Commission Implementing Regulation (EU) No 904/2014 of 20 August 2014 imposing a provisional anti-dumping duty on imports of monosodium glutamate originating in Indonesia

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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)], and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 29 November 2013, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of monosodium glutamate originating in Indonesia ('the country concerned'). It published a Notice of Initiation in the *Official Journal of the European Union*[(2)] ('the Notice of Initiation').

(2) On the same date, the Commission announced the initiation of an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 ('the basic Regulation') concerning definitive anti-dumping measures in force on imports of monosodium glutamate originating in the People's Republic of China ('China'), by a Notice published in the Official Journal of the European Union[(3)].

(3) The Commission initiated the investigation following a complaint lodged on 16 October 2013 by Ajinomoto Foods Europe SAS ('the complainant') the sole Union producer of monosodium glutamate, thus representing 100 % of the total Union production of monosodium glutamate. The complaint contained prima facie evidence of dumping and of resulting material injury that was considered sufficient to justify the initiation of the investigation.

1.2. Interested parties

(4) In the Notice of Initiation, the Commission invited all interested parties to contact it in order to participate in the investigation. In addition, the Commission

officially advised the complainant, the known exporting producers and the Indonesian authorities, known importers, suppliers, users and traders known to be concerned about the initiation of the investigation and invited them to participate.

(5) Interested parties were given an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer for Directorate-General ('DG') for Trade.

(6) Interested parties were also given the opportunity to make their views known in writing and 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.

(a) *Sampling*

(7) In view of the large number of exporting producers in the country concerned and unrelated importers involved in the investigation and in order to complete the investigation in the statutory time limits, the Commission announced in the Notice of Initiation that it had decided to limit to a reasonable number the exporting producers and unrelated importers that would be investigated by selecting a sample in accordance with Article 17 of the basic Regulation (this process is also referred to as 'sampling').

(1) Sampling of unrelated importers

(8) To decide whether sampling is 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.

(9) Fourteen unrelated importers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three on the basis of the largest volume of imports into the Union and their geographic location in the Union. In accordance with Article 17(2) of the basic Regulation, all known importers concerned were consulted on the selection of the sample. No comments were made.

(10) Subsequently, only one of the three companies selected in the sample cooperated by submitting a questionnaire reply.

(2) Sampling of exporting producers in Indonesia

(11) To decide whether sampling is necessary and, if so, to select a sample, the Commission requested all exporting producers in Indonesia to make themselves known to the Commission and to provide the information specified in the Notice of Initiation.

(12) Four exporting producers in the country concerned provided the requested information and agreed to be included in the sample. In view of the low number of exporting producers, the Commission decided that sampling was not necessary.

(b) *Replies to the questionnaire and cooperation*

(13) The Commission sent questionnaires to the sole Union producer, the four sampled exporting producers, the three sampled unrelated importers and thirty-three identified users in the Union.

(14) Questionnaire replies were received from the sole Union producer, from one of the three sampled unrelated importers, from one trader, from three out of four known exporting producers and from five users.

(15) The investigation revealed that the non-cooperating sampled exporting producer was related to another sampled exporting producer who was cooperating by submitting a questionnaire reply.

(16) The cooperating exporting producer mentioned in recital 15 claimed that it should not be considered as related to the non-cooperating exporting producer as neither of the companies had any influence in the other's decision making. Moreover, the cooperating exporting producer claimed that it could not force the non-cooperating one to reply to the questionnaire. The investigation found that both companies were owned by the same shareholders. Therefore they were considered as related within the meaning of Article 143(1)(d) of Commission Regulation (EEC) No 2454/93[(4)] concerning the implementation of the Community Customs Code ('Customs Code').

(17) A third cooperating exporting producer claimed that there was another producer of the product concerned in Indonesia, who was part of the group mentioned in recital 16 but who did not make itself known. Although such a producer indeed exists, the investigation found no evidence based on Eurostat data and other available sources that this producer exported to the Union during the period considered. Therefore, this company was not requested to make itself known or to provide the information asked for in the questionnaires intended for exporting producers. Moreover, as described in recital 48, for all producers in the country concerned that did not cooperate a residual duty rate was established. This residual duty is based on Article 18 of the basic Regulation and is applicable to 'all other companies'.

(c) *Verification visits*

(18) The Commission sought and verified all the information deemed necessary for the purpose of a provisional determination of dumping, resulting injury and Union interest.

(19) Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

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

Importers

— Falken Trade, Olsztyn, Poland

Users

— AkzoNobel, Amersfoort, the Netherlands

— Unilever, Rotterdam, the Netherlands

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 904/2014. (See end of Document for details)*

Exporting producers in Indonesia

— PT. Miwon Indonesia, Jakarta, Indonesia

— PT. Cheil Jedang Indonesia, Jakarta, Indonesia

Related importers in the Union

— CJ Europe GmbH, Schwalbach, Germany

— Daesang Europe B.V. Amstelveen, the Netherlands

Related trader in Hong Kong

— CJ China Limited, Hong Kong

1.3. **Investigation period and period considered**

(20) The investigation of dumping and injury covered the period from 1 October 2012 to 30 September 2013 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 April 2010 to the end of the investigation period ('the period considered')[(5)].

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(21) The product concerned is monosodium glutamate ('MSG') originating in Indonesia, 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. It is produced in the form of white, odourless crystals of various sizes. MSG is also used in the chemical industry for non-food applications such as detergents.

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

2.2. **Like product**

(23) The investigation showed that the product concerned, the product produced and sold on the domestic market of Indonesia and the product produced and sold in the Union by the Union industry have the same basic physical, chemical and technical characteristics as well as the same basic uses.

(24) One interested party claimed that there was a significant difference in quality between the MSG produced in Indonesia and the MSG produced in the Union. It was claimed that due to this quality difference MSG produced and sold by the Union industry in the Union market and MSG imported from Indonesia werenot interchangeable and should therefore not be considered as being alike. This claim remained unsubstantiated and was contrary to the findings of the investigation, which revealed no difference in quality between the MSG produced in Indonesia and the MSG produced in the Union. In fact, several users were buying MSG from both the Union industry and Indonesia and used it in same or similar applications. Consequently, this claim was rejected.

(25) On the basis of the above, the product concerned, the product produced and sold on the domestic market of Indonesia and the product produced and sold in the Union by the Union industry are therefore at this stage considered as like products within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Normal value

(26) The Commission first examined whether the total volume of domestic sales for each cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are considered representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represents at least 5 % of the total export sales volume of the product concerned to the Union during the investigation period. On this basis, the total sales by each cooperating exporting producer of the like product on the domestic market were representative.

(27) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union.

(28) The Commission then examined whether the domestic sales by each cooperating exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. The Commission established that the sales of the cooperating exporting producers in Indonesia were sold in representative quantities in Indonesian market compared to the product concerned exported to the Union by the same exporting producers.

(29) The Commission next examined whether the domestic sales of each exporting producer could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period.

(30) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(1) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and

(2) the weighted average sales price of that product type was equal to or higher than the unit cost of production.