

**DOF: 02/10/2020**

**RESOLUTION declaring the beginning of the administrative procedure for the examination of the validity of the countervailing duties imposed on imports of ammonium sulfate originating in the United States of America and the People's Republic of China, regardless of the country of origin.**

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**In the margin a stamp with the National Shield, which reads: United Mexican States.- Ministry of Economy.**

RESOLUTION DECLARING THE BEGINNING OF THE ADMINISTRATIVE PROCEDURE FOR EXAMINING THE VALIDITY OF THE COMPENSATORY FEES IMPOSED ON AMMONIUM SULPHATE IMPORTS ORIGINATING FROM THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA, INDEPENDENT COUNTRY

Seen to resolve in the initiation stage the administrative file EC 27/20 filed in the International Business Practices Unit (UPCI) of the Ministry of Economy (the "Secretariat"), this Resolution is issued in accordance with the following

#### **RESULTS**

##### **A. Final resolution of the anti-dumping investigation**

1. On October 9, 2015, the final resolution of the anti-dumping investigation on imports of ammonium sulfate that entered through tariff section 3102.21.01 of the Tariff of the Law of the Federation was published in the Official Gazette of the Federation (DOF). the General Import and Export Taxes (TIGIE) or any other, originating in the United States of America (the "United States") and the People's Republic of China ( " China " ), regardless of the country of origin (the " Resolution End " ). Through said Resolution, the following definitive countervailing duties were imposed:

- a. for imports from Honeywell Resins & Chemicals, LLC., an offsetting fee of \$ 0.0759 United States dollars ( " dollars " ) per kilogram;
- b. for imports from other United States exporters, a countervailing duty of \$ 0.1619 per kilogram;
- c. for imports from Wuzhoufeng Agricultural Science & Technology, Co. Ltd. ( " Wuzhoufeng " ), a countervailing fee of \$ 0.0929 per kilogram, and
- d. for imports from other Chinese exporters, a countervailing fee of \$ 0.1703 per kilogram.

##### **B. Clarification of resolution**

2. On November 4, 2015, the Resolution to clarify the Final Resolution was published in the DOF, through which sections c) and d) of point 224 of said Resolution were clarified.

##### **C. Circumvention of countervailing duties**

3. On June 7, 2019, the final resolution of the investigation on circumvention of the payment of countervailing duties imposed on imports of ammonium sulfate originating in China, regardless of the country of origin, was published in the DOF, by which it was determined the application of the countervailing duties referred to in paragraphs c and d of point 1 of this Resolution to imports of the NKS mixture (by its chemical symbol of N = nitrogen, K = potassium and S = sulfur) with a chemical composition of 19% nitrogen, 5% potassium and 21 or 22% sulfur, originating in China, regardless of the country of origin, entered through tariff item 3105.90.99 of the TIGIE, or any other.

##### **D. Review before Binational Panel**

4. On November 6, 2015, AdvanSix Resins & Chemicals, LLC. (formerly Honeywell Resins & Chemicals, LLC.), requested the review of the Final Resolution before a Binational Panel established pursuant to Chapter XIX of the North American Free Trade Agreement. The file number: MEX-USA-2015-1904-01 fell to said procedure.

5. On December 19, 2019, the Binational Panel Decision regarding the review of the Final Resolution was published in the DOF. The Secretariat will comply with what is ordered by the Binational Panel within the term granted for that purpose.

##### **E. Notice regarding the validity of countervailing duties**

6. On August 28, 2019, the Notice on the validity of countervailing duties was published in the DOF. By this means, the national producers and any person with a legal interest were informed that the definitive countervailing duties imposed on the products listed in said Notice would be eliminated as of the expiration date indicated therein for each one, except that a domestic producer express in writing its interest in having an examination procedure initiated. The list included ammonium sulfate originating in the United States and China, which is the subject of this review.

##### **F. Expression of interest**

7. On September 2, 2020, Agrogen, SA de CV ("Agrogen") and Metalúrgica Met-Mex Peñoles, SA de C.V. ("Met-Mex"), expressed their interest in the Secretariat initiating the examination of the validity of the definitive countervailing duties imposed on imports of ammonium sulfate originating in the United States and China. Agrogen and Met-Mex proposed as an examination period from July 1, 2019 to June 30, 2020.

8. Agrogen and Met-Mex are companies incorporated under Mexican law. Its main activity consists of the manufacture of the product under examination. To accredit their quality as national producers of ammonium sulfate, they presented a letter from the National Association of the Chemical Industry, AC, dated September 2, 2020, which accredits them.

#### **G. Product under review**

##### **1. Product description**

9. Ammonium sulfate is a synthetic, inorganic nitrogen fertilizer, commercially referred to as agricultural ammonium sulfate, ammonium sulfate, or diammonium sulfate.

##### **2. Physical characteristics and chemical composition**

10. Ammonium sulfate referred to in the previous point of this Resolution, is a salt that occurs in its pure state in the form of white to brownish crystals, soluble in water and insoluble in alcohol and acetone, with a density of 1.77 grams per liter (g / L), melting point of 513 ° C, pH of 5, low hygroscopicity and with a solubility of 76.6 g / 100 g of water (0 ° C). Nitrogen (21%) and sulfur (24%) contents are the most important specification distinguishing ammonium sulfate.

11. The chemical formula of ammonium sulfate is  $(\text{NH}_4)_2\text{SO}_4$ , while its molecular mass is 132.1388. Its registration number in the Chemical Abstract Service (CAS) is 7783-20-2.

##### **3. Tariff treatment**

12. Ammonium sulfate enters the national market through tariff item 3102.21.01 of the TIGIE, the description of which is as follows:

<b>Tariff classification</b>	<b>Description</b>
31	Fertilizers.
3102	Nitrogen mineral or chemical fertilizers.
	- Ammonium sulphate; double salts and mixtures of ammonium sulfate and ammonium nitrate:
3102.21	-- Ammonium sulphate.
3102.21.01	Ammonium sulphate.

Source: Tariff Information System Via Internet (SIAVI)

13. The unit of measurement used by the TIGIE is the kilogram.

14. According to the SIAVI, imports of ammonium sulfate that enter through tariff section 3102.21.01 of the TIGIE are exempt from the payment of duty, regardless of the country of origin.

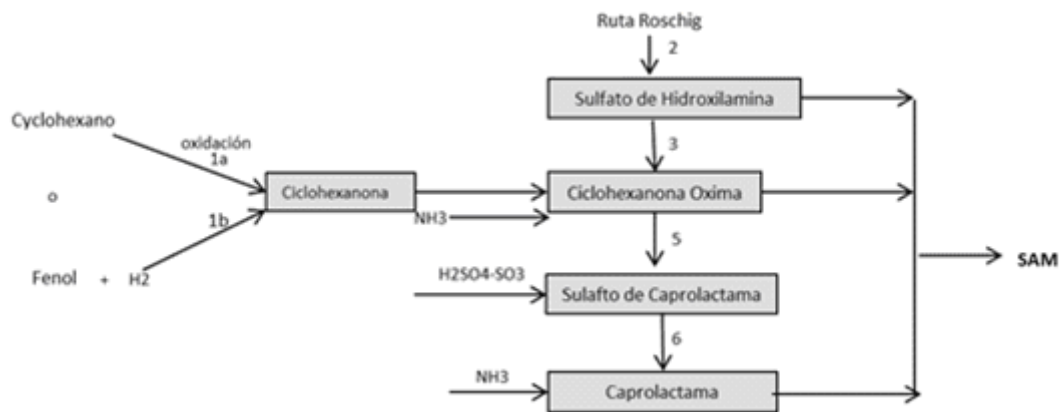
##### **4. Production process**

15. Ammonium sulfate can be manufactured in a variety of ways, either as a primary product from virgin raw materials or as a by-product of other industrial processes that include anti-pollution measures in processes such as metallurgy smelting, caprolactam production and recovery of Spent sulfuric acid from industrial processes, such as the production of detergents and various petrochemicals. Generally speaking, all processes are based on bringing ammonia and sulfuric acid into contact to form ammonium sulfate.

16. Ammonium sulfate can be manufactured by reaction between sulfuric acid and vaporized ammonia, with evolution of heat (crystallization of the salt formed, separation, purification and drying of the product according to the specifications of each type). This procedure is used by companies that have easy access to the production of sulfur, as well as by those that obtain sulfur or sulfuric acid as a by-product of the production process of metal refining or foundries, since, for ecological reasons, risks in the handling, storage and transportation of sulfuric acid, it is preferable to transform it into ammonium sulfate.

17. Ammonium sulfate can also be obtained as a by-product in the manufacture of caprolactam (producing one kilogram of caprolactam produces between 4 and 4.5 kilograms of ammonium sulfate), a basic raw material for the manufacture of nylon. In this process, the main raw materials used for its manufacture are, in addition to ammonia and sulfur, cyclohexane and carbon dioxide, as shown in the following diagram.

### Production process of ammonium sulfate



Source: Point 11 of the Final Resolution

#### 5. Uses and functions

**18.** Ammonium sulfate is used as a fertilizer and provides the plants with primary nutrients, which in addition to replenishing the nitrogen content of the farmland, serves to correct the alkalinity of the soil, due to its nitrogen and sulfur content. In this sense, its ammoniacal form of nitrogen prevents losses due to leachate and, due to its acidity, it is appropriate for alkaline soils as it fertilizes and improves soil pH conditions. Among the crops that use ammonium sulfate are the following: rice, corn, cotton, forages, potatoes, wheat, sorghum, fruits and vegetables, oilseeds, pastures and lawns.

**19.** Additionally, ammonium sulfate is also used in the manufacture of feed supplements for livestock, in some pharmaceutical applications, as a flame retardant and tanning agent, as well as in food processing, in fermentation and textile dyeing processes, in addition to treatment of water.

**20.** Ammonium sulfate is marketed in two presentations (granular and standard), the differences of which are related to the size of the particle, since the granular particle is larger. However, according to the market study called "Ammonium Sulfate (757.3000)" from the Chemical Economics Handbook collection, published by IHS Chemical in October 2013, ammonium sulfate is not classified by its presentation.

#### 6. NKS mix from China

**21.** The NKS mixture referred to in point 3 of this Resolution is a nitrogen fertilizer, which has a content by weight of ammonium sulfate (92%) and potassium chloride (8%), which yields a content of 19% nitrogen, 0% phosphorus, 5% potassium (as potassium chloride, whose CAS number is 7447-40-7) and 21% or 22% sulfur (provided by ammonium sulfate).

**22.** The NKS mixture is obtained through an additional process in the final stage of the production of ammonium sulfate, where more ammonium sulfate (in the form of its raw materials) is added to the ammonium sulfate and the chloride of potassium in order to compact it, granulate it and homogenize it for commercialization. The use to which the mixture is intended is as a fertilizer because it has nitrogen as its main nutritional contribution and, due to its content in the mixture, its main function would be to provide said nutrient to the crops that require it (depending on the geographic region and soil type); in addition to being compatible with the same fertilizers as ammonium sulfate.

**23.** The NKS mixture enters the domestic market through tariff item 3105.90.99 of the TIGIE, the description of which is as follows:

Tariff classification	Description
31	Fertilizers.
3105	Mineral or chemical fertilizers, with two or three of the fertilizing elements: nitrogen, phosphorus and potassium; the other fertilizers; products of this Chapter in tablets or similar forms or in packages of a gross weight less than or equal to 10 kg.
3105.90	- Others.
3105.90.99	Others.

Source: Tariff Information System Via Internet (SIAVI)

**24.** The unit of measurement used by the TIGIE is the kilogram. According to the SIAVI, imports of NKS mixtures that enter through tariff section 3105.90.99 of the TIGIE are exempt from the payment of duty, regardless of the country of origin.

**25.** Pursuant to point 76 subsection c of the Final Resolution of the avoidance procedure, the imports of the NKS mixture were made by the same producers-exporters, as well as by the same importers, who sold / acquired ammonium sulfate in the ordinary investigation , which indicates that they have the same uses and functions, and they attend the same marketing channels, which makes them commercially interchangeable.

#### **H. Possible stakeholders**

**26.** The parties that the Secretariat is aware of and that may have an interest in appearing in these proceedings are the following:

##### **1. National production companies**

Agrogen, SA de CV  
Metalúrgica Met-Mex Peñoles, SA de CV  
Duero River No. 31  
Col. Cuauhtémoc  
CP 06500, Mexico City

##### **2. Importers**

Centro Agroindustrial, SA de CV  
Av. Fray Luis de León No. 3046  
Col. Centro Sur  
CP 76090, Santiago de Querétaro, Querétaro

Isaosa, SA de CV  
Av. Prolongación Mariano Otero No. 3820  
Col. Santa Ana Tepetitlán  
CP 45230 Zapopan, Jalisco

Nitrofer, S. de RL de CV  
Mount Everest No. 13  
Col. San Felipe  
CP 47750, Atotonilco El Alto, Jalisco

Pacifex, SA de CV  
Av. Mariano Otero No. 2347, 4th floor  
Col. Verde Valle  
CP 44550, Guadalajara, Jalisco

Plantagro, SA de CV  
Old road to former Hacienda San Agustín km 2.0  
Col. Green Revolution  
CP 89838, Ciudad Mante, Tamaulipas

Productora de Fertilizantes del Noroeste, SA de CV  
Miguel Aleman s / n  
Col. Center  
CP 85000, Ciudad Obregón, Sonora

Promotora Nacional Agropecuaria Mexicana, SA de CV  
Juan Rodríguez No. 402  
Col. Farms  
CP 50120, Toluca, State of Mexico

Quimical, SA de CV  
Highway to San Luis Río Colorado Km. 15.5  
Col. Ten  
CP 21397, Mexicali, Baja California

Soluciones en Nutrientes de Valor Agregado, SA de CV  
Manzanillo-Minatitlán Highway No. 6  
Col. San José  
CP 28200, Manzanillo, Colima

##### **3. Exporters**

AdvanSix Resins & Chemicals, LLC. (formerly Honeywell Resins & Chemicals, LLC.)

905 E Randolph Road 97  
Hopewell  
Zip Code 23860, Virginia, USA

Wuzhoufeng Agricultural Science & Technology, Co. Ltd.  
145 Beida Street  
Yantai  
Zip Code 264000, Shandong, China

#### **4. Government**

Embassy of the United States in Mexico  
Paseo de la Reforma No. 305  
Col. Cuauhtémoc  
CP 06500, Mexico City

Chinese Embassy in Mexico  
Plato No. 317  
Col. Polanco  
CP 11560, Mexico City

### **CONSIDERING**

#### **A. Competition**

**27.** The Secretariat is competent to issue this Resolution, in accordance with articles 16 and 34 sections V and XXXIII of the Organic Law of the Federal Public Administration; 1, 2 section A section II numeral 7 and 19 sections I and IV of the Internal Regulations of the Ministry of Economy; 11.3, 12.1 and 12.3 of the Agreement on the Application of Article VI of the General Agreement on Tariffs and Trade of 1994 (the "Anti-Dumping Agreement"); 5 section VII, 70 section II, 70 B and 89 F of the Foreign Trade Law (LCE) and 80 and 81 of the Regulations of the Foreign Trade Law (RLCE).

#### **B. Applicable law**

**28.** For the purposes of this procedure, the Antidumping Agreement, the LCE, the RLCE, the Fiscal Code of the Federation, the Federal Law of Administrative Contentious Procedure, applied additionally, in accordance with the Second Transitory Article of the Decree that this law issues, as well as the Federal Code of Civil Procedures, these last three of supplementary application.

#### **C. Protection of confidential information**

**29.** The Secretariat may not publicly reveal the confidential information that the interested parties submit to it, nor the confidential information that it collects itself, in accordance with Articles 6.5 of the Anti-Dumping Agreement, 80 of the LCE and 152 and 158 of the RLCE. However, interested parties may obtain access to confidential information, as long as they satisfy the requirements established in articles 159 and 160 of the RLCE.

#### **D. Legitimation for the start of the quota validity exam**

**30.** In accordance with articles 11.3 of the Anti-Dumping Agreement, 70 section II and 70 B of the LCE, the definitive countervailing duties will be eliminated within a period of five years from their entry into force, unless the Secretariat has initiated, Before the end of said term, an examination of validity derived from the expression of interest of one or more national producers.

**31.** In the present case, Agrofen and Met-Mex, in their capacity as national producers of the product under examination, expressed in due time and form their interest in initiating the examination of the validity of the definitive countervailing duties imposed on imports of ammonium sulfate originating in the United States and China, for which the assumptions provided for in the legislation on the matter are updated and, consequently, it should be initiated.

#### **E. Examination and analysis period**

**32.** The Secretariat determines to set the examination period proposed by Agrofen and Met-Mex, from July 1, 2019 to June 30, 2020, and from July 1, 2015 to June 30, 2020, as an analysis period. 2020, since these comply with the provisions of article 76 of the RLCE and the recommendation of the Committee on Anti-Dumping Practices of the World Trade Organization (document G / ADP / 6 adopted on May 5, 2000).

**33.** For the above reasons, based on articles 11.1 and 11.3 of the Anti-Dumping Agreement, and 67, 70 section II, 70 B and 89 F of the LCE, the following is issued

### **RESOLUTION**

**34.** The beginning of the administrative procedure for the examination of the validity of the final countervailing duties imposed on imports of ammonium sulfate originating in the United States and China,

as well as imports of the NKS mixture originating in China, regardless of the country, is declared. of origin, which are entered through tariff items 3102.21.01 and 3105.90.99 of the TIGIE, or by any other.

**35.** The examination period is set from July 1, 2019 to June 30, 2020 and the analysis period from July 1, 2015 to June 30, 2020.

**36.** In accordance with the provisions of articles 11.3 of the Anti-Dumping Agreement and 70 section II and 89 F of the LCE and 94 of the RLCE, the definitive countervailing duties referred to in points 1 and 3 of this Resolution will continue in force while process the present validity examination procedure.

**37.** In accordance with articles 6.1 and 11.4 of the Anti-Dumping Agreement and 3 last paragraph and 89 F of the LCE, national producers, importers, exporters, foreign legal entities or any person who proves to have a legal interest in the result of this proceeding of examination, they will have a period of twenty-eight working days to prove their legal interest and submit the response to the official form established for that purpose, and the arguments and evidence they deem appropriate. The term of twenty - eight business days will be counted from the day following the publication in the DOF of this Resolution and will end at 6:00 p.m. on the expiration date. The presentation of the information will be in accordance with the provisions of the " Agreement establishing administrative measures in the Ministry of the Economy, due to the health emergency generated by the COVID-19 coronavirus " , published in the DOF on June 29, 2020 .

**38.** The official form referred to in the previous point can be obtained through the Internet page <https://www.gob.mx/se/acciones-y-programas/industria-y-comercio-unidad-de-practicas-comercial-internacional-upci>, likewise, it can be requested through the email account [upci@economia.gob.mx](mailto:upci@economia.gob.mx).

**39.** Notify this Resolution to the interested parties of which it is known.

**40.** Communicate this Resolution to the Tax Administration Service, for the corresponding legal effects .

**41.** This Resolution will enter into force the day after its publication in the DOF.

Mexico City, 21 September 2020.- The Ministry of Economy , **Graciela Marquez Colín** .- Signature.

[http://dof.gob.mx/nota\\_detalle.php?codigo=5601758&fecha=02/10/2020](http://dof.gob.mx/nota_detalle.php?codigo=5601758&fecha=02/10/2020)