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FROM : AZOMURES S.A. – Romania
TO : EUROPEAN COMMISSION – Brussels
ATT : Mr. Stephen Pickering & Mr. Phillipe Brunerie
RE : Comments on DRAFT PROPOSAL on CADMIUM in FERTILIZER
REF : Draft Proposal
DATE : 25.09.03
FILE/NO : 1503/6297

Dear Sirs,

Firstly, we take liberty to introduce ourselves as a public Company in Romania with shares quoted in Bucharest Stock exchange. We are one of the major chemical fertilizer produces of Europe with following finished product portfolio:

- ✦ 650,000 tpa NPK compound fertilizers
- ✦ 700,000 tpa CAN, AN, SAN, CN nitrate fertilizers
- ✦ 300,000 tpa UAN liquid fertilizers and
- ✦ 300,000 tpa Urea

Having studied the documentation on the issue of CADMIUM in PHOSPHATE FERTILIZERS and respective *The Impact Assessment* we would present to your kind attention, our Company's comments, as follows:

- **NEEDS/DEMAND in EU**

The Impact Assessment does not take in account the planned expansion of the European Union (EU) in its current approach. Presently, 10 more countries are approved to join the EU as from 2004. Thereafter, several others (*such as Turkey and Romania*) will join later. Therefore, the phosphate demand by the EU will be much higher than the numbers estimated/considered by the study.

On the other hand the conditions, composition and status of land of the newcomer countries could be by far different from those in the few countries (*a couple of countries in the present EU*) which are concerned by the cd issue in the northern Europe.

- **SCIENTIFIC APPROACH**

The Impact Assessment clearly states that CSTEE (the *Scientific Committee of the European Commission*) considers the issue of cadmium is *neither urgent nor acute*. As there is a consensus of the scientific community that the negative impact of cadmium in fertilizers is not sure and proven, why does European Commission desire to set urgently a regulation?

It is also worth to note that during the meeting organised by IFA and the SCOPE (*Scientific Committee on the Problem of Environment*) the all-scientist attendants were of the common opinion that there is no scientific evidence that cadmium in fertilizers is a threat for the human health and that no regulation concerning this issue should be adopted without further studies.

- **AVAILABILITY OF CD-FREE PHOSPHATE ROCK**

The *South African* phosphate rock is almost not exported any more due to its scarcity. Furthermore, the phos-acid produced with this rock is not exported to Europe due to logistics reasons.

Availability of *Russian* phosphate rock is currently very limited and gradually declining. This rock, certainly, can not cover the needs of Europe, today or in future.

Furthermore, it is a fact today that many producer companies (*like Azomures*) who are using nitric-attack-technology (*which is an European origin technology*) can not get sufficient quantities of Russian rock. Russian supplier *Apatite SA* declares openly that the quantities available for export are rapidly declining and therefore consequently does not enter into any new export contracts. As result, it is a solid fact that the European fertilizers industry would face difficulties for its procurements of raw materials in future. Therefore a very major part (*if not all*) of this industry may disappear.

- **COMMERCIAL APPROACH**

The study considers/states that the cost of removal of cadmium from the phos-acid is 8 US\$/ton to 10 US\$/ton. This assumption is certainly not based on any industrial facts and data but possibly only on some laboratory scale analysis. Will the process be successful on industrial scale? This can not be confirmed without pilot plant tests. Therefore, the implementation of the process of cadmium removal on industrial scale needs pilot tests to confirm that the same results (*concerning the cadmium removal conditions*) could be achieved and thereafter

to evaluate the cost on the industrial scale. The final cost of cadmium removal (*assuming it is confirmed that the process can technically be used on industrial scale*) would be much higher than the one considered in the study

- **NON-AVAILABILITY OF TECHNOLOGY**

Besides, as of today, there is *no proven (or even known) technology* nor even study, pilot test or industrial data concerning the removal of cadmium in *nitric attack process*. Whereas, there is a considerable phosphate production capacity in near future EU territory, using this process supplying P₂O₅ to EU agriculture.

- **NEGATIVE COST IMPACT ON EU FARMING SOCIETY**

The statement that *the cost of cadmium removal from fertilizers will be passed on the selling price* is somewhat "utopic" as farmers can hardly pay the current prices of fertilizers. Therefore the regulation will definitely have a negative impact on the European farmers' competitiveness, knowing that farmers outside EU generally do not have constraints on cadmium content in fertilizers. Even where some limitations exist (*such as in USA and Australia*) such limits are by far less restrictive than the suggested one for EU. Therefore, the adoption of the proposed regulation could be disastrous for the European farmers.

- **NEGATIVE IMPACT ON OUR COMPANY**

We, Azomureş SA of Romania, are a fertilizer complex privatized during 1998 fiscal year. Today, we employ around 3,800 workers of different categories.

As our technology of phosphate and nitrate fertilizer production is based on the European origin "*nitrophos*" technology, a total of our 1.2 million ton production capacity depends on the use of *nitric attack process*. It is very much impossible for us to make any change in our process and equipment as it would simply mean a totally new investment of nearly 275 million US\$ (*this is based on current phos-acid technologies... a cadmium-free phos-acid production plant technology will certainly increase the total figure even further up*).

As consequence, the implementation of the new planned cadmium restriction will simply mean lay-offs of about 75-80% of our employees (*considering also the necessity for shut-down of 66% capacity of our two ammonia plants*).

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As conclusion,

- ◆ *The Risk Assessment Study* suffers from various questionable assumptions and statements,

- ✦ It recommends a very strict restriction in the view of the lack of scientific evidence and the lack of a proven technology of removal of cadmium economically
- ✦ We recommend that if a regulation has to be fixed, it should be less constraining and take in account the forthcoming EU expansion and its impacts, considering
 - more precise phosphate demand after EU expansion
 - and the existing technology park of the same territory

For this purpose, a regional regulation which has been suggested as an option by the study held by *ERM* on the account of the European Commission can be more acceptable as it would deal with the issue taking in account the soil status in each region

- ✦ The most recommendable approach would be to develop the necessary studies in order to get a comprehensive risk assessment on the impact of cadmium in fertilizers before setting any regulation. This was, anyway the final suggestion to the European Commission by the *CSTEE*.

Yours respectfully.

M. Fuat KALGAY

President & CEO / AZOMURES