<sup>(1)</sup> In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife; (ii) parent and child; (iii) brother and sister (whether by whole or half blood); (iv) grandparent and grandchild; (v) uncle or aunt and nephew or niece; (vi) parent-in-law and son-in-law or daughter-in-law; (vii) brother-in-law and sister-in-law (OJ L 253, 11.10.1993, p. 1). In this context, 'person' means any natural or legal person.