

II

(Non-legislative acts)

REGULATIONS

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

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.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ Notice of Initiation of an anti-dumping proceeding concerning imports of monosodium glutamate originating in Indonesia (OJ C 349, 29.11.2013, p. 5).

⁽³⁾ OJ C 349, 29.11.2013, p. 14.

- (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 ⁽¹⁾ concerning the implementation of the Community Customs Code ('Customs Code').

⁽¹⁾ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

- (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

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')⁽¹⁾.

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.

⁽¹⁾ Coincided with the financial years — April to March — of the sole Union producer (FY2010/2011, FY2011/2012, FY2012/2013, IP).

- (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 were not 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.
- (31) In this case, the domestic sales of all exporting producers were profitable and the weighted average sales price was higher than the cost of production of all product types. Accordingly, for all cooperating exporting producers the normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period.

3.2. Export price

- (32) The cooperating exporting producers exported to the Union either directly to independent customers or through related companies located in and outside the Union.
- (33) Where the exporting producers exported the product concerned directly to independent customers in the Union, the export price was established on the basis of export prices actually paid or payable, in accordance with Article 2(8) of the basic Regulation.
- (34) Where the exporting producers exported the product concerned to the Union through related companies the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments were made for profits accruing (see recital 35) and for all costs claimed between importation and resale, including selling, general and administrative ('SG&A') expenses.
- (35) In this respect the profit margin realised by the related companies could not be used as it was considered unreliable. One unrelated importer cooperated but its profitability was confidential and could not be disclosed to other third parties. Therefore and in the absence of any other information, a profit margin of 5 % was used for the determination of the export price. This margin was found to be reasonable as it was also used in a previous proceeding concerning another chemical product manufactured by a similar industry ⁽¹⁾.
- (36) The two cooperating exporting producers claimed that the export prices to their first related customers were at arms-length and that the determination of the export price should therefore be based on the sales price between the exporting producer in Indonesia and the first related customer, rather than on a constructed export price. They argued that their selling prices to the first related customers were at the same level as prices to unrelated customers in the Union.
- (37) The investigation found that despite similar price levels, the transfer prices between the related companies were not at a level that could allow the related importers to make a reasonable profit in the Union. Also, it cannot be excluded that certain cost incurred between the related companies and that there was cross-compensation via other products. On this basis, it was concluded that the internal transfer price did not reflect the appropriate market value of the product concerned when compared with the sales to independent customers.
- (38) On this basis the transfer price between the related companies cannot be considered to have been made on an arm's length basis and the respective claims were rejected. The export prices of both exporting producers via related parties were therefore constructed in accordance with Article 2(9) of the basic Regulation as described above in recitals 34 and 35.

3.3. Comparison

- (39) The Commission compared the normal value and the export price of the cooperating exporting producers on an ex-works basis.

⁽¹⁾ OJ L 97, 12.4.2007, p. 6.

- (40) For the purpose of ensuring a fair comparison between the normal value and export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (41) Thus, adjustments were made for import charges, rebates, transport, insurance, handling, loading and ancillary costs, packing, credit, commissions and bank charges in all cases where demonstrated to affect price comparability.
- (42) One exporting producer exported MSG via a related trading company located outside the Union who sold the product further to a related importer in the Union which in turn sold the product to unrelated customers in the Union. For these sales an adjustment for the mark-up charged by the trader outside the Union was made in accordance with Article 2(10)(i) of the basic Regulation.
- (43) One exporting producer claimed an adjustment on the normal value for incentives and promotional costs in accordance with Article 2(10)(k) of the basic Regulation. However, the investigation found that these costs were not directly linked with individual domestic sales transactions and it could therefore not be demonstrated that the price comparability was affected by these costs. This claim was therefore rejected.
- (44) Two exporting producers claimed an adjustment on the normal value for the freight cost in accordance with Article 2(10)(e) of the basic Regulation. The domestic freight costs were calculated including costs incurred to move the goods from the factory to the warehouse. However, these costs were considered as internal logistics costs and therefore not eligible to qualify as an allowance to the normal value in accordance with Article 2(10)(e) of the basic Regulation.
- (45) One interested party claimed that MSG sold in the Union as food additive needs to fulfil certain purity thresholds ($\geq 99\%$) as defined by the Commission Directive 2008/84/EC⁽¹⁾. This interested party claimed that while the MSG exported to the Union should meet these requirements, no such requirements were applicable on the product sold on the domestic market in Indonesia. Therefore, an adjustment to the normal value for differences in physical and chemical characteristics in accordance with Article 2(10)(a) of the basic Regulation might be justified.
- (46) However, the interested party concerned did not quantify its claim as it did not provide any reasonable estimate of the market value of such alleged difference in line with Article 2(10)(a) of the basic Regulation. In addition, in the comparison, the Commission was able to take into account any potential differences concerning purity in the definition of product types. Therefore, the product types with the same or similar purity levels of those exported to the Union market on the one hand and those sold domestically in Indonesia on the other hand were compared to each other. Consequently, no adjustment was warranted and this claim had to be rejected.

3.4. Dumping margin

- (47) For the two cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (48) For all other exporting producers in Indonesia, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. It should be noted that one known exporting producer deliberately did not cooperate with the investigation as mentioned above in recital 15. Therefore the level of cooperation was considered low. In accordance with Article 18(6), the Commission decided to base the residual dumping margin at the level of the highest dumping margin related to a representative export volumes of one of the fully cooperating and verified exporting producers, taking also into account on a weighted average basis, the dumping margin established for the cooperating exporting producer which was related to a non-cooperating exporting producer.

⁽¹⁾ Commission Directive 2008/84/EC of 27 August 2008 laying down specific purity criteria on food additives other than colours and sweeteners (OJ L 253, 20.9.2008, p. 1).

- (49) On this basis the provisional dumping margins, expressed as a percentage of the cost, insurance, freight ('CIF') Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin (%)
PT. Cheil Jedang Indonesia	7,0
PT. Miwon Indonesia	13,3
All other companies	28,4

4. INJURY

4.1. Definition of the Union industry and Union production

- (50) The like product was manufactured by one Union producer during the investigation period. It constitutes the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (51) As the Union industry is constituted of only one producer, all figures related to sensitive data had to be indexed or given in a range for reasons of confidentiality.

4.2. Union consumption

- (52) The Commission established the Union consumption by adding the Union industry's sales on the Union market to the imports from Indonesia and other third countries, based on Eurostat and questionnaire replies.
- (53) It was argued that the cooperating Union producer should be excluded from the Union industry as it was linked to a non-cooperating exporting producer in Indonesia and that the investigation should be terminated. However, in this case there is no need to exclude the cooperating Union producer from the Union industry despite its relationship with the non-cooperating exporting producer in Indonesia because this sole Union producer fully cooperated with the Commission during the investigation and was subject to a full verification. In addition, the non-cooperation of the Indonesian exporting producer did not have any impact on the reliability of the data collected from the Union producer. Therefore, the argument should be rejected.
- (54) Union consumption developed as follows:

Table 1

Union consumption for MSG (tonnes)

	FY2010/2011	FY2011/2012	FY2012/2013	IP
<i>Index (FY2010/FY2011 = 100)</i>	100	87	93	98

Source: questionnaire replies and Eurostat

- (55) Union consumption decreased between FY2010/2011 and FY2011/2012, and slightly increased again in FY2012/2013 and the investigation period. Overall, consumption decreased by 2 % during the period considered. The decrease in consumption between FY2010/2011 and FY2011/2012 is mainly due to a decrease in the sales of the Union industry on the Union market resulting from a decrease in production in the same period (see recital 68). Imports remained at similar levels in both years. The increase in consumption in FY2012/2013 is almost exclusively due to an increase in imports, as sales of the Union industry remained broadly at the same level. Finally, during the investigation period, while Union industry's sales decreased again, import volumes increased considerably, notably from Indonesia (see recital 57).

4.3. Imports from the country concerned

4.3.1. Volume and market share of the imports from the country concerned

- (56) The Commission established the volume of imports on the basis of Eurostat and questionnaire replies. The market share of the imports was established on the basis of Union consumption as established in recital 52.
- (57) Imports into the Union from the country concerned developed as follows:

Table 2

Import volume (tonnes)

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Volume of imports from Indonesia tonnes	8 638	9 478	18 317	24 385
Index	100	110	212	282
Market share Index	100	126	227	287

Source: questionnaire replies and Eurostat.

- (58) Import volumes from Indonesia almost tripled over the period considered. They increased continuously and significantly by 182 % from 8 638 tonnes in FY2010/2011 to 24 385 tonnes in the investigation period.
- (59) The corresponding market share almost tripled over the period considered. It increased by 187 %, despite the overall decrease in consumption (– 2 %).

4.3.2. Prices of the imports from the country concerned and price undercutting

- (60) The Commission established the prices of imports on the basis of Eurostat and questionnaire replies.
- (61) The average price of imports into the Union from Indonesia developed as follows:

Table 3

Import prices (EUR/tonne)

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Indonesia	1 266	1 279	1 226	1 162
Index	100	101	97	92

Source: questionnaire replies and Eurostat.

- (62) The average import price of MSG from Indonesia slightly increased between FY2010/2011 and FY2011/2012 before decreasing in FY2012/2013 and even further in the investigation period. The average import prices of MSG from Indonesia overall decreased by 6 % during the period considered.

- (63) The Commission determined the price undercutting during the investigation period by comparing:
- the weighted average sales prices per product type of the Union industry charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - the corresponding weighted average prices per product type of the imports from the cooperating Indonesian producers to the first independent customer on the Union market, established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs.
- (64) As mentioned above in recital 46, one exporting producer claimed that MSG sold in the Union as food additive needs to fulfil certain purity thresholds required by Union legislation. This exporting producer claimed that no such requirements were applicable to products imported from Indonesia and used in the non-food sector and that therefore an adjustment for chemical or physical characteristics may be warranted if compared to the product sold on the Union market. However, the exporting producer concerned did not quantify this claim. In addition, in the comparison, the Commission was able to take into account any potential differences concerning purity in the definition of product types. Therefore, the product types with the same or similar purity levels of those exported to the Union market on the one hand and those sold by the Union industry in the Union market on the other hand were compared to each other. Consequently no adjustment was warranted and this claim was rejected.
- (65) One interested party claimed that the effect of currency fluctuations should be taken into account when calculating undercutting for imports from Indonesia. Indeed, the likely effect of the dumped imports on the Union industry's prices is essentially examined by establishing among others price undercutting. In the present case, the dumped export prices, and the Union industry's sales prices were compared. However, export prices used for the injury calculations were converted into EUR in order to have a comparable basis. Consequently, the use of exchange rates in the case at hand ensures that the price difference is established on a comparable basis. Therefore, this claim was rejected.
- (66) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary. The result of the comparison was expressed as a percentage of the Union industry's turnover during the investigation period. It showed a weighted average undercutting margin between 0 % and 5 % by the imports from Indonesia on the Union market.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (67) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

4.4.2. Production, production capacity and capacity utilisation

- (68) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 4

Production, production capacity and capacity utilisation

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Production volume Index	100	95	107	91

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Production capacity Index	100	100	100	100
Capacity utilisation Index	100	95	107	91

Source: questionnaire reply.

- (69) Production fluctuated during the period considered. While it decreased between FY2010/2011 and FY2011/2012, it increased between FY2011/2012 and FY2012/2013 and reached the lowest levels during the investigation period. The investigation showed that the fluctuations were mainly caused by the maintenance shutdowns that the Union industry undertook every 15 months and by the poor weather conditions during the winter of 2010/2011, disrupting the supply of one of the main raw materials (ammonia). During the investigation period, the maintenance shutdown was prolonged in an attempt to lower the high inventories. Overall, the production volume decreased by 9 % during the period considered.
- (70) The production capacity remained overall stable in the period considered.
- (71) As a result of the decrease in production volume and stable production capacity, the capacity utilisation developed in line with the production volume, i.e. it first decreased in FY2011/2012, then increased in FY2012/13 and decreased again in the investigation period. Overall, capacity utilisation decreased by 9 % over the period considered, in line with the decrease in production volume.

4.4.3. Sales volume and market share

- (72) The Union industry's sales volume and market share developed over the period considered as follows:

Table 5

Sales volume and market share

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Sales volume on the Union market Index	100	84	85	83
Market share Index	100	96	91	85

Source: questionnaire replies, Eurostat

- (73) Sales volume of MSG by the Union industry decreased by 17 % over the period considered. Sales volume dropped mostly between FY2010/2011 and FY2011/2012, while in the following years it remained relatively stable. The drop in sales volumes, together with the parallel decrease in consumption and increase in imports from Indonesia, led to a decrease in market share of the Union industry by overall around 15 % during the period considered. The market share of the Union industry decreased by 4 % between FY2010/2011 and FY2011/2012, coinciding with an increase in market shares of Indonesian imports in the same period. Between FY2012/2013 and the investigation period the market shares of the Union industry continued to steadily decrease, while import volumes and market shares from Indonesia substantially increased.

4.4.4. Growth

- (74) While Union consumption decreased by 2 % over the period considered, the sales volume of the Union industry decreased by 17 % which translated in a loss of market share of 15 %.

4.4.5. Employment and productivity

- (75) Employment and productivity developed over the period considered as follows:

Table 6

Employment and productivity

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Number of employees Index	100	103	107	108
Productivity (unit/employee) Index	100	92	100	85

Source: questionnaire reply.

- (76) Employment of the Union industry continuously increased and overall by 8 % in the period considered. This increase is mainly due to the integration of a former affiliated company in 2011 and the expansion of the Union industry's maintenance department.
- (77) Productivity decreased due to the combination of an increase in employment and the decrease in production as shown in table 4 in recital 68.

4.4.6. Magnitude of the dumping margin and recovery from past dumping

- (78) All dumping margins are well above the de minimis level. The impact of the magnitude of the actual margins of dumping on the Union industry is substantial, given the volume and prices of imports from the country concerned.
- (79) The Union industry was still in a recovery process from the effects of past injurious dumping by imports of the same product originating in China. These measures are currently subject to a parallel on-going review investigation in accordance with Article 11(2) of the basic Regulation, as mentioned in recital 2.

4.4.7. Prices and factors affecting prices

- (80) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 7

Average sales prices

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Average unit selling price in the Union (EUR/tonne) Index	100	107	101	97
Unit cost of production (EUR/tonne) Index	100	120	124	130

Source: questionnaire reply.

- (81) The Union industry's average unit selling price to unrelated customers in the Union decreased by 3 % over the period considered. It first increased by 7 % between FY2010/2011 and FY2011/2012, but continuously decreased since then until the investigation period. The increase in price between FY2010/2011 and FY2011/2012 can be seen as a consequence of the cost increases during the same period, albeit the cost increase was more pronounced than the increase in prices. At the same time Indonesian imports increased and exercised significant price pressure on the Union industry. As a consequence, prices of the Union industry decreased by 6 % between FY2011/2012 and FY2012/2013 and further 4 % between FY2012/2013 and the investigation period.
- (82) Unit cost of production increased over the period considered by 30 %. There was a continuous increase starting FY2011/2012 which was mainly due to an increase in the raw material and labour costs. As mentioned above, this cost increase could not be captured by an equivalent price increase due to the price pressure of the dumped imports from Indonesia.

4.4.8. Labour costs

- (83) The average labour costs of the Union industry developed over the period considered as follows:

Table 8

Average labour costs per employee

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Average labour costs per employee (EUR) Index	100	117	125	124

Source: questionnaire reply.

- (84) The average labour costs per employee increased by 24 %. This can be mainly explained by increasing effort of the Union industry to improve the performance of its workers and staff in order to optimize the production process.

4.4.9. Inventories

- (85) Stock levels of the Union producer developed over the period considered as follows:

Table 9

Inventories

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Closing stocks Index	100	82	164	143
Closing stocks as a percentage of production Index	100	86	153	156

Source: questionnaire reply.

- (86) Overall closing stocks increased by 43 % over the period considered. From FY2010/2011 to FY 2011/2012 the closing stocks decreased following a decrease in production volume and an increase in export sales volume. From FY2011/2012 to FY2012/2013 stocks increased due to an increase in production while sales of the Union industry on the Union market remained almost stable. From FY2012/2013 to the investigation period closing stocks decreased again mainly because of a decision to decrease production in an attempt to reduce the high stocks levels.

- (87) Closing stocks as a percentage of production decreased between FY2010/2011 and FY2011/2012 but almost doubled between FY2011/2012 and FY2012/2013. They further increased between FY2012/2013 and the investigation period. Overall they increased by 56 % during the period considered. The increase in FY2012/2013 and in the investigation period has to be seen in the light of increasing volumes of dumped imports from Indonesia, while Union sales remained almost stable during the same period.

4.4.10. Profitability, cash flow, investments, return on investments and ability to raise capital

- (88) Profitability, cash flow, investments and return on investments of the Union producer developed over the period considered as follows:

Table 10

Profitability, cash flow, investments and return on investments

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover) Index	100	30	- 31	- 80
Cash flow (EUR) Index	100	39	- 48	- 19
Investments (EUR) Index	100	182	143	197
Return on investments Index	100	14	- 61	- 110

Source: questionnaire reply.

- (89) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. In FY2010/2011 and FY2011/2012 profitability decreased significantly, but still remained positive. As of FY2012/2013 profitability turned negative. It decreased even further in the investigation period. Overall the profitability decreased by 180 % during the period considered. This development was mainly due to the price pressure of the Indonesian imports which entered into the Union at dumped prices and did not allow the Union industry to set their prices in line with the cost increase.
- (90) The net cash flow is the Union industry's ability to self-finance their activities. The net cash flow showed the same trend as profitability that is a continuous decrease over the period considered with negative results as from FY2012/2013. This trend was accentuated in the investigation period. Overall net cash flow decreased by 119 % over the period considered.
- (91) The investments increased by 97 % over the period considered. They mainly represented investments necessary for maintenance and compliance with legal safety requirements. While the Union industry was still recovering from past dumping by Chinese exporting producers prior to the period considered, it started to improve its situation and was profitable at the beginning of the period considered until FY2011/2012. Under these circumstances a number of investments that could no longer be postponed were made which explains the significant increase of investment levels in the FY2011/2012 and the subsequent years.
- (92) The return on investments is the profit in percentage of the net book value of investments. As with the other financial indicators, the return on investment from the production and sale of the like product was negative as from FY2012/2013, reflecting the negative trend in profitability. Overall, return on investments decreased by 210 % over the period considered.

- (93) Taking into account the decreasing profitability and decreasing cash flow, the company's ability to raise capital was also negatively affected.

4.4.11. Conclusion on injury

- (94) Almost all main injury indicators showed a negative trend. Thus, production volume and capacity utilisation decreased by around 9 % and sales volume by 17 % during the period considered. In an attempt to offset the losses in sales volume and market share, the Union industry average prices decreased by 3 % during the period considered, while costs of production increased by 30 % in parallel. As a consequence profitability, which was positive at the beginning of the period considered, decreased and became negative in FY2012/2013 and continued to decrease in the investigation period. Similar negative trends could be observed for net cash flow as well as for return on investments.
- (95) Employment increased by 8 % over the period considered. The increase over the period considered can be explained by the integration of a former affiliated company in 2011 and the expansion of the Union industry's maintenance department. Investments also showed a positive trend. They were mainly linked to prevention measures and security requirements, but not to any capacity increase. These positive trends do not therefore preclude the existence of injury.
- (96) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSATION

- (97) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. These factors are:
- (a) Effect of imports from China
 - (b) Imports from other third countries
 - (c) Development of Union consumption
 - (d) Export performance of the Union industry
 - (e) Inefficiencies of the Union industry
 - (f) Financial crisis
 - (g) Investment and EU regulatory safety requirements
 - (h) Cost of raw materials and other costs.

5.1. Effects of the dumped imports

- (98) To establish the existence of a causal link between the dumped imports of MSG originating in Indonesia and the injury suffered by the Union industry, the Commission analysed the volume and price levels of the imports under investigation and the extent to which these have contributed to the material injury suffered by the Union industry.
- (99) The investigation has shown that over the period considered the volume of low-priced dumped imports from Indonesia increased by 182 %, which led to an increase in market share of around 187 % in the same period. This coincided with a loss of sales volume of 17 % and a loss of market share of 15 % by the Union industry. This also led to a 71 % loss in market share of total imports from other third countries.

- (100) At the same time, Indonesian import prices decreased by 8 %. Imports from Indonesia exerted a price pressure on the Union market so that the Union industry could not raise its prices in line with the increase in its cost, but, to the contrary had to decrease its prices over the period considered. This led to a significant decrease in profitability, turning into losses from FY2012/2013 onwards which was accentuated during the investigation period.
- (101) On the basis of the above, the Commission concluded at this stage that the Union industry's deteriorating state coincided with the substantial increase in imports at dumped prices originating in Indonesia and that imports from Indonesia had a determining role in the material injury suffered by the Union industry.

5.2. Effects of other factors

5.2.1. Effects of imports from China

- (102) Imports from China are currently subject to anti-dumping duties. Import volumes went up by 65 %, with a corresponding increase in market share of 68 % during the period considered. However, both volumes and market share remained at low levels during the period considered. Chinese prices decreased significantly over the period considered by 20 %. When taking into consideration the anti-dumping duties in place, they did not undercut the Union industry prices.
- (103) Under these conditions, imports from China cannot be considered to have contributed to the material injury suffered by the Union industry during the investigation period.

Table 11

Imports from China

Country		FY2010/2011	FY2011/2012	FY2012/2013	IP
China	Volume (tonnes)	1 518	758	1 923	2 509
	Index	100	50	127	165
	Market share Index	100	57	136	168
	Average price (EUR/tonne) (*)	1 234	1 199	1 143	992
	Index	100	97	93	80

Source: Eurostat and questionnaire replies.

(*) Average prices do not include anti-dumping duties in place.

5.2.2. Imports from other third countries

- (104) The volume of imports from other third countries developed over the period considered as follows:

Table 12

Imports from other third countries

Country		FY2010/2011	FY2011/2012	FY2012/2013	IP
Brazil	Volume (tonnes)	2 321	969	1 070	889
	Index	100	42	46	38
	Market share Index	100	48	49	39

Country		FY2010/2011	FY2011/2012	FY2012/2013	IP
	Average price (EUR/tonne)	1 218	1 306	1 402	1 365
	Index	100	107	115	112
Korea, Republic of	Volume (tonnes)	1 248	2 157	923	802
	Index	100	173	74	64
	Market share Index	100	198	79	65
	Average price (EUR/tonne)	1 231	1 296	1 293	1 277
	Index	100	105	105	104
Vietnam	Volume (tonnes)	5 707	6 042	1 820	769
	Index	100	106	32	13
	Market share Index	100	121	34	14
	Average price (EUR/tonne)	1 284	1 291	1 361	1 318
	Index	100	101	106	103
Other third countries	Volume (tonnes)	993	681	478	434
	Index	100	69	48	44
	Market share Index	100	79	52	45
	Average price (EUR/tonne)	1 594	1 718	2 044	2 001
	Index	100	108	128	126
Total other third countries	Volume (tonnes)	10 268	9 848	4 291	2 894
	Index	100	96	42	28
	Market share Index	100	110	45	29
	Average price (EUR/tonne)	1 293	1 323	1 433	1 424
	Index	100	102	111	110

Source: Questionnaire replies and Eurostat.

- (105) Import volumes from other third countries overall decreased from 10 268 tonnes in FY2010/2011 to 2 894 tonnes in the investigation period, that is by 72 % over the period considered. The corresponding market share decreased by 71 % in the same period. In the investigation period, the market share of other third countries' imports represented only around one fourth of its level in FY2010/2011. Overall, the prices of third countries' imports increased by 10 % during the period considered.

- (106) An interested party claimed that total imports including Indonesia have remained stable over the period considered.
- (107) This allegation was in contradiction to the available statistics on which the findings of the investigation are based as shown in table 13 below. Indeed, total imports in the Union increased by 46 % during the period considered. The claim was therefore rejected.

Table 13

Total Imports

		FY2010/2011	FY2011/2012	FY2012/2013	IP
Total imports	Volume (tonnes)	20 424	20 084	24 531	29 788
	Index	100	98	120	146

Source: Questionnaire replies and Eurostat.

- (108) On the basis of the above, it was provisionally concluded that imports from other third countries did not break the causal link between the dumped imports from Indonesia and the material injury suffered by the Union industry.

5.2.3. Development of Union consumption

- (109) Union consumption only showed a slight decrease of 2 % during the period considered which cannot explain the 17 % decrease in the Union industry's sales volumes and decrease of market share of 15 %. Thus, it was provisionally concluded that the development of consumption did not contribute to the material injury suffered by the Union industry.

5.2.4. Export performance of the Union industry

- (110) The volume of exports of the Union industry developed over the period considered as follows:

Table 14

Export performance of the Union industry

	FY2010/2011	FY2011/2012	FY2012/2013	IP
Export volume Index	100	249	234	222
Average unit price Index	100	107	101	95

Source: questionnaire reply.

- (111) The volume of exports made by the Union industry increased in FY2011/2012 and then slightly decreased in the following years until the investigation period. It almost doubled during the period considered. Prices of exports slightly decreased (by 5 %) at the same time. The increase in export sales partly compensated for the loss of sales volume and market share in the Union. In fact, in a situation characterised by a strong price pressure exerted by

the dumped imports had the export sales not increased the loss of economies of scale and the impact on the unit cost of the Union industry's production would have been even higher. Therefore the Union industry's export performance could not have had a negative impact on the injurious situation.

- (112) Some interested parties claimed that the reduction in the Union industry's sales on the Union market is the consequence of its export sales of MSG to a recently acquired related food processing company in Turkey. This claim was not substantiated. Moreover, the investigation has shown that the Union industry acquired the food processing company only after the investigation period. It could not have had any impact on the Union industry's situation during the investigation period. On this basis it was concluded that the Union industry's sales to its related company in Turkey did not break the causal link.

5.2.5. Alleged inefficiencies of the Union industry

- (113) One interested party claimed that the material injury suffered by the Union industry was caused by inefficiencies inherent to the Union industry's production process. However, this interested party did not refer to any specific inefficiency and its allegation remained unsubstantiated. The investigation also did not bring into light any potential inefficiency of the Union industry. This claim was therefore rejected. On this basis it was concluded that the alleged inefficiencies of the Union industry did not break the causal link.

5.2.6. The financial crisis

- (114) One party alleged that the financial crisis is at the origin of the material injury suffered by the Union industry. However, the Union market for MSG was not volatile being affected only marginally by the global financial crisis. Had this not been the case, and had the Union industry's losses indeed been caused by the global financial crisis, the same should have held true for all other competitors on the MSG market. As it appears, Indonesian MSG producers were able to increase their sales volumes on the Union market, despite the global financial crisis. There is thus no reason to assume that the Union industry should have been more severely affected by the global financial crisis than its Asian counterparts. The argument must therefore be rejected. On this basis it was concluded that the effects of the financial crisis did not break the causal link.

5.2.7. Investments and EU regulatory safety requirements

- (115) One interested party claimed that the injury suffered by the Union industry was caused by the significant investments necessary to comply with the safety regulations applicable in the Union.
- (116) However, the investigation showed that the investments related to EU safety requirements remained low as compared to other investments throughout the period considered. A significant part of the investments made by the Union industry were preventive maintenance investments. The major increase in investments occurred between FY2010/2011 and FY2011/2012. This increase is explained by the fact that the Union industry, still recovering from the past dumping by Chinese imports, had to defer investments destined for preventive maintenance until after loss-making periods. Once the duties on Chinese imports started to produce effects on the market, the Union industry was able to realise profits again and could return to normal levels of investment. In the following periods investments remained at a similar level and continued to cover mainly maintenance. No investments were made to increase capacity, which remained stable over the period considered. On this basis it was concluded that the investments of the Union industry did not break the causal link.

5.2.8. Costs of raw materials and other costs

- (117) Several interested parties claimed that the injury suffered by the Union industry was caused by the significant increase in the price of the main raw materials, namely industrial sugar, ammonia, caustic soda and sulphuric acid.

Industrial sugar

- (118) Industrial sugar is one of the main cost factors of the Union industry's total cost of production. Indeed, as described in recital 81, the unit cost of production of the Union industry increased during the period considered,

including the cost of industrial sugar. According to publicly available statistics ⁽¹⁾ the average price for industrial sugar in the Union, while slightly increasing from FY2010/2011 to mid-2012, remained below the world market price. Subsequently, both the price of industrial sugar in the Union and the world market price of industrial sugar decreased and settled at a similar level. Therefore, the argument according to which the increase in sugar prices was a cause of injury is unfounded and should be rejected.

Chemicals

- (119) The Union industry's cost of ammonia, caustic soda and sulphuric acid increased during the period considered in line with the international price of these products. This price increase was therefore not limited to the Union industry, but also affected operators in third countries. On these grounds, the increase in the prices of ammonia, caustic soda and sulphuric acid cannot be considered as such to be a cause of the material injury suffered by the Union industry.

Other

- (120) Another interested party claimed that higher energy costs, higher labour costs and higher packaging costs had caused the injury suffered by the Union industry. While the investigation showed that these cost factors indeed increased during the period considered (see recitals 81 and 83), the Commission also established that the Union industry was unable to reflect, not even partially, this cost increase in their selling price due to the price pressure exerted by the Indonesian imports. The cost increase of these factors could not therefore be considered as such as the cause of the material injury suffered by the Union industry.

5.3. Conclusion on causation

- (121) The analysis above shows a substantial increase in volume and market share of the dumped imports originating in Indonesia between FY2010/2011 and the investigation period and a decrease of import prices over the period considered.
- (122) This increase in market share of the low-priced imports from Indonesia coincided with a significant drop in market share of the Union industry and triggered, together with the downward pressure on prices, substantial losses by the Union industry.
- (123) On the other hand, the examination of the other factors which could have injured the Union industry has revealed that none of these could have had a significant negative impact.
- (124) On the basis of the above, the Commission concluded at this stage that the material injury to the Union industry was caused by the dumped imports from the country concerned and the other factors did not break the causal link.
- (125) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The effect of imports from China and from other third countries, of development of consumption, of export performance of the Union industry, of alleged inefficiencies of the Union industry, of the financial crisis, of investments and EU regulatory safety requirements and of cost of raw materials and other costs on the Union industry's negative developments was limited.

6. UNION INTEREST

6.1. Preliminary remark

- (126) In accordance with Article 21 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, traders, importers, users and suppliers of raw materials.

⁽¹⁾ http://ec.europa.eu/agriculture/sugar/presentations/price-reporting_en.pdf

6.2. Interest of the Union industry

- (127) The investigation established that the Union industry suffered material injury caused by the dumped imports from Indonesia. Almost all injury indicators showed negative trends, in particular production volume, sales volume, market share and profitability deteriorated over the period considered. The downward trend was also established for other indicators related to the financial performance such as cash flow and return on investments. During the same period stocks increased.
- (128) Following the imposition of measures, it is expected that import prices will increase and the Union industry will be relieved from the price pressure currently exerted by the dumped imports. The Union industry should thus be able to raise its prices in order to reflect cost increases and gradually reach profitable levels. This will also have a positive impact on production and sales volume. In the absence of measures the situation of the Union industry is very likely to further deteriorate. Further losses of sales volume and market share are very likely as the price pressure from the dumped imports will continue and the Union industry will be forced to match the low prices levels in the Union. Under such scenario the Union industry will continue to realise significant losses. It is not excluded that due to the reduction in sales and production volume and the high losses the Union industry will be forced to cease production altogether in the medium term, with the consequent loss of employment in the Union. This would also render the Union dependent on imports from third countries.
- (129) It was therefore concluded at this stage that the imposition of anti-dumping duties would be in the interest of the Union industry.

6.3. Interest of importers/traders

- (130) Fourteen companies came forward following the publication of the Notice of Initiation. Three unrelated importers were sampled and received questionnaires whereas only one replied. This company was subject to an on-the-spot verification.
- (131) MSG imports from Indonesia accounted for less than 15 % of the importer's turnover. The Commission considered that, while the MSG-related activity may be negatively affected by the imposition of duties, the company would remain overall profitable.
- (132) One trader in the Union involved in the resale of MSG inside and outside the Union market made itself known during the investigation. This trader purchased MSG mainly from the Union industry, but also from importers of MSG from Indonesia and other third countries. The trader's MSG-related activity was marginal as compared to its total activity. On these grounds it is considered that any impact of anti-dumping measures on its situation would be negligible.

6.4. Interest of users

- (133) Users are mainly active in the 'food and beverage' sector, using MSG in the production of spice mixes, soups and ready-made foods. MSG is also used in specific 'non-food' applications, for instance in the production of detergents.
- (134) Thirty-three companies came forward and received a questionnaire. Five companies cooperated in the investigation by submitting a questionnaire reply. Four of them were active in the food and beverage sector and one in the non-food sector. Two of the cooperating companies, one operating in the 'food and beverage' sector and the second producing detergents, were verified on-the-spot.

Food and beverage sector

- (135) The investigation showed that, on average, MSG represented around 5 % of the total cost of the products incorporating MSG manufactured by the cooperating companies which provided the necessary data.

- (136) Two of the cooperating companies purchased MSG mainly from the Union industry and imported no or only small quantities from Indonesia. In the case of these two companies, the activity linked to the products incorporating MSG represented around one third of their total activity. During the investigation period the companies were found to be profitable. In view of these findings, the proposed measures against Indonesia are likely to have a limited impact on these companies.
- (137) The other two companies purchased higher quantities of MSG from Indonesia, but their MSG-related activity was relatively insignificant as compared to their overall activity. In addition, on the basis of the information provided, these two companies were profitable during the investigation period. Any measure against MSG from Indonesia is thus unlikely to have a significant impact on these companies.

Non-food sector

- (138) One of the cooperating companies used MSG to produce detergents. MSG represented between 15 % and 20 % of the cost of production of these products. During the investigation period the company purchased MSG mainly from the Union industry but imported MSG also from Indonesia and to a lesser extent from Korea. Only a minor part of its activity was devoted to the products incorporating MSG as compared to its total activity which was in addition found to realise positive profit margins between 5 % and 10 % in the investigation period.
- (139) On this basis, while it is not excluded that this company might be negatively affected by the imposition of measures against Indonesia, the availability of other sources of supply and the profitable situation of the activity incorporating MSG would indicate that the possible impact of the measures on this company would be limited.
- (140) This interested party alleged that, given the EU regulatory framework which bans the use of phosphates and other phosphorous compounds ⁽¹⁾, MSG is likely to be used in increased quantities to replace phosphates and other phosphorus compounds in the production of detergents. Therefore, it is expected that the demand of MSG in the Union will increase substantially and any anti-dumping duties on imports of MSG would have a detrimental effect on the development of this new market.
- (141) However, at this stage it is difficult to predict how the new legal framework will impact the Union market and whether or to what extent it will boost the production of MSG-based detergents and thus have an effect on the MSG demand in the Union. The interested party also did not provide any evidence as to the extent to which an anti-dumping duty could have a detrimental effect. In this respect it is noted that the aim of the anti-dumping duty is to restore a level playing field on the Union market. Thus, the Indonesian imports should continue to supply the Union market, but at fair prices. The investigation also revealed a number of alternative sources of supply, such as Brazil, Vietnam and Korea.
- (142) In any event, in view of the findings of the investigation, even if the entire MSG demand of the company in question were to be imported from Indonesia, the company's profitability on the activity incorporating MSG would remain positive. This worst case scenario does not take into account the possibility that part of the duty could be, at least partly, passed on to their final customers.

6.5. Interest of suppliers

- (143) Four Union suppliers of raw materials came forward and replied to the questionnaire. Their sales of raw materials to the Union industry represented only a small part of their total turnover. Therefore, the absence of measures would not affect the situation of the suppliers.

6.6. Other arguments

- (144) Several interested parties alleged that the Union industry held a dominant position in the Union market and claimed that anti-dumping measures on imports from Indonesia would reinforce its position, which would not be in the interest of the Union.

⁽¹⁾ Regulation (EU) No 259/2012 of the European Parliament and of the Council of 14 March 2012 amending the Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorus compounds in consumer laundry detergents and consumer automatic dishwasher detergents (OJ L 94, 30.3.2012, p. 16).

- (145) The investigation clearly showed that the sole Union producer was unable to maintain its sales volume in the Union as it lost market share to Indonesian imports. Furthermore, the Union industry was not able to increase its price levels in line with the increase in raw material costs, given the price pressure from the dumped imports from Indonesia and suffered significant losses in the investigation period. The Commission also noted that there is competition from imports originating in a number of other third countries, benefitting from free access to the Union market. On these grounds, there was insufficient evidence on any allegedly dominant position of the Union industry and the argument had to be rejected.
- (146) Some interested parties also alleged that there would be no alternative to imports from Indonesia as price levels of other third countries' imports are too high.
- (147) It is recalled that in FY2010/2011 the market share of imports from other third countries was substantial. Imports from third countries also suffered from the price pressure of the dumped imports from Indonesia and lost significant sales volume and market shares to Indonesian imports. The imposition of duties against imports of MSG from Indonesia, should enable other third countries like Brazil, Korea and Vietnam to recapture lost market shares in the Union. Concerning prices, the aim of anti-dumping measures should be to establish a level playing field in the Union, thus letting imports enter the Union at fair price levels. The investigation indicated that the imposition of duties is not expected to have a significant effect on the situation of the downstream industry. The claim that no alternative sources of supply existed was therefore rejected.

6.7. Conclusion on Union interest

- (148) On the basis of the above, the Commission established that there were no compelling reasons to conclude that it was not in the Union interest to impose provisional measures on imports of MSG originating in Indonesia at this stage of the investigation.

7. PROVISIONAL ANTI-DUMPING MEASURES

- (149) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.

7.1. Injury elimination level (Injury margin)

- (150) To determine the level of the measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry.
- (151) The injury would be eliminated if the Union industry were able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports. As the Commission found that the dumped imports only started producing effects during the third year of the period considered, the profit margin was established by reference to the first two years of that period, in the absence of dumped imports. The Commission considered appropriate to use the weighted average profit margin as established under recital 89. A profit margin between 5 % and 15 % was established. A more precise profit margin cannot be disclosed for reasons of confidentiality. On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by adding the profit margin thus calculated to the cost of production of the Union industry during the investigation period. The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the cooperating exporting producers in Indonesia, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the Union industry on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value. The injury margins calculated with profits of 5 % and 15 % respectively are reported in the table in recital 154.

- (152) As mentioned above in recital 64 one exporting producer claimed that the purity levels of MSG imported to the Union and the one produced and sold by the Union industry on the Union market may be different and an appropriate adjustment should therefore be made. For reasons set out in the same recital no adjustment was warranted and this claim had to be rejected.

7.2. Provisional measures

- (153) Provisional anti-dumping measures should be imposed on imports of MSG originating in Indonesia, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of the dumping and the injury margins.
- (154) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

(%)

Country	Company	Dumping margin	Injury margin	Provisional anti-dumping duty
Indonesia	PT. Cheil Jedang Indonesia	7,0	[24,6-39,8]	7,0
Indonesia	PT. Miwon Indonesia	13,3	[27,9-43,6]	13,3
Indonesia	All other companies	28,4	[31,4-47,0]	28,4

- (155) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflect the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities. Imported product concerned produced by any other company not specifically mentioned with its name and address in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (156) A company may request the application of these individual anti-dumping duty rates if it changes the name of its entity or sets up a new production or sales entity. The request must be addressed to the Commission ⁽¹⁾. The request must contain all the relevant information, including: modification in the company's activities linked to production; domestic and export sales associated with, for example, the name change or the change in the production and sales entities. The Commission will update the list of companies with individual anti-dumping duties, if justified.
- (157) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in the Annex. Imports not accompanied by that invoice will be subject to the anti-dumping duty applicable to 'all other companies'.
- (158) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies will apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H 1049 Brussels, Belgium.

8. FINAL PROVISIONS

- (159) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer for DG Trade within a fixed deadline.
- (160) The findings concerning the imposition of duties made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of monosodium glutamate, currently falling within CN code ex 2922 42 00 (TARIC code 2922 42 00 10) and originating in Indonesia.
2. The rates of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

Company	Provisional anti-dumping duty (%)	TARIC additional code
PT. Cheil Jedang Indonesia	7,0	B961
PT. Miwon Indonesia	13,3	B962
All other companies	28,4	B999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty applicable to 'all other companies' shall apply.
4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.
5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Within 25 days of the date of entry into force of this Regulation, interested parties may:
 - (a) Request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;
 - (b) Submit their written comments to the Commission; and
 - (c) Request a hearing with the Commission and/or the Hearing Officer for DG Trade.
2. Within 25 days of the date of entry into force of this Regulation, the parties referred to in Article 21(4) of Regulation (EC) No 1225/2009 may comment on the application of the provisional measures.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 1 shall apply for a period of six months.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 August 2014.

For the Commission
The President
José Manuel BARROSO

ANNEX

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

- The name and function of the official of the entity issuing the commercial invoice.
- The following declaration: 'I, the undersigned, certify that the (volume) of monosodium glutamate sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in Indonesia. I declare that the information provided in this invoice is complete and correct.'

Date and signature
