

CLEARY GOTTlieb STEEN & HAMILTON LLP

BRUSSELS

January 7, 2020

To the European Commission

EXECUTIVE SUMMARY

of the

EXPIRY REVIEW REQUEST

Under Council Regulation 1036/2016 on protection against imports from countries not members of the European Union
submitted by

Ajinomoto Foods Europe
32 Rue Guersant
75017 Paris
France

Represented by

Till Müller-Ibold and François-Charles Lapr v te
Cleary Gottlieb Steen & Hamilton LLP
Rue de la Loi 57
B-1040 Brussels

concerning anti-dumping duties imposed on imports of monosodium glutamate originating in
Indonesia set to expire on January 23, 2020



Eat Well, Live Well.



1. Ajinomoto Foods Europe (“AFE” or “Applicant”) is requesting an expiry review of the presently applicable anti-dumping measures as regards imports of monosodium glutamate (“MSG”) originating in Indonesia. Since AFE is the only producer of MSG in the EU, it constitutes the Union industry, on behalf of which it is making this request.

I. PRODUCT CONCERNED

2. The product concerned by this Request is MSG originating in Indonesia, currently falling within CN code ex 2922 42 00. There is a TARIC code specifically for MSG (2922 42 00 10 (“*monosodium glutamate*”). MSG is a food additive and is mainly used as a flavor enhancer in soups, broths, fish and meat dishes, spice blends and ready-made foods. MSG is also used in the chemical industry for non-food applications such as detergents. It is produced in the form of white, odorless crystals of various sizes.
3. MSG sold in the EU has traditionally had a purity grade of at least 99% MSG by weight. By contrast, in China, MSG has been sold both (i) in its pure form (99% purity or more), and (ii) at a reduced purity level of generally above 80% (the remainder consisting of mainly table salt (NaCl) that was purposefully added). It was against this known background that the Commission noted in past MSG anti-dumping proceedings that measures were intended to cover all MSG purity levels.
4. However, MSG to which a small amount of table salt (sodium chloride (NaCl)) (or other substances) has been purposefully added (“MSG Mixtures”), has been classified by Member State customs authorities under TARIC code 3824 90 93 90 (“chemical products and preparations – other – other – other”) (amended to 3824 99 93 90 from 2017). The presently existing anti-dumping measures were not applied to imports of such MSG Mixtures, which generally originated in the Peoples Republic of China. Since MSG users are able to use MSG Mixtures in much the same way as they use pure MSG, AFE is requesting in parallel (based on an additional complaint) an anti-circumvention investigation to extend existing measures with respect to China, in line with the original intention, to imports of MSG Mixtures from China (i.e., to MSG to which certain additional substances have been purposefully added).
5. MSG is available in various packing sizes, ranging from consumer packs of 30 g to industrial “big bag” packaging of 1,000 kg. Smaller packing sizes are generally sold via retailers to private consumers or ethnic food outlets, while the larger sizes of 20 kg and more are generally destined for industrial users. The physical characteristics of MSG and MSG Mixtures do not differ according to packaging size.
6. MSG is produced by fermentation of a sugar source (such as corn starch, wheat starch, or tapioca starch, as well as sugar syrup, sugar cane molasses and sugar beet molasses). The product characteristics of the MSG are the same, irrespective of the type of the sugar source used for its production.
7. MSG produced by the Union industry and MSG produced in Indonesia are like products. In particular, Indonesian MSG and Union MSG are interchangeable. The product characteristics and the relevant product specifications are the same.

II. SUMMARY OF THE REQUEST

8. AFE requests, pursuant to Article 11(2) of Council Regulation 1036/2016 of June 8, 2016, that the European Commission initiates an expiry review of the existing anti-dumping measures on imports of the product concerned originating in Indonesia, imposed by Commission Implementing Regulation (EU) No 84/2015 of January 21, 2015, with the aim of extending existing measures by another five years.
9. Indonesian exporters have continued to sell MSG at dumped prices into the 28 Member States of the European Union. While the measures currently in place allowed the Union industry to initially recover (in part) from the injury it suffered as a result of Indonesian dumping, their effectiveness has been impaired by Indonesian MSG producers reverting to their dumping practices and continuing to exert severe price pressure within the Union by unfairly offering MSG at dumped low prices. Therefore, the EU industry has again suffered material injury since 2017, largely due to downward pressure on prices and profitability caused by dumped imports from Indonesia (and China).
10. Moreover, there is a very significant likelihood that dumping would recur (on a larger scale) if measures were allowed to lapse. Pressure from low-cost Chinese imports has pushed Indonesian producers to export MSG to third countries, notably the EU. Indonesian producers have significant excess capacity and could easily ramp up production for export to the EU if measures are lifted. Removal of anti-dumping duties would create an even greater economic incentive to sell MSG on the market, causing Indonesian producers to redirect MSG presently sold to third countries to the Union at unfairly dumped, low export prices (thus causing significant additional injury).
11. Accordingly, should the measures be allowed to lapse, the Union industry would suffer severe injury. The expected losses are such that the existence of the Union industry would immediately be placed in serious doubt. There is no other factor that could explain the injurious effect already present or expected if measures are allowed to lapse.
12. It is in the interest of the European Union to re-establish fair competition and ensure that Europe continues to produce much of the MSG it consumes in Europe, in a sustainable fashion and using local materials.
13. The Applicant therefore submits that all the requirements for the initiation of a review in view of the extension of existing duties for a further five-year period are met. Continued dumping and injury, and the likelihood of recurrence of dumping and injury, are an appropriate basis for such an investigation.

III. INTERESTED PARTIES

A. PRODUCERS OF MSG IN THE UNION

14. The Applicant is currently the only producer of MSG in the Union and thus represents the Union industry.

B. KNOWN PRODUCERS OF MSG IN THE COUNTRY CONCERNED

15. A list of known Indonesian MSG producers which are likely to export MSG to third countries outside of Indonesia is provided below:
 - a. PT Cheil Jedang Indonesia

- b. PT Miwon Indonesia
- c. PT Sasa Inti
- d. PT Ajinomoto Indonesia (not exporting to the EU)
- e. PT Ajinex (not exporting to the EU)

C. KNOWN IMPORTERS IN THE UNION

16. A list of importers of MSG known to AFE is provided below:

- a. Arnaud S.A. Groupo Azelis
- b. Azelis
- c. Azelis Benelux - YDS Chemicals
- d. Azelis Deutschland GmbH
- e. Brenntag CEE GmbH / Zentrale
- f. Caldic Food N.V.
- g. Caldic Ingedients B.V.
- h. Cheil Jedang Europe GmbH
- i. Cortex Chemicals Sp.z o.o.
- j. Daesang Europe B.V.
- k. Direct Foods Ingredients Ltd.
- l. Elementar GmbH
- m. Falken Trade GmbH
- n. Fayrefield Foods Ltd.
- o. Giulio Gross (operating unit of Azelis Italia Spa)
- p. Helm AG
- q. Henry Lamotte GmbH
- r. IMCD Deutschland GmbH & Co KG
- s. Jebsen & Jessen (GmbH & Co.) KG
- t. Materias Químicas SA
- u. MCC-Menssing Chemiehandel & Consultants GmbH
- v. Omya Hamburg GmbH
- w. PPH "Standard" Sp. Z o. O.
- x. Prinova Group LLC
- y. Prinova Spain S.L.
- z. RFI Food Ingredients Handelsgesellschaft mbH
- aa. Selectchemie AG
- bb. Univar

D. KNOWN USERS AND CONSUMERS IN THE UNION

17. MSG (and MSG Mixtures) can be used by a large number of users and consumers in the Union. A list of the five largest users and consumers of MSG in the Union which are known to AFE is provided below::

- a. Unilever N.V.
- b. Nestlé S.A.
- c. GB Foods S.A.
- d. Podravka d.d.
- e. Prymat sp. z o.o.

Done in Brussels, on January 7, 2020.