Commission Implementing Regulation (EU) 2020/230 of 19 February 2020 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Implementing Regulation (EU) 2015/83 on imports of monosodium glutamate originating in the People's Republic of China, and making such imports subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2020/230

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. **REQUEST**

(1) The European Commission received a request pursuant to Articles 13(3) and 14(5) of Regulation (EU) 2016/1036 ('the basic Regulation'), to investigate the possible circumvention of the anti-dumping measures imposed on imports of monosodium glutamate originating in the People's Republic of China and to make such imports subject to registration.

B. **PRODUCT**

(2) The product concerned by the possible circumvention is monosodium glutamate ('MSG'). It is currently falling under CN code ex 2922 42 00 (TARIC code 2922 42 00 10) and originating in the People's Republic of China ('the product concerned'). The product concerned is subject to anti-dumping measures.

(3) The product under investigation for possible circumvention is the same as that defined in the previous recital, but in mixture or in solution, containing by dry weight 50 % or more of monosodium glutamate. Products, with which MSG may be mixed, are, for example salts, sugars, starches, maltodextrins or various seasonings. The product to be investigated was falling at the time of the entry into force of Commission Implementing Regulation (EU) 2015/83[(2)] ('the existing measures') under CN codes ex 2103 90 90, ex 2104 10 00, ex 2104 20 00, ex 3824 90 92, ex 3824 90 93 and ex 3824 90 96 (TARIC codes ex21 03 90 9010, ex21 03 90 9080, ex21 04 10 0010, ex21 04 10

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/230. (See end of Document for details)*

0090, ex38 24 90 9299, ex38 24 90 9390 and ex38 24 90 9699. There was no specific TARIC code for ex 2104 20 00) ('MSG mixtures').

C. EXISTING MEASURES

(4) The measures currently in force and possibly being circumvented are a definitive anti-dumping duty imposed by Implementing Regulation (EU) 2015/83.

D. GROUNDS

(5) The applicant provided sufficient evidence that the existing anti-dumping measures on imports of the product concerned are being circumvented by slight modifications of the product concerned.

(6) More specifically, export statistics (Comext and IHS Global) show that a significant change in the pattern of trade involving exports from the People's Republic of China to the Union has taken place following the imposition of the definitive anti-dumping duty on the product concerned imposed by Implementing Regulation (EU) 2015/83. This change appears without sufficient due cause or economic justification for such a change other than the imposition of the duty.

(7) In addition, the evidence points to the fact that this change stems from the importation of the slightly modified product concerned. The product concerned is modified by adding small quantities of NaCl (table salt), which slightly modifies the product concerned without altering its fundamental characteristics. The evidence demonstrates that there is no due cause or economic justification other than the imposition of the duty for such practice, process or work.

(8) Furthermore, the applicant provided sufficient evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of the product under investigation appear to have replaced imports of the product concerned. In addition, there is sufficient evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.

(9) Finally, the applicant provided sufficient evidence that the prices of the product under investigation are dumped in relation to the normal value previously established.

(10) Should circumvention practices covered by Article 13 of the basic Regulation, other than as described in recital 7, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

(11) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the products under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.

(12) In order to obtain information it deems necessary for its investigation, all interested parties should contact the Commission forthwith, but not later than the time-limit set in Article 3(2) of this Regulation. The time-limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.

(13) The authorities of the People's Republic of China will be notified of the initiation of the investigation.

(a) **Instructions for making written submissions and sending completed questionnaires and correspondence**

(14) Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing (a) the Commission to use the information and data for the purpose of this trade defence proceeding; and (b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.

(15) All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited'[(3)]. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

(16) Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of Regulation (EU) 2016/1036, which will be labelled 'For inspection by interested parties'. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

(17) If a party providing confidential information fails to show good cause for a confidential treatment or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

(18) Interested parties are invited to make all submissions and requests via TRON.tdi (https://tron.trade.ec.europa.eu/tron/TDI), including scanned powers of attorney and certification sheets.

In order to have access to TRON.tdi, interested parties need an EU Login account. Full instructions on how to register and use TRON.tdi are available on https://webgate.ec.europa.eu/tron/resources/documents/gettingStarted.pdf

By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE

WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf

The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission

Directorate-General for Trade

Directorate H

Office: CHAR 04/039

1049 Brussels

BELGIUM

TRON.tdi: https://tron.trade.ec.europa.eu/tron/TDI

Email: TRADE-R719@ec.europa.eu

(b) **Collection of information and holding of hearings**

(19) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) **Exemption from registration of imports or measures**

(20) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if the importation does not constitute circumvention.

(21) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in the People's Republic of China that can show that they are not engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should

come forward within the time-limit indicated in Article 3(1) of this Regulation. A questionnaire is available in the file for inspection by interested parties and on DG Trade's website: https://trade.ec.europa.eu/tdi/case_details.cfm?id=2448 which has to be submitted within the time-limit indicated in Article 3(2) of this Regulation.

(22) Extensions to the deadline to reply to questionnaires and to other time-limits as specified in this Regulation or otherwise provided in specific communications with interested parties will be limited to a maximum of 3 additional days. Such an extension may be prolonged up to a maximum of 7 days where the requesting party can demonstrate the existence of exceptional circumstances.

F. REGISTRATION

(23) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation is to be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied from the date on which registration of such imports was imposed.

(24) The extension of the measures to the slightly modified product should bear the same liability as the one established under the existing measures. If it can be established that the circumvention comes from cooperating exporter with individual margins, those become applicable. Otherwise, the residual duty would apply.

G. TIME-LIMITS

(25) In the interest of sound administration, time-limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— interested parties may make a written request to be heard by the Commission.

(26) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on the party's making itself known within the time-limits laid down in Article 3 of this Regulation.

H. NON-COOPERATION

(27) If any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.

(28) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.

(29) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.