

25 May 2020

(20-3780)

Page: 1/4

Committee on Safeguards

Original: English

**NOTIFICATION UNDER ARTICLE 12.1(B) OF THE AGREEMENT ON  
SAFEGUARDS ON FINDING A SERIOUS INJURY OR THREAT  
THEREOF CAUSED BY INCREASED IMPORTS**

**NOTIFICATION OF A PROPOSAL TO IMPOSE A MEASURE**

**NOTIFICATION PURSUANT TO ARTICLE 9, FOOTNOTE 2  
OF THE AGREEMENT ON SAFEGUARDS**

UKRAINE

*Complex fertilizers*

The following communication, dated 21 May 2020, is being circulated at the request of the Delegation of Ukraine.

Pursuant to Articles 12.1(b) of the Agreement on Safeguards, Ukraine submits a notification on finding a serious injury or threat thereof, to the domestic industry producing certain nitrogen fertilizers and a notification on proposed safeguard measures. This notification contains all pertinent information relating to the proposed safeguard measures in accordance with Article 12.2 of the Agreement on Safeguards and a request for consultations pursuant to Article 12.3 of the Agreement on Safeguards.

On 21 August 2019 the Interdepartmental Commission on International Trade ("Commission") took the decision "On initiation and conduction of safeguard investigation on imports into Ukraine of mineral fertilizers containing nitrogen and phosphorus and mineral fertilizers containing nitrogen, phosphorus, and potassium regardless of country of origin and export" № SP - 426/2019/4411-03 (G/SG/N/6/UKR/13 of 2 September 2019). On 28 August 2019 the abovementioned decision was published in the official newspaper "Uryadovyi Courier" № 163.

The investigation has been initiated pursuant to the application of the domestic industry in particular by Ukrainian Chemists Union on the behalf of PJSC "Dniprovskyy plant of chemical fertilizers", PJSC "Sumykhimprom", LLC "Chemvector" ("the Applicant").

**1 TO PROVIDE EVIDENCE, CITING RELEVANT DATA AND THE APPLICABLE PERIOD OF  
INVESTIGATION OF SERIOUS INJURY OR THREAT THEREOF CAUSED BY INCREASED  
IMPORTS**

**Information in this Section should be analyzed and evaluated together with Section II.**

The period of investigation: 2016, 2017, 2018, 1 July 2018-30 June 2019.

The results of the analysis of the applicant's economic situation show that in the recent period, compared to the first period:

- production volumes increased by 65.41%;
- production capacity decreased by 0.67% and utilization increased by 66.52%;

- the sales of the product on the domestic market increased by 60.75%;
- the applicant's share in consumption increased by 55.12% while the consumption increased by 3.63%;
- stocks in warehouses at the end of the period increased by 14.49%;
- employment rate increased by 0.33%;
- the average monthly salary increased by 134.32%;
- the loss of the company decreased by 75.05%, but the activity of the Applicant remains unprofitable;
- profitability from the sale of the product in the domestic market is negative;
- liquidity conditions increased by 14.62%;
- investments in production of the product decreased by 9.04% compared to the base period.

Taking into account the significant increase in production capacity in the world and the territorial closeness of Ukraine to major exporting countries, there are all prerequisites to say that there is a threat of growing imports and displacement of domestic producers from the Ukrainian market, which in turn threatens the loss of domestic economy.

The cumulative assessment of these factors, as well as the arguments for the growth of imports give grounds to conclude that there is a negative impact of imports on the state of the national industry and the constant threat of causing significant injury to domestic producers.

## **2 TO PROVIDE INFORMATION ON WHETHER THERE IS AN ABSOLUTE INCREASE IN IMPORTS OR AN INCREASE IN IMPORTS RELATIVE TO DOMESTIC PRODUCTION. UNFORESEEN DEVELOPMENTS.**

According to the customs statistics (data) of the State Customs Service during the investigation period there were significant fluctuations in the volume of imports: in the second period there was an increase in imports compared to the first period by 13.46%, a decrease in imports in the third period compared to the second period by 24.79% due to non-economic factors and growth in imports in the fourth period compared to the third period by 14.26%.

However, if we look at the same dynamics in absolute terms, we can see that the growth of imports by 13.46% in the second period compared to the first period is 244,962 tons, and the growth of imports by 14.26% in the fourth period compared to the third period is 221,358 tons. At the same time, such growth was significantly higher than the annual production of domestic producers.

As a result, the volume of imports relative to the total production of goods in Ukraine ranged from 739.2% to 2,551.85%.

Accordingly, in such conditions, the domestic producer is deprived of the opportunity to compete with imported products.

Significant, sudden, recent and sharp growth of imports is evidenced by the fact that imports fell in the third period compared to the second period by 24.79% in the fourth period compared to the third period there was an increase in imports by 14.26%.

Growth of imports in 2017-2019 was more than 3 times higher compared to the period of 2006-2008, ie during the period of Ukraine's membership in the World Trade Organization, due to the dynamic growth of world production capacity of mineral fertilizers and sharp fluctuations in gas prices, basic raw materials for the production of mineral fertilizers, was unpredictable for Ukrainian producers.

Based on the above, it was established that during the investigation period there was a significant, sudden, recent and sharp increase in imports, which could not have been foreseen by the domestic producer.

**The major exporting countries of imports of the product involved.**

Country	1 <sup>st</sup> year period	2 <sup>nd</sup> year period	3 <sup>rd</sup> year period	4 <sup>th</sup> year period
<b>Amount of imports by country of origin, tons</b>				
The Republic of Belarus	384 374,6	384 816,1	409 447,1	452 143,9
The Republic of Lithuania	25 146,9	49 743,2	71 229,1	88 124,6
The Russian Federation	1 360 080,2	1 518 813,4	850 376,9	899 396,4
The Republic of Poland	17 248,9	52 429,0	109 914,3	149 314,3

**3 TO PROVIDE PRECISE DESCRIPTION OF THE PRODUCT INVOLVED**

Mineral fertilizers with nitrogen and phosphorus content and mineral fertilizers with nitrogen, phosphorus, potassium content, in which the total mass fraction of nitrate, in terms of nitrogen in the dry matter is less than 28 wt. %, classified in accordance with UKTZED (UKTZED is the Ukrainian Foreign Economic Activity Commodity Classification, based on Harmonized System 2012) under the code 3105.

**4 TO PROVIDE PRECISE DESCRIPTION OF THE PROPOSED MEASURE**

Based on the data of the State Customs Service on the volume of imports of goods into Ukraine for the period of investigation 01.01.2016-30.06.2019 on a monthly basis was calculated the average annual volume of imports of goods into Ukraine.

As noted, Ukraine has significant production capacity for mineral fertilizers to meet some of the needs of the domestic market of Ukraine, which in the context of growing imports cannot be loaded to the level of livelihood and profitability of production. In this regard, the need to create preconditions for increasing the level of capacity of utilization of the national producer is economically justified and necessary to prevent serious damage to the national producer.

However, given the peculiarities of access of Ukrainian companies to the raw material base of individual components for the production of goods (phosphorus and potassium) and in order to achieve the least harm to international trade, the total quota is divided separately for NP and NPK with partial adjustment of shares of these two types of goods. creating preconditions for avoiding a deficit and maximally providing consumers of Ukraine with NPK fertilizers.

Accordingly, the calculation was performed as follows:

- the average annual level of consumption of goods has been adjusted by 90% of the level of capacity of utilization by the national producer, which determines that for the purposes of preventing serious injury to the domestic producer, the level of quota for imports of goods should not exceed 1,422,107 tons;
- taking into account the importance of avoiding deficit of NPK fertilizers, peculiarities of capacity of utilization (without division into NP and NPK), peculiarities of Ukrainian companies' access to raw material base of separate components for production of goods, and in order to eliminate damage to national producer the calculated quota level is: for NP - 45,000 tons, and for NPK - 1,377,107 tons.

Index	1 <sup>st</sup> year period	2 <sup>nd</sup> year period	3 <sup>rd</sup> year period
NP, T	45 000	45 900	46 818
NPK, T	1 377 107	1 404 649	1 432 742
<b>TOTAL</b>	<b>1 422 107</b>	<b>1 450 549</b>	<b>1 479 560</b>

**5 TO PROVIDE PROPOSED DATE OF INTRODUCTION OF THE MEASURE**

June 2020.

**6 TO PROVIDE EXPECTED DURATION OF THE MEASURE**

Safeguard measures are planned to be imposed for a period of 3 years.

---

**7 TO PROVIDE FOR A MEASURE WITH A DURATION OF MORE THAN THREE YEARS THE PROPOSED DATE FOR THE REVIEW (UNDER ARTICLE 7.4) TO BE HELD NOT LATER THAN THE MID-TERM OF THE MEASURE, IF SUCH A DATE FOR THE REVIEW HAS ALREADY BEEN SCHEDULED**

Not applicable.

**8 IF THE EXPECTED DURATION IS OVER ONE YEAR, PROVIDE EXPECTED TIMETABLE FOR PROGRESSIVE LIBERALIZATION OF THE MEASURE**

The level of the quota should be increased by 2% annually during measures validity.

**9 TO PROVIDE INFORMATION RELATING TO THE EXTENSION OF A SAFEGUARD MEASURE**

Not applicable.

**10 EXCLUSION OF CERTAIN COUNTRIES FROM THE SCOPE OF THE DEFINITIVE MEASURES**

According to the Article 9.1 of the Agreements on Safeguards (List of the Least Developed Countries of the United Nations), Free Trade Agreement between the EFTA States and Ukraine dated 24.06.2010, Free Trade Agreement between the Government of Ukraine and the Government of Montenegro dated 18.11.2011, Free Trade Agreement of the Commonwealth of Independent States, dated 18.10.2011 and taking into account Chapter 8 of the Article XXIV of the General Agreement on Tariffs and Trade 1994 imports into Ukraine of goods described in paragraph 3 of this notification originating from the following countries should be excluded from the application of the definitive measures: the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation, the Republic of Montenegro, the Republic of Azerbaijan, the Republic of Armenia, the Republic of Uzbekistan, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Republic of Moldova, the Republic of Tajikistan, the Republic of Turkmenistan, the Islamic Republic of Afghanistan, the Republic of Angola, the People's Republic of Bangladesh, the Republic of Benin, the Kingdom of Bhutan, the Republic of Burkina Faso, the Republic of Burundi, the Kingdom of Cambodia, the Central African Republic, the Republic of Chad, the Union of the Comoros, the Democratic Republic of the Congo, the Republic of Djibouti, the State of Eritrea, the Federal Democratic Republic of Ethiopia, the Islamic Republic of Gambia, the Republic of Guinea, the Republic of Guinea-Bissau, the Republic of Haiti, the Republic of Kiribati, the Lao People's Democratic Republic, the Kingdom of Lesotho, the Republic of Liberia, the Republic of Madagascar, the Republic of Malawi, the Republic of Mali, the Islamic Republic of Mauritania, the Republic of Mozambique, the Republic of the Union of Myanmar, the Federal Democratic Republic of Nepal, the Republic of Niger, the Republic of Rwanda, the Democratic Republic of Sao Tome and Principe, the Republic of Senegal, the Republic of Sierra Leone, Solomon Islands, the Federal Republic of Somalia, the Republic of South Sudan, the Republic of Sudan, the Democratic Republic of Timor-Leste, the Republic of Togo, Tuvalu, the Republic of Uganda, the United Republic of Tanzania, the Republic of Yemen, the Republic of Zambia.

**11 PROCEDURES RELEVANT TO THE DECISION ON APPLICATION OF THE MEASURES AND INFORMATION REGARDING PROCEDURES FOR PRIOR CONSULTATIONS WITH THOSE MEMBERS HAVING A SUBSTANTIAL INTEREST AS EXPORTERS OF THE PRODUCT CONCERNED**

As a measure to prevent the extension of COVID-19, Ukraine proposes, if necessary, to held the consultations in the form of an exchange of views by providing the information in writings or by means of videoconference.

Members having a substantial interest as exporters of the product subject to the investigation that would like to consult with Ukraine shall send their position papers to the [meconomy@me.gov.ua](mailto:meconomy@me.gov.ua) (for official registration) and to the email addresses of the responsible for the investigation persons [zaiets@me.gov.ua](mailto:zaiets@me.gov.ua) and [suhanov@me.gov.ua](mailto:suhanov@me.gov.ua) before **04.06.2020** or request videoconference to be hold till **04.06.2020**.