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BRUSSELS

January 7, 2020

To the European Commission

EXECUTIVE SUMMARY

of the

**REQUEST FOR THE INITIATION OF ANTI-CIRCUMVENTION
PROCEEDINGS**

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

submitted by Ajinomoto Foods Europe
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concerning circumvention of definitive anti-dumping duties imposed on imports of
monosodium glutamate originating in the People's Republic of China



Eat Well, Live Well.



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1. Ajinomoto Foods Europe (“AFE” or the “Applicant”) is requesting the initiation of anti-circumvention proceedings as regards anti-dumping measures concerning imports of monosodium glutamate (“MSG”) originating in the People’s Republic of China (“China”), imposed by Commission Implementing Regulation (EU) 83/2015 of January 21, 2015 (“the Second China Definitive Duty Regulation”), with the aim of extending existing measures to include slightly modified like products from China.
2. 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

3. The product targeted by existing anti-dumping measures is MSG originating in China, 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.
4. The current request differentiates between two related, but distinct, products:
 - “Pure MSG,” which contains MSG at a rate of typically above 99% by dry weight (with impurities resulting from the production process, not purposefully added) and which is currently subject to the existing anti-dumping measures; and
 - MSG to which small amounts of other products have been purposefully added (“MSG Mixtures”), to which existing measures do not currently apply. Products with which MSG may be mixed include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. In practice, small amounts of table salt (NaCl) have been mixed with MSG to circumvent existing measures. Consumers are able to use MSG Mixtures in much the same way as they use pure MSG, with minimal adjustment to existing labelling and recipes. MSG Mixtures have generally been sold to the food industry.
5. Since MSG is an organic product (chemical formula: $C_5H_8NaO_4 \cdot H_2O$) mixtures containing predominantly MSG should be classified under CN code 3824 99 93. However, if MSG is mixed with mineral products it may also be classified under CN code 3824 99 96. It is commercially unlikely, but technically possible, to dissolve MSG (with salt) in water, in which case it is likely to be classified as falling under CN code 3824 99 92. Finally, if MSG is mixed with herbs (seasonings) and/or salt it might be presented by importers for customs clearance as “*mixed condiments and mixed seasonings*” falling under CN code 2103 90 90 (TARIC 2103 9090 80) or as a “*preparation for soups and broths*” (CN 2104 10 00, TARIC 2104 1000 90) or as “*homogenised composite food preparations*” (CN 2104 20), as such MSG mixtures and their ingredients are ultimately intended for the preparation of food (often soups and broth) and do influence the taste of food.
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 MSG are the same, irrespective of the type of the sugar source used for its production. MSG Mixtures are produced by adding an additional

substance (in practice typically table salt (NaCl)) to “pure” MSG. Depending on the substance added, this can be done during the final stages of production of MSG, or during the packaging process.

7. MSG (and MSG Mixtures) are 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.

II. SUMMARY OF THE REQUEST

8. AFE requests, pursuant to Article 13(1) of Council Regulation 1036/2016 of June 8, 2016 (the “Basic Regulation”), that the European Commission initiate anti-circumvention proceedings as regards the anti-dumping measures concerning imports of MSG originating in China, imposed by the Second China Definitive Duty Regulation, with the aim of extending existing measures to include MSG Mixtures from China.
9. Chinese producers have increasingly focused on circumventing existing measures by selling MSG Mixtures rather than pure MSG. Based on the position taken by certain customs authorities, which was endorsed by DG TAXUD, such purposeful addition of any other substance to MSG is sufficient to classify such MSG under a different CN code from that applicable to “pure” MSG, thereby preventing customs authorities from imposing the anti-dumping duties applicable to MSG under the Second China Definitive Duty Regulation.
10. This practice is a form of circumvention that is specifically addressed in Article 13(1)(a) of the Basic Regulation. While such circumvention attempts already existed in 2015, imports of MSG Mixtures from China have skyrocketed in recent years. This sustained increase in MSG Mixture imports constitutes a “*change in the pattern of trade*” within the meaning of Article 13(1) of the Basic Regulation.
11. There is no economic justification for the practice beyond circumvention of the anti-dumping duties. The purposeful addition of small quantities of salt is simply an additional economic burden on (and an extra cost for) producers who then sell such MSG Mixtures at a lower export price than pure MSG. The practice adds no value to the product and the recent increase in sales is driven by aggressive marketing activities by Chinese exporters.
12. There is clear evidence that the practice is undermining the remedial effect of the measures currently in place. MSG Mixtures are sold in the Union at prices (i) below the normal value (and the export price) for MSG determined in the 2013 investigation (which led to the adoption of the Second China Definitive Duty Regulation); (ii) below AFE’s own sales prices; and (iii) below even the estimated costs of production, resulting in continued dumping, undercutting, and underselling.
13. AFE therefore requests that existing measures be extended to cover, not only pure MSG and MSG with impurities resulting from the production process (which appear to be covered by the existing measures), but also MSG Mixtures.

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14. Moreover, and in light of the relative ease with which attempts can be made to classify the products used to circumvent the duties under TARIC codes other than 2922 42 00 10 (MSG) or 3824 99 93 90, it is submitted that the Union should follow the U.S. example with respect to the product definition. In the United States, MSG Mixtures are covered by the anti-dumping measures irrespective of the HTSUS code that is used or should have been used for customs clearance, because the technical description of the mixtures itself is “dispositive”. The Applicant submits that the Union should follow the same approach.
15. Should the Commission feel that it is unable to follow the U.S. example, it is submitted that the product scope for the circumvention investigation should broadly cover mixtures, in light of the demonstrated willingness and ability of Chinese exporters to circumvent measures through one form of mixtures, by covering “MSG, mixed or blended with other product(s), as long as the resulting mix contains at least 50% of MSG by dry weight. Products with which MSG may be mixed or blended include, but are not limited to, salts, sugars, starches, maltodextrins and various seasonings. Such mixtures or blends may currently be classified under ex-CN code 3824 99 93, ex-3824 99 96, ex-2103 90, ex-2104 10 or ex-2104 20 (‘MSG mixtures’).”

III. INTERESTED PARTIES

A. PRODUCERS OF MSG IN THE UNION

16. 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

17. A list of known Chinese MSG producers which are likely to export is provided below:
- a. COFCO Biochemical (Anhui) Co., Ltd.
 - b. Fufeng Group Co., Ltd.
 - c. Fujian Jianyang Wuyi MSG Co., Ltd.
 - d. Guangzhou Orsan Gourmet Powder Co., Ltd.
 - e. Lotus Health Group Co., Ltd.
 - f. Meihua Holdings Group Co., Ltd.
 - g. Ningxia Eppen Biotech Co., Ltd.
 - h. Ningxia Kekemei Bioengineering Co., Ltd.
 - i. Shandong Linghua M.S.G Incorporated Co., Ltd.
 - j. Shandong Qilu Biotechnology Group Co., Ltd.
 - k. Shandong Xinle Bioengineering Co., Ltd.
 - l. Shandong Linglan Monosodium Glutamate Co., Ltd.
 - m. Shenyang Hongmei Group Co., Ltd.
 - n. Zhejiang Honeybee Group Co., Ltd.
 - o. Wenzhou Kuailu Group Co., Ltd.
18. All of them are capable of exporting MSG Mixtures and several of them (in particular Fufeng and Meihua) are known to be actually exporting MSG Mixtures to the Union.

C. KNOWN IMPORTERS IN THE UNION

19. A list of importers of MSG known to AFE is provided below. Several of them have either actually imported MSG Mixtures into the Union, or have received offers to do so:

- a. Azelis France SAS
- b. Azelis
- c. Azelis Benelux - YDS Chemicals
- d. Azelis Deutschland GmbH
- e. Brenntag Quimica, S.A.U.
- f. Brenntag CEE GmbH / Zentrale
- g. Caldic Food N.V.
- h. Caldic Ingedients B.V.
- i. Cheil Jedang Europe GmbH
- j. Cortex Chemicals Sp.z o.o.
- k. Daesang Europe B.V.
- l. Direct Foods Ingredients Ltd.
- m. Atlantic Chemicals Trading GmbH
- n. Falken Trade GmbH
- o. Falken Trade Polska Sp. Z o.o. Sp. K.
- p. Fayrefield Foods Ltd.
- q. Azelis Italia Spa (former Giulio Gross)
- r. Henry Lamotte Food GmbH
- s. IMCD Deutschland GmbH & Co. KG
- t. Jebsen & Jessen Life Science GmbH
- u. Diasa Industrial
- v. Chr. Olesen Nutrition Iberica S.L
- w. Vicorquimia
- x. Materias Químicas SA
- y. MCC-Menssing Chemiehandel & Consultants GmbH
- z. Omya GmbH (Office Hamburg)
- aa. PPH "Standard" Sp. Z o. O.
- bb. Prinova Group LLC
- cc. Prinova Spain S.L.
- dd. RFI Food Ingredients Handelsgesellschaft mbH (a BARENTZ company)
- ee. Selectchemie AG
- ff. IMCD UK Limited
- gg. Univar

D. KNOWN USERS AND CONSUMERS IN THE UNION

20. 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 (who are capable of using MSG Mixtures) and who 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.