

Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of monosodium glutamate originating in the People's Republic of China

(2013/C 349/05)

Following the publication of a notice of impending expiry ⁽¹⁾ of the anti-dumping measures in force on the imports of monosodium glutamate originating in the People's Republic of China, the European Commission (the Commission) has received a request for review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽²⁾ (the basic Regulation).

1. Request for review

The request was lodged on 2 September 2013 by Ajinomoto Foods Europe SAS (the applicant) the sole producer of monosodium glutamate in the Union, thus representing 100 % of the Union production.

2. Product under review

The product subject to this review is monosodium glutamate (the product under review) originating in the People's Republic of China, currently falling within CN code ex 2922 42 00.

3. Existing measures

The measure currently in force is a definitive anti-dumping duty imposed by Council Regulation (EC) No 1187/2008 ⁽³⁾.

4. Grounds for the review

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

4.1.1. *Allegation of likelihood of continuation or recurrence of dumping*

Since, in view of the provisions of Article 2(7) of the basic Regulation, the People's Republic of China (the country concerned) is considered to be a non-market economy country, the applicant established normal value for the imports from the country concerned on the basis of the price in a market economy third country, namely Thailand. The allegation of likelihood of continuation/recurrence of dumping is based on a comparison of the normal value thus established with the export price (at ex-works level) of the product under review when sold for export to the Union.

On this basis, the dumping margin calculated is significant for the country concerned.

4.1.2. *Allegation of likelihood of continuation or recurrence of injury*

The applicant provides sufficient evidence that imports of the product under review from the country concerned to the Union have remained significant in absolute terms and in terms of market shares.

The prima facie evidence provided by the applicant shows that the prices of the imported product under review have, among other consequences, had a negative impact on the level of prices charged by the Union industry, resulting in substantial adverse effects on the overall performance of the Union industry.

The applicant also alleges the likelihood of further injury. In this respect, the applicant provides evidence that, should measures be allowed to lapse, the current import level of the product under review from the country concerned to the Union is likely to increase due to the existence of unused capacity and potential of the manufacturing facilities of the exporting producers in the country concerned.

In addition, the applicant alleges that any further substantial increase of imports at dumped prices from the country concerned would be likely to cause further injury to the Union industry should measures be allowed to lapse.

5. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of an expiry review, the Commission hereby initiates a review in accordance with Article 11(2) of the basic Regulation.

The review will determine whether the expiry of the measures would be likely to lead to a continuation or recurrence of dumping of the product under review originating in the country concerned and a continuation or recurrence of injury to the Union industry.

5.1. *Procedure for the determination of a likelihood of continuation or recurrence of dumping*

Exporting producers ⁽⁴⁾ of the product under review from the country concerned, including those that did not cooperate in the investigation leading to the measures in force, are invited to participate in the Commission investigation.

⁽¹⁾ OJ C 60, 1.3.2013, p. 10.

⁽²⁾ OJ L 343, 22.12.2009, p. 51.

⁽³⁾ OJ L 322, 2.12.2008, p. 1.

⁽⁴⁾ An exporting producer is any company in the country concerned which produces and exports the product under investigation to the Union market, either directly or via third party, including any of its related companies involved in the production, domestic sales or exports of the product concerned.

5.1.1. Investigating exporting producers

5.1.1.1. Procedure for selecting exporting producers to be investigated in the country concerned

(a) Sampling

In view of the potentially large number of exporting producers in the country concerned involved in this expiry review and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, including the ones who did not cooperate in the investigation leading to the measures subject to the present review, are hereby requested to make themselves known to the Commission. These parties have to do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company(ies) requested in Annex I to this notice.

In order to obtain the information it deems necessary for the selection of the sample of exporting producers, the Commission will also contact the authorities in the country concerned and may contact any known associations of exporting producers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the country concerned and associations of exporting producers will be notified by the Commission, via the authorities of the country concerned if appropriate, of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation with regard to exporting producers, the Commission will send questionnaires to the exporting producers selected to be in the sample, to any known association of exporting producers and to the authorities of the country concerned.

All exporting producers selected to be in the sample and any known association of exporting producers will have to submit a

completed questionnaire within 37 days from the date of notification of the sample selection, unless otherwise specified.

The questionnaire will request information on, inter alia, the structure of the exporting producer's company(ies), the activities of the company(ies) in relation to the product under review, the cost of production, the sales of the product under review on the domestic market of the country concerned and the sales of the product under review to the Union.

Without prejudice to the possible application of Article 18 of the basic Regulation, companies that have agreed to their possible inclusion in the sample but are not selected to be in the sample will be considered to be cooperating (non-sampled cooperating exporting producers).

5.1.2. Additional procedure with regard to exporting producers in the non-market economy country concerned

5.1.2.1. Selection of a market economy third country

In accordance with Article 2(7)(a) of the basic Regulation, in the case of imports from the country concerned, normal value will be determined on the basis of the price or constructed value in a market economy third country, or the price from such a third country to other countries, including the Union, or where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin. An appropriate market economy third country shall be selected in a not unreasonable manner, due account being taken of any reliable information made available at the time of selection. Account shall also be taken of time limits; where appropriate, a market economy third country which is subject to the same investigation shall be used.

In the previous investigation Thailand was used as a market economy third country for the purpose of establishing normal value in respect of the country concerned. It should also be noted that, on 29 November 2013, the Commission initiated an anti-dumping proceeding on imports into the Union of monosodium glutamate originating in Indonesia ⁽¹⁾.

In the light of the above, for the purpose of the current investigation, the Commission envisages using Thailand or Indonesia as market economy third country.

Interested parties are hereby invited to comment on the appropriateness of the above suggestions within 10 days of the date of publication of this notice in the *Official Journal of the European Union*.

⁽¹⁾ See page 5 of this Official Journal.

5.1.3. Investigating unrelated importers ⁽¹⁾ ⁽²⁾

Unrelated importers of the product under review from the country concerned to the Union are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this review and in order to complete the investigation within the statutory time limits, the Commission may limit the investigation to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, including the ones who did not cooperate in the investigation leading to the measures subject to the present review, are hereby requested to make themselves known to the Commission. These parties must do so within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, by providing the Commission with the information on their company(ies) requested in Annex II to this notice.

In order to obtain information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

All interested parties wishing to submit any other relevant information regarding the selection of the sample, excluding the information requested above, must do so within 21 days of the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under review in the Union which can reasonably be investigated

within the time available. All known unrelated importers and associations of importers will be notified by the Commission of the companies selected to be in the sample.

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the sampled unrelated importers and to any known association of importers. These parties must submit a completed questionnaire within 37 days from the date of the notification of the sample selection, unless otherwise specified.

The questionnaire will request information on, inter alia, the structure of their company(ies), the activities of the company(ies) in relation to the product under review and the sales of the product under review.

5.2. Procedure for the determination of a likelihood of a continuation or recurrence of injury

In order to establish whether there is a likelihood of a continuation or recurrence of injury to the Union industry, Union producers of the product under review are invited to participate in the Commission investigation.

5.2.1. Investigating Union producers

In order to obtain the information it deems necessary for its investigation with regard to Union producers the Commission will send questionnaires to known Union producer and to any known association of Union producers.

The Union producer and the associations of Union producers must submit the completed questionnaire within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified.

The questionnaire will request information on, inter alia, the structure of their company(ies) and the financial and economic situation of the company(ies).

Any Union producer and association of Union producers not listed above is invited to contact the Commission, preferably by e-mail, immediately but no later than 15 days after the publication of this notice in the *Official Journal of the European Union*, unless otherwise specified, in order to make itself known and request a questionnaire.

5.3. Procedure for the assessment of Union interest

Should the likelihood of continuation or recurrence of dumping and injury be confirmed, a decision will be reached, pursuant to Article 21 of the basic Regulation, as to whether maintaining the anti-dumping measures would not be against the Union interest. Union producers, importers and their representative associations, users and their representative associations, and representative consumer organisations are invited to make themselves known within 15 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. In order to participate in the investigation, the representative consumer organisations have to demonstrate, within the same deadline, that there is an objective link between their activities and the product under review.

⁽¹⁾ Only importers not related to exporting producers can be sampled. Importers that are related to exporting producers have to fill in Annex 1 to the questionnaire for these exporting producers. In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife; (ii) parent and child; (iii) brother and sister (whether by whole or half blood); (iv) grandparent and grandchild; (v) uncle or aunt and nephew or niece; (vi) parent-in-law and son-in-law or daughter-in-law; (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.

⁽²⁾ The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

Parties that make themselves known within the above deadline may provide the Commission with information on the Union interest within 37 days of the date of publication of this notice in the *Official Journal of the European Union*, unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. In any case, information submitted pursuant to Article 21 will only be taken into account if supported by factual evidence at the time of submission.

5.4. *Other written submissions*

Subject to the provisions of this notice, all interested parties are hereby invited to make their views known, submit information and provide supporting evidence. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this notice in the *Official Journal of the European Union*.

5.5. *Possibility to be heard by the Commission investigation services*

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing and must specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within the specific deadlines set by the Commission in its communication with the parties.

5.6. *Instructions for making written submissions and sending completed questionnaires and correspondence*

All written submissions, including the information requested in this notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' ⁽¹⁾.

Interested parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. These summaries must be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence. If an interested party providing confidential information does not furnish a non-confidential summary of it in the requested format and quality, such information may be disregarded.

Interested parties are required to make all submissions and requests in electronic format (non-confidential submissions via e-mail, confidential ones on CD-R/DVD), and must indicate

their name, address, e-mail address, telephone and fax numbers. However, any powers of attorney, signed certifications, and any updates thereof, accompanying MET claim forms or questionnaire replies must be submitted on paper, i.e. by post or by hand, at the address below. If an interested party cannot provide its submissions and requests in electronic format, it must immediately contact the Commission in compliance with Article 18(2) of the basic Regulation. For further information concerning correspondence with the Commission, interested parties may consult the relevant web page on the website of the Directorate-General for Trade (<http://ec.europa.eu/trade/tackling-unfair-trade/trade-defence>).

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate H
Office: N-105 08/020
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Fax +32 22956505

E-mail for dumping issues and Annex I: TRADE-MSG-DUMPING@ec.europa.eu

E-mail for all other issues and Annex II: TRADE-MSG-INJURY@ec.europa.eu

6. *Non-cooperation*

In cases where 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.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on 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.

7. *Hearing Officer*

Interested parties may request the intervention of the Hearing Officer for the Directorate-General for Trade. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15

⁽¹⁾ A 'Limited' document is a document which is considered confidential pursuant to Article 19 of Council Regulation (EC) No 1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

days of the date of publication of this notice in the *Official Journal of the European Union*. Thereafter, a request to be heard must be submitted within specific deadlines set by the Commission in its communication with the parties.

The Hearing Officer will also provide opportunities for a hearing involving parties to take place which would allow different views to be presented and rebuttal arguments offered on issues pertaining, among other things, to the likelihood of a continuation or recurrence of dumping and injury and Union interest.

For further information and contact details interested parties may consult the Hearing Officer's web pages on the website of the Directorate-General for trade (http://ec.europa.eu/commission_2010-2014/degucht/contact/hearing-officer/).

8. Schedule of the investigation

The investigation will be concluded, pursuant to Article 11(5) of the basic Regulation within 15 months of the date of the publication of this notice in the *Official Journal of the European Union*.

9. Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

ANNEX I

<input type="checkbox"/>	'Limited' version ⁽¹⁾
<input type="checkbox"/>	Version 'For inspection by interested parties'
(tick the appropriate box)	

EXPIRY REVIEW INVESTIGATION OF THE ANTI-DUMPING MEASURES CONCERNING IMPORTS OF MONOSODIUM GLUTAMATE ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA

**INFORMATION FOR THE SELECTION OF THE SAMPLE OF EXPORTING PRODUCERS
IN THE PEOPLE'S REPUBLIC OF CHINA**

This form is designed to assist exporting producers in the People's Republic of China in responding to the request for sampling information made in point 5.1.1.1. of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

1. IDENTITY AND CONTACT DETAILS

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

2. TURNOVER AND SALES VOLUME

Indicate the turnover in the accounting currency of the company during the period from 1 October 2012 to 30 September 2013 for sales (export sales to the Union for each of the 28 Member States ⁽²⁾ separately and in total, domestic sales and export sales to countries other than Member States of the Union separately and in total) of monosodium glutamate as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume and the currency used.

	Metric Ton		Value in accounting currency Specify the currency used
Export sales to the Union, for each of the 28 Member States separately and in total, of the product under review, manufactured by your company	Total		
	Name each Member State ⁽³⁾		
Domestic sales of the product under review, manufactured by your company			
Export sales to countries other than Member States of the Union (separately and in total) of the product under review, manufactured by your company	Total		
	Name each country ⁽⁴⁾		

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⁽²⁾ The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

⁽³⁾ Add additional rows where necessary.

⁽⁴⁾ See footnote 3.

ANNEX II

- | | |
|----------------------------|--|
| <input type="checkbox"/> | 'Limited' version ⁽¹⁾ |
| <input type="checkbox"/> | Version 'for inspection by interested parties' |
| (tick the appropriate box) | |

EXPIRY REVIEW INVESTIGATION OF THE ANTI-DUMPING MEASURES CONCERNING IMPORTS OF MONOSODIUM GLUTAMATE ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA

INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS

This form is designed to assist unrelated importers in responding to the request for sampling information made in point 5.1.3. of the notice of initiation.

Both the 'Limited' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

1. IDENTITY AND CONTACT DETAILS

Supply the following details about your company:

Company name	
Address	
Contact person	
E-mail address	
Telephone	
Fax	

2. TURNOVER AND SALES VOLUME

Indicate the total turnover in euros (EUR) of the company, and the turnover and weight or volume for imports into the Union ⁽²⁾ and resales on the Union market after importation from the People's Republic of China, during the period from 1 October 2012 to 30 September 2013, of monosodium glutamate as defined in the notice of initiation and the corresponding weight or volume. State the unit of weight or volume used.

	Metric Ton	Value in euros (EUR)
Total turnover of your company in euros (EUR)		
Imports of the product under review into the Union		
Resales on the Union market after importation from the People's Republic of China of the product under review		

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⁽²⁾ The 28 Member States of the European Union are: Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES ⁽¹⁾

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under review. Such activities could include but are not limited to purchasing the product under review or producing it under sub-contracting arrangements, or processing or trading the product under review.

Company name and location	Activities	Relationship

4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

5. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

⁽¹⁾ In accordance with Article 143 of Commission Regulation (EEC) No 2454/93 concerning the implementation of the Community Customs Code, persons shall be deemed to be related only if: (a) they are officers or directors of one another's businesses; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they directly or indirectly control a third person; or (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another: (i) husband and wife, (ii) parent and child, (iii) brother and sister (whether by whole or half blood), (iv) grandparent and grandchild, (v) uncle or aunt and nephew or niece, (vi) parent-in-law and son-in-law or daughter-in-law, (vii) brother-in-law and sister-in-law. (OJ L 253, 11.10.1993, p. 1). In this context 'person' means any natural or legal person.