Commission Implementing Regulation (EU) 2015/83 of 21 January 2015 imposing a definitive anti-dumping duty on imports of monosodium glutamate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2015/83

of 21 January 2015

imposing a definitive anti-dumping duty on imports of monosodium glutamate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] ('the basic Regulation'), and in particular Article 11(2), (5) and (6) thereof,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by means of Regulation (EC) No 1187/2008[(2)], a definitive anti-dumping duty on imports of monosodium glutamate originating in the People's Republic of China ('China').

(2) The imposed measures took the form of an ad valorem duty rate of 39,7 %, with the exception of Hebei Meihus MSG Group Co. Ltd (33,8 %), Tongliao Meihua Bio-Tech Co. Ltd (33,8 %) and Fujian Province Jianyang Wuyi MSG Co. Ltd (36,5 %).

2. **Request for an expiry review**

(3) Following the publication of a notice of impending expiry[(3)] of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation.

(4) The request was lodged by Ajinomoto Foods Europe SAS ('the applicant'), the sole Union producer of monosodium glutamate, thus representing 100 % of the total Union production of monosodium glutamate.

(5) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.

3. **Initiation of an expiry review**

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/83. (See end of Document for details)*

(6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 29 November 2013, by a notice published in the *Official Journal of the European Union*[(4)] ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. Parallel anti-dumping investigation

(7) In parallel, on the same date, the Commission announced the initiation of an anti-dumping investigation pursuant to Article 5 of the basic Regulation with regard to imports into the Union of monosodium glutamate originating in Indonesia[(5)].

(8) In that investigation, the Commission imposed in August 2014, by means of Regulation (EU) No 904/2014[(6)], a provisional anti-dumping duty on imports of monosodium glutamate originating in Indonesia ('provisional regulation'). The provisional measures were imposed for a period of six months.

(9) The two parallel investigations covered the same (review) investigation period and the same period considered as defined in recital 10.

5. Investigation

Relevant periods covered by the expiry review investigation

(10) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2012 to 30 September 2013 (the 'review investigation period'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 April 2010 to the end of the review investigation period (the 'period considered')[(7)].

Parties concerned by the investigation and sampling

(11) The Commission officially advised the applicant, exporting producers, importers and users in the Union known to be concerned and the representatives of the exporting country concerned of the initiation of the expiry review.

(12) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time-limit set in the Notice of Initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(13) In view of the apparent large number of Chinese exporting producers as well as unrelated importers in the Union, sampling was envisaged in the Notice of Initiation in accordance with Article 17 of the basic Regulation.

(14) In respect of the exporting producers in China, in order to enable the Commission to decide whether sampling would be necessary and, if so, to select a representative sample, those parties were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of Initiation. Given that only two exporting

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/83. (See end of Document for details)*

producers in China provided the Commission with the information requested, sampling was not considered necessary.

(15) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the Commission requested all unrelated importers to make themselves known and to provide the information specified in the Notice of Initiation.

(16) Fourteen unrelated importers came forward. However, none of these companies imported MSG from China into the Union during the review investigation period. Sampling was therefore not necessary.

Questionnaires and verification

(17) The Commission sought and verified all the information it deemed necessary for the determination of the likelihood of continuation or recurrence of dumping and resulting injury and for the determination of the Union interest.

(18) Questionnaires were sent to both Chinese exporting producers that came forward in the sampling exercise, the sole Union producer and 33 identified users in the Union.

(19) Questionnaire replies were received from the sole Union producer, from one trader and from five users. Neither of the Chinese exporting producers provided a questionnaire reply.

(20) Verification visits were carried out at the premises of the following companies:

Union producer

— Ajinomoto Foods Europe SAS, Mesnil-Saint-Nicaise, France

Users

— AkzoNobel, Amersfoort, the Netherlands

— Unilever, Rotterdam, the Netherlands

Disclosure

(21) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend maintaining the definitive anti-dumping duty on imports of the product concerned originating in China. The parties were also granted a period within which they could make representations subsequent to this disclosure. Their comments were considered and taken into account where appropriate.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(22) The product subject to this review is the same as that covered by the original investigation, namely monosodium glutamate ('MSG') originating in China, currently falling within CN code ex 2922 42 00 ('the product concerned'). MSG is a food additive and mainly used as a flavour 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, odourless crystals of various sizes. MSG is available in various packing sizes, ranging from consumer

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/83. (See end of Document for details)*

packs of 0,5 g to 1 000 kg bulk bags. Smaller packing sizes are sold via retailers to private consumers, while the larger sizes of 20 kg and more are destined for industrial users. In addition, different purity grades exist. However, there are no differences in the characteristics of monosodium glutamate based on pack size or purity grade.

(23) MSG is mainly produced by fermentation of various sugar sources (corn starch, tapioca starch, sugar syrup, sugar cane molasses and sugar beet molasses).

(24) The review investigation confirmed that, as in the original investigation, the product concerned and MSG produced and sold on the domestic market in the country concerned, MSG produced and sold by the Union industry on the Union market and MSG produced and sold on the two potential analogue country markets of Thailand and Indonesia have the same basic physical, technical and chemical characteristics and the same basic uses.

(25) Therefore these products are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

1. Preliminary remarks

(26) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was currently taking place and whether or not the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

(27) As mentioned in recitals 18 and 19, while questionnaires were sent to both Chinese exporting producers that came forward in the sampling exercise, none of them provided a reply to the questionnaire and none of them cooperated in the investigation. Therefore use had to be made of facts available in accordance with Article 18 of the basic Regulation.

(28) The Chinese authorities and non-cooperating Chinese exporting producers were notified of the application of Article 18(1) of the basic Regulation and were given an opportunity to present their comments. No comments were received.

(29) On this basis, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation of dumping set out below were based on facts available, in particular, information in the request for the expiry review and statistics available, namely Eurostat and the Chinese export database.

2. Dumping of imports during the review investigation period

(a) *Analogue country*

(30) According to Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the price or constructed value in a market economy third country for the exporting producers not granted MET. For this purpose, a market economy third country had to be selected (‘the analogue country’).

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/83. (See end of Document for details)*

(31) In the Notice of Initiation, the Commission informed interested parties that it envisaged Thailand or Indonesia as possible appropriate analogue countries and invited parties to comment. Thailand was used in the original investigation[8] as an appropriate analogue country. Indonesia was proposed in the current investigation in view of the fact that, as mentioned in recital 7, a parallel anti-dumping investigation on imports into the Union of MSG originating in Indonesia was initiated on the same date as the current expiry review investigation[9]. One interested party claimed that Thailand was not an appropriate analogue country given that the cooperating Thai producer was part of the same company group as the applicant. Moreover, it was argued that there was lack of competition on the Thai market and that the domestic sales in Thailand were mainly in small packaging to the retail level, while exports from China to the Union were allegedly in large bags or bulk for industrial use.

(32) The Commission asked more than five known producers of the like product in Thailand to provide information. Only one producer in Thailand came forward and submitted a questionnaire reply. This producer was part of the same group as the applicant. In contrast to what was claimed by an interested party, being part of the same group as the applicant does not automatically imply that normal value is not reliable. The interested party concerned did also not explain how the relationship could have had an impact on the normal value on the domestic market in Thailand. Therefore, this argument should be rejected.

(33) As set out in recital 24, the investigation revealed that MSG produced and sold in the domestic market in Thailand had the same basic technical, physical and chemical characteristics and same basic end uses as the product produced and exported by the Chinese exporting producers to the Union. Furthermore, production processes in China were similar in comparison to those in the Thai market. Finally, in Thailand there was a considerable degree of competition with several domestic producers and imports from other third countries, including China. Moreover, in contrast to what was claimed, the investigation showed that the domestic sales in Thailand were in bulk and in retail. Therefore, the argument that Thailand would not be a suitable choice for an analogue country for those reasons should be rejected.

(34) The Indonesian exporting producers agreed that their data provided in the context of the parallel investigation mentioned in recital 7 be used for the purpose of the current expiry review investigation. As set out in recital 24 the investigation revealed that MSG produced and sold in the domestic market in Indonesia had the same basic technical, physical and chemical characteristics and same basic end uses than the products produced and exported by the Chinese exporting producers to the Union. Furthermore, on the basis of the information available production processes in China were similar in comparison to the Indonesian market. Finally, in Indonesia there was a considerable degree of competition with several domestic producers and imports from other third countries, including China. Moreover, the investigation showed that the domestic sales in Indonesia were both in bulk and in retail.