

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY

EUROPEAN COMMISSION

Notice of initiation of a partial interim review of the anti-dumping measures applicable to imports of ammonium nitrate originating in Russia

(2017/C 271/07)

The European Commission ('the Commission') has received a request for a partial interim review pursuant to Article 11(3) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation').

1. Request for review

The request for review was lodged by PJSC Acron and PJSC Dorogobuzh, exporting producers from Russia ('the country concerned') and their affiliated trading company Agronova Europe AG, Switzerland (collectively referred to as 'the applicant').

The partial interim review is limited in scope to the examination of dumping as far as the applicant is concerned.

2. Product under review

The product subject to this review is solid fertilisers with an ammonium nitrate content exceeding 80 % by weight ('the product under review'), currently falling within CN codes ex 3102 29 00, 3102 30 90, 3102 40 90, ex 3102 60 00, ex 3102 90 00, ex 3105 10 00, ex 3105 20 10, ex 3105 51 00, ex 3105 59 00 and ex 3105 90 20. These CN codes are only given for information.

3. Existing measures

The measures currently in force are a definitive anti-dumping duty imposed by Commission Implementing Regulation (EU) No 999/2014 ⁽²⁾ as last amended by Commission Implementing Regulation (EU) 2016/226 ⁽³⁾.

4. Grounds for the review

The request pursuant to Article 11(3) is based on *prima facie* evidence, provided by the applicant, that, as far as the applicant is concerned, and as far as dumping is concerned, the circumstances on the basis of which the existing measures were imposed have changed and that these changes are of a lasting nature.

The applicant alleges that circumstances have changed since the last investigation period and that they are of a lasting nature since they relate to: (i) the withdrawal of the applicant's undertaking on 23 March 2016 and subsequent substantial changes in its EU sales structure, notably the re-direction of all direct sales to the EU via its related sales company, Agronova Europe AG, as well as changes to its corporate and domestic sales' structure; and (ii) significant increases of the prices of the main raw material, namely natural gas, in Russia.

Therefore, the applicant alleges that the continued imposition of the measures at the existing level, which was based on the level of injury previously established, appears to be no longer necessary to offset the effects of injurious dumping as previously established.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) No 999/2014 of 23 September 2014 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 280, 24.9.2014, p. 19).

⁽³⁾ Commission Implementing Regulation (EU) 2016/226 of 17 February 2016 amending Commission Implementing Regulation (EU) No 999/2014 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 41, 18.2.2016, p. 13).

5. Procedure

Having determined, after informing the Member States, that sufficient evidence exists to justify the initiation of a partial interim review limited to the examination of dumping, the Commission hereby initiates a review in accordance with Article 11(3) of the basic Regulation.

The investigation will also assess the need for the continuation, removal or amendment of the existing measures in respect of the applicant.

5.1. Review investigation period and period considered

The investigation of dumping will cover the period from 1 July 2016 to 30 June 2017 ('the review investigation period').

5.2. Procedure for the determination of the applicant's dumping margin

5.2.1. Investigating the exporting producer

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

The applicant 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.

5.2.2. Investigating unrelated importers ⁽¹⁾ ⁽²⁾

Unrelated importers of the product under review from Russia to the Union, including those that did not cooperate in the investigation(s) leading to the measures in force, are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this Interim 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, are hereby requested to make themselves known to the Commission. These parties 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 I 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.

⁽¹⁾ Importers that are related to exporting producer have to fill in the questionnaire in the Annex for this exporting producer. In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party 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 control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). 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. In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

⁽²⁾ The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of export price.

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.

5.3. **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*.

In order to obtain the information it deems necessary for its investigation with regard to the applicant, the Commission will send questionnaires to the applicant. In addition, the Commission may send questionnaires to interested parties that have come forward. 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*.

5.4. **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.

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

Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

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' ⁽¹⁾.

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 invited to make all submissions and requests by email including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. By using email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation 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).

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: CHAR 04/039
1049 Brussels
BELGIQUE/BELGIË
E-mail: TRADE-AN-R669@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.

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.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

7. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer in trade proceedings. 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 dumping.

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/trade-policy-and-you/contacts/hearing-officer/>.

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. **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 of 18 December 2000 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 ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

ANNEX

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

ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF AMMONIUM NITRATE ORIGINATING IN RUSSIA

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 5.2.2 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	
Email address	
Telephone	
Fax	

2. TURNOVER AND SALES VOLUME

Describe the types of ammonium nitrate imported by your company (for example agricultural, technical, stabilised/'dirty'...).

Indicate the total turnover in euros (EUR) of the company, and the turnover and weight or volume for imports into the Union ⁽²⁾ and resales on the Union market after importation from Russia, during the review investigation period (1 July 2016 to 30 June 2017), of ammonium nitrate as defined in the Notice of Initiation and the corresponding weight or volume. State the unit of weight or volume used. Distinguish by type of ammonium nitrate as applicable.

	Unit of measurement: Tonne	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 Russia of the product under review		

⁽¹⁾ 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 Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement).

⁽²⁾ The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Croatia, 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 ⁽¹⁾

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 sub-contracting arrangements, or processing or trading the product under review.

Company name and location	Activities	Relationship

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

4. 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:

⁽¹⁾ In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party 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 control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). 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. In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).