COUNCIL OF THE EUROPEAN UNION

Brussels, 21 November 2008 (OR. en)

15232/08

ANTIDUMPING 113
COMER 200
CHINE 68

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL REGULATION imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of monosodium glutamate originating in the People's Republic of China

COUNCIL REGULATION (EC) No …./2008

of

imposing a definitive anti-dumping duty
and collecting definitively the provisional duty
imposed on imports of monosodium glutamate
originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community[1] (the "basic Regulation"), and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

[1] OJ L 56, 6.3.1996, p. 1.

Whereas:

5. PROCEDURE

5.1. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 492/2008[1] (the "provisional Regulation") imposed a provisional anti-dumping duty on imports of monosodium glutamate ("MSG") originating in the People's Republic of China ("PRC").

5.2. SUBSEQUENT PROCEDURE

(2) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ("provisional disclosure"), several interested parties made written submissions making their views known on the provisional findings. The parties who so requested were granted an opportunity to be heard. The Commission continued to seek and verify all information it deemed necessary for its definitive findings.

(3) The Commission continued its investigation with regard to Community interest aspects and carried out an analysis of information provided by some users and suppliers in the Community after the imposition of the provisional anti-dumping measures.

(4) The oral and written comments submitted by the interested parties were considered and, where appropriate, the provisional findings were modified accordingly.

[1] OJ L 144, 4.6.2008, p. 14.

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping measures on imports of MSG originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty. They were also granted a period within which they could make representations subsequent to this disclosure.

(6) It is recalled that the investigation of dumping and injury covered the period from 1 July 2006 to 30 June 2007 ("investigation period" or "IP"). With respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from April 2004 to the end of the IP ("period considered").

6. PRODUCT CONCERNED AND LIKE PRODUCT

(7) In the absence of any comments concerning the product concerned and the like product, recitals (12) to (14) of the provisional Regulation are hereby confirmed.

7. DUMPING

7.1. Application of Article 18 of the basic Regulation

(8) In the absence of any comments concerning the application of Article 18 of the basic Regulation to one exporting producer in the PRC, recitals (15) to (18) of the provisional Regulation are hereby confirmed.

7.2. Market economy treatment ("MET")

(9) Following the provisional disclosure, the two Chinese exporting producers which were not granted MET contested the provisional findings.

(10) In the case of the first company it was submitted that, in its opinion, International Accounting Standard (IAS) only required the preparation of consolidated accounts and did not require the consolidated accounts to be audited in line with IAS.

(11) In this regard, it should be recalled that, despite several requests, this company did not provide the relevant consolidated financial statements, including the auditors' report neither in its MET claim form nor during the on-spot visit in the PRC. The IAS state and explain internationally agreed accounting principles and provide guidance as to how they should be applied. Performing an audit of accounting records in line with IAS means that the audit ensures that the accounting records were prepared and presented in line with IAS and that they comply therewith. In case of a breach of such principles, the audit report should mention the impact of the non-compliance and the reasons why IAS principles were not applied. IAS 27, in particular, clearly states the conditions under which firms should prepare and present their consolidated accounts. The company does not contest that these conditions were applicable to it in the context of the MET investigation.

(12) Article 2(7)(c) second indent of the basic Regulation clearly provides that firms applying for MET should have basic accounting records which are independently audited in line with IAS and applied for all purposes. It thus seems clear that accounts should not only be prepared but also audited in line with IAS. The absence of an audit in line with IAS does not allow the Commission to establish whether or not the accounts were prepared in line with IAS. On this basis alone it could not be concluded that criterion two was fulfilled.

(13) The same exporting producer further claimed that in its view the offsetting of revenues and expenses was not of material nature and that the non-disclosure could not influence the economic decision of users taken on the basis of the financial statements. Therefore there was no violation of IAS.

(14) This claim however seems to contradict the first one that accounts should be prepared but not audited in line with IAS. If this were the case, the firms themselves, and not competent and independent auditors as required in Article 2(7)(c), would assess whether or not offsetting might not be forbidden, if revenues and expenses were not of material nature, if such offsetting could not influence the economic decision of users and if such offsetting detracts from the ability of users to understand the transactions undertaken.

(15) Moreover, while it has to be accepted that the notion "materiality" leaves room for interpretation, paragraph 30 of IAS 1 provides that an item that is not sufficiently material to warrant separate presentation on the face of the financial statements may nevertheless be sufficient material that it should be presented separately in the notes. Therefore, in view of the fact that the offsetting was not mentioned in the audit report nor in the notes to the financial statements of the company it is confirmed that the accounts of the company were not audited in line with IAS.

(16) In addition, the offsetting in question were those found by the Commission investigators. Only an in-depth audit would have revealed if there were no other cases where accounts were not prepared and audited in line with IAS. In the absence of such an audit, the Commission does not have the material time, nor is it the purpose of the on-spot visit, to audit the accounts and the presentation of the accounts of the companies. Therefore, findings of the Commission which point to the fact that firms, claiming MET, fail to meet the requirement of the basic Regulations to prepare accounting records and ensure that the accounts are prepared and audited in line with IAS leads to the conclusion that criterion two is not fulfilled.

(17) Finally, the same company disagreed with the conclusion that a negative working capital together with interest–free borrowings has to be considered as a distortion carried over from the former non-market economy system but rather a sign of managerial efficiency.

(18) It should firstly be noted that the findings relating to the negative working capital were subsidiary findings and were not the main ones leading to the conclusion that the applicant did not fulfil the MET criterion. Secondly, a negative working capital alone can be a sign of managerial efficiency but only in a business with low inventory and low accounts receivable, which basically can only be found in enterprises operating on an almost cash-only basis, such as department stores and supermarkets. The analysis of the situation of this Chinese exporting producer, however, was completely different. A negative working capital has to be considered rather as a sign that a company may be facing bankruptcy or serious financial trouble. Under such circumstances, being able to receive huge amounts of "trade credits" without any financial cost would be highly unlikely in market economy conditions. Therefore, the significant interest-free borrowings of the company which represented a significant share of its total short term liabilities (the latter representing 80 % of total liabilities) and which resulted to a significant level of negative working capital has to be considered as not in line with market economy behaviour.

(19) In the case of the second company, no new arguments were provided which alter the provisional findings on MET. In particular, it has been confirmed that the influence of the State-owned shareholder on the decision making process of the company was disproportionately high and that the State agreed to reduce the established value of the land use rights by 50 % without any compensation. It was also confirmed that the accounts of the company were not audited in line with IAS.

(20) In the absence of any other comments concerning MET, recitals (19) to (26) of the provisional Regulation are hereby confirmed.

7.3. Individual treatment ("IT")

(21) One interested party claimed that anti-competitive practices and State interference would encourage circumvention of the measures and therefore none of the Chinese producers should be granted IT.

(22) However, this interested party did not provide any evidence as to how such allegedly anti-competitive practices and alleged State interference would permit circumvention of measures. Moreover, the investigation revealed that any theoretical State interference would be only possible via the China Fermentation Industry Association of which both exporting producers are members. However, all decisions and recommendations taken by this Association were of a non-binding nature. Therefore, this claim had to be rejected.

(23) In the absence of any other comments with regard to IT, recitals (27) to (29) of the provisional Regulation are hereby confirmed.

7.4. Normal value

7.4.1. Analogue country

(24) One interested party contested the choice made by the Commission to use Thailand as analogue country and, in particular, the producer Ajinomoto Thailand, which is related to the Community producer. However, the arguments and remarks by this party were submitted after the specific time limit set for submitting comments[1], but more importantly they were provided without any substantiation. Therefore, these comments had to be disregarded.

(25) In the absence of any other comments concerning the analogue country, recitals (30) to (34) of the provisional Regulation are hereby confirmed.

7.4.2. Methodology applied for the determination of normal value

(26) One Chinese exporting producer claimed that an adjustment for the differences in the costs of raw material should be made. In particular this exporting producer alleged that MSG produced from molasses as it is the case in the analogue country was more costly than MSG produced from corn or rice starch.

[1] Point 6(c) of the Notice of Initiation, OJ C 206, 5.9.2007, p. 23.

(27) However, it appeared that the Chinese exporting producer significantly overstated the ratio between the input of molasses and the output of MSG in comparison of what was found and verified at the co-operating producer in the analogue country. Accordingly, the claim that it was more costly to produce MSG in the analogue country had to be rejected.

(28) In the absence of any other comments concerning the methodology applied for the determination of normal value, recital (35) of the provisional Regulation is hereby confirmed.

7.5. Export price

(29) In the absence of any comments concerning the export price, which would alter the findings at the provisional stage, recitals (36) to (37) of the provisional Regulation are hereby confirmed.

7.6. Comparison

(30) In the absence of any other comments concerning the comparison, recitals (38) to (39) of the provisional Regulation are hereby confirmed.

7.7. Dumping margins

(31) For the companies granted IT, the weighted average normal value was compared with the weighted average export price of the corresponding type of the product concerned, as provided for in Articles 2(11) and (12) of the basic Regulation.

(32) On this basis, the definitive dumping margins expressed as a percentage of the CIF Community frontier price, duty unpaid, are:

– Fujian Province Jianyang Wuyi MSG Co., Ltd.: 36,5 %

– Hebei Meihua MSG Group Co., Ltd.,
and Tongliao Meihua Bio-Tech Co., Ltd.: 3,8 %

(33) The basis for establishing the country-wide dumping margin was set out in recital (42) of the provisional Regulation, which, in the absence of any comments, is hereby confirmed. On this basis the country-wide level of dumping was established at 39,7 % of the CIF Community frontier price, duty unpaid.

8. INJURY

8.1. Definition of the Community industry

(34) In the absence of any comments concerning the definition of the Community industry, recitals (44) to (46) of the provisional Regulation are hereby confirmed.

8.2. Community consumption

(35) In the absence of any comments concerning the Community consumption, recital (47) of the provisional Regulation is hereby confirmed.

8.3. Imports into the Community from the PRC

(36) Following the provisional disclosure, one of the Community importers claimed that the Commission findings with regard to the fluctuation of the Chinese export price in the period considered were distorted due to using financial years rather than calendar years. The period under consideration started on 1 April 2004 whereas the use of calendar years would have meant starting this period on 1 January 2004. According to the data presented by the company, this change in the starting point would show a 12 % increase in Chinese export prices between the calendar year 2004 and IP in contrast to the slight decrease reported in recital (50) of the provisional Regulation. However, it should be noted that data presented by the importer was based on its total purchasing prices which obviously covered only part of the Chinese exports to the Community. Having examined the data with regard to the average prices of all imports of MSG from the PRC, based on Eurostat, it was found that the relevant Chinese prices increased by only 0,5 % from January 2004 to the end of the IP and not by 12 % as claimed by the importer. The difference in price trends between that found for the period considered (a decrease of 2 %) and that found for the period from January 2004 to the end of the IP (an increase of 0,5 %) is not such as to alter the conclusions drawn in regard to the effect of these prices on the situation of the Community industry. Therefore this claim had to be rejected.

(37) In the absence of any other comments with regard to imports into the Community from the PRC, recitals (48) to (52) of the provisional Regulation are hereby confirmed.

8.4. Economic situation of the Community Industry

(38) Certain interested parties questioned the analysis of the trends of the injury indicators. They claimed that the use of 12-month periods running in line with the complainant's financial year rather than calendar years effectively shortened the period under consideration to three years as the financial year 2007 is, to a big extent, overlapping with the IP. These parties claimed that in order to make a proper appraisal of the trends of the injury indicators, the period considered should be prolonged to cover the full calendar year 2004. In this regard, it should be pointed out that the basic Regulation does not provide for a strict timeline regarding the definition of the period considered. Furthermore, the WTO Recommendation concerning the periods of data collection for anti-dumping investigations provides that "*As a general rule,[…]the period of data collection for injury investigations normally should be at least three years[…].*"[1] Nevertheless, a comparative analysis of the basic injury indicators on a calendar year basis was made, i.e. assuming a period considered of 2004, 2005, 2006 and the IP, in order to verify if different conclusions would be drawn as regards injury. This analysis has shown that the trends of the main injury indicators do not change significantly.

[1] G/ADP/6 of 16 May 2000.

Although certain trends such as the decreases in production and sales volumes would be less pronounced as compared to the conclusions in the provisional Regulation, other findings relating to the negative profitability of the Community industry, the huge increase of imports from the PRC and the severe price undercutting would remain unchanged. Furthermore, it should be noted that the period considered serves as an indicator of the evolution of the Community industry's situation to determine whether it can be considered to be suffering material injury during the IP. In these circumstances, the argument of the parties is rejected on the ground that the injury picture would have continued to show material injury even if the period considered was extended by the first trimester of 2004.

(39) Additionally, the complainant commented on the wording of recital (60) of the provisional Regulation. The complainant pointed out that the sentence "the acquisition of Orsan SA by Ajinomoto Foods Europe" was not correct as Orsan SA was acquired by the Ajinomoto Group and subsequently renamed Ajinomoto Foods Europe.

(40) Based on the above facts and considerations, the conclusion that the Community industry suffered material injury, as set out in recitals (70) to (72) of the provisional Regulation, is hereby confirmed.

9. CAUSATION

9.1. Effects of dumped imports

(41) One interested party claimed that during the period considered there was no coincidence in time between the negative trend in profitability observed for the Community industry and the development in the import volumes from the PRC. Accordingly, it was claimed that imports from the PRC could not have caused injury to the Community industry. Although this matter was explained in detail in recitals (60) and (61) of the provisional Regulation, it is further noted that, in accordance with Article 3(6) of the basic Regulation, it is not just the volumes of dumped imports which may be a relevant factor in assessing whether dumped imports have been the cause of material injury to the Community industry, but also, in the alternative, the prices of these imports. In recital (76) of the provisional Regulation it was concluded that "[…] *the low priced dumped imports from the PRC which significantly undercut the prices of the Community industry during the IP, and which also significantly increased in volume, have had a determining role in the injury suffered by the Community industry*". Given the development of volumes and prices of dumped imports during the period considered, it is considered that this claim should be rejected.

(42) Another interested party claimed that the increase in imports of MSG from the PRC in the period considered did not affect the situation of the Community industry as these imports were mainly replacing imports from other sources.

(43) In this respect it is recalled that, even though the Chinese imports of MSG did indeed replace imports from other countries to a certain extend, as explained in recital (57) of the provisional Regulation, low-priced dumped imports from the PRC consistently managed to gain market share also at the expenses of the Community industry even when Community consumption was decreasing. In addition, this claim is not supported by the findings of this investigation which showed that the surge of low-priced dumped imports from the PRC that significantly undercut the price of the Community industry led to a situation of material injury suffered by the Community industry during the period considered. On that basis, this claim should be rejected.

(44) In the absence of any other comments in this regard, recitals (74) to (76) of the provisional Regulation are hereby confirmed.

9.2. Effects of other factors

(45) Various interested parties reiterated the claims put forward before the imposition of the provisional measures that the material injury suffered by the Community industry was caused by factors other than the dumped imports. These claims, with regard specifically to the restructuring costs and increasing costs of raw materials which allegedly affected the Community industry, were already duly addressed in recitals (60) and (61) of the provisional Regulation.

(46) One interested party reiterated claims made before the imposition of the provisional measures that any material injury suffered by the Community industry may also be caused by exports of MSG from the PRC made by companies related to the Community industry. Additionally, this party claimed that the complainant misled the Commission by not disclosing the existence of related companies in the PRC and by hiding the fact that these related companies in China exported MSG to the Community. On that basis, this party considered that Article 18 of the basic Regulation should be applied to the complainant. The same party further claimed a breach of its rights of defence because the versions of the complaint and the questionnaire reply of the complainant for inspection by interested parties ("open version") did not disclose the fact that the complainant has related companies in the PRC that were involved in the MSG business.

(47) As already explained in recital (94) of the provisional Regulation, the question of the exports of MSG to the Community by one producer in the PRC known to be related to the Community industry was not considered to be relevant due to their insignificant volume. It should be stressed also that the complainant did not provide misleading information to the Commission in regard to its related companies in the PRC. This information was reported in the confidential versions of the complaint and of the complainant's questionnaire reply. It is a fact that this information was not originally included in the open version of the complaint or in the open version of the complainant's questionnaire reply. However, the complainant provided open versions including information on its related companies in the PRC subsequently during the procedure. In these circumstances, it is considered that no breach of the right of defence of parties took place. Furthermore, no convincing evidence was presented which could support the claim that Ajinomoto Group was aware of the alleged indirect export activity of one of its related Chinese companies. Therefore, it is considered that the application of Article 18 of the basic Regulation is not warranted in this situation and the claim is rejected.

(48) One of the interested parties reiterated the claims put forward before the imposition of the provisional measures as to the impact of the exchange rate of the US dollar against the Euro on the price undercutting calculations and export performance of the Community industry. However, no additional information or evidence was provided that would alter the conclusions reached in recitals (84) to (90) of the provisional Regulation which are hereby confirmed.

(49) One interested party reiterated its claim made before the imposition of the provisional measures regarding the impact of the Ajinomoto Group's global strategy, in particular exports to the EU market by Ajinomoto-owned producers of MSG in third countries, and the impact of these on the complainant's profits and stock level. In recital (92) of the provisional Regulation it was stated that sales of MSG on the Community market originating from exporters related to the Community industry in countries outside the Community were constantly and significantly decreasing over the period considered. As a consequence, it was concluded in recital (95) of that regulation that the imports of the Community industry from related parties outside the Community have not contributed to the material injury found. This party has not provided any additional information or evidence that would alter this conclusion which is hereby confirmed.

9.3. Conclusion on causation

(50) Given the above analysis which has properly distinguished and separated the effects of all other known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is hereby confirmed that these other factors as such do not reverse the fact that the material injury found must be attributed to the dumped imports.

(51) Given the above, it is concluded that the dumped imports of MSG originating in the PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

(52) In the absence of other comments in this respect, the conclusions in recitals (99) to (100) of the provisional Regulation are hereby confirmed.

10. COMMUNITY INTEREST

10.1. Interest of the Community industry

(53) In the absence of any other comments in this particular regard, the findings set out in recitals (103) to (106) of the provisional Regulation are hereby confirmed.

10.2. Interest of the importers

(54) One importer claimed that the negative impact of the anti-dumping measures may have on its economic situation was underestimated in recital (108) of the provisional Regulation. According to the company, given the low profitability of its MSG sales and the limited possibility of passing on the price increase to its clients, the imposition of anti-dumping measures would mean closure of its MSG business. It should be noted that the MSG business does not represent a major share of the activity of the said importer which is mainly sourcing its MSG from the PRC. The importer in question has the option to switch to other sources of supply which are not affected by the anti-dumping measures. However, as mentioned in recital (108) of the provisional Regulation, the expected effect of the imposition of the measures will be to restore effective trade conditions in the Community market, which in this case may lead to increased prices of MSG, in particular from the Community industry and from the PRC. Therefore, it is expected that all importers should be able to pass on at least some of their cost increase resulting from the imposition of anti-dumping measures. On that basis, the conclusion reached in recital (108) of the provisional Regulation is therefore confirmed.

10.3. Interest of users

(55) Following the comments made by interested parties concerning the possible impact of the proposed measures on the users industry further analyses was carried out on the basis of information provided by the main users of MSG in the Community, namely Nestle and Unilever. The investigation showed that MSG represents less than 3 % of the cost of production of all products containing MSG produced by both companies. Therefore, taking additionally into account the indications on the relatively high average profit rates which both companies had reached during the IP in particular on these products, it can be confirmed that the possible impact of the proposed measure on their activity would not be significant.

10.4. Interest of the suppliers of raw materials

(56) Further to recital (115) of the provisional Regulation, the analysis with regard to the interests of the upstream supplier of the Community industry was extended to include the data provided by a second supplier. On the basis of the questionnaire replies provided by the two suppliers, it was found that the situation of the supplying companies had deteriorated significantly during the period considered in line with the deterioration of the situation of the Community industry. The total turnover of the investigated suppliers decreased in the range of 8 % to 13 % and their sales to the Community industry noted even twice as significant drop (in the range of 15 % to 25 %). Both companies experienced also a decrease in their profitability rates.

(57) Taking into account the above findings, the content of recital (116) of the provisional Regulation is hereby confirmed.

10.5. Competition and trade distorting effects

(58) Some of the interested parties reiterated their comments regarding the alleged dominant position of the Ajinomoto Group worldwide and its alleged monopolistic position in the Community. These issues were already addressed in recital (117) of the provisional Regulation. No new evidence concerning these claims was presented.

(59) Several interested parties raised additional arguments in relation to post-IP developments on the MSG market. They claimed that import volumes decreased and prices rose after the IP, thus eliminating any potential injury to the Community industry. In this situation, these parties claimed that the imposition of anti-dumping duties would only harm importers and users in the Community. The parties raised also a point on alleged global shortages of MSG supplies as, according to their data, several important producers worldwide ceased to produce or decreased production capacity. However, Eurostat data and additional information obtained from the Community industry do not support the above claims. To the contrary, import prices remained stable in the post-IP period and in certain months even decreased, while import volumes both from the PRC and third countries increased. The latter development demonstrates that some none-Chinese competitors have the capacity to develop their exports to the Community.

10.6. Conclusion on Community interest

(60) Given the results of the further investigation of the Community interest aspects of the case described above, the findings and conclusions contained in recitals (119) of the provisional Regulation are hereby confirmed.

11. DEFINITIVE ANTI-DUMPING MEASURES

11.1. Injury elimination level

(61) In the absence of any substantiated comments that would alter the conclusion regarding the injury elimination level, recitals (120) to (122) of the provisional Regulation are hereby confirmed.

11.2. Form and level of the duties

(62) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at a level sufficient to eliminate the injury caused by the dumped imports without exceeding the dumping margin found.

(63) The rate of the definitive duties are definitively set as follows:

Company	Injury elimination margin	Dumping margin	Anti-dumping duty rate
Hebei Meihua MSG Group Co., Ltd., and Tongliao Meihua Bio-Tech Co., Ltd.	54,8 %	33,8 %	33,8 %
Fujian Province Jianyang Wuyi MSG Co., Ltd.	60,4 %	36,5 %	36,5 %
All other companies	63,7 %	39,7 %	39,7 %

(64) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to "all other companies") are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to "all other companies".

(65) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission[1] forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates.

11.3. Undertakings

(66) One cooperating Chinese exporting producer offered a price undertaking.

(67) In this respect it is noted that MSG prices are negotiated globally with large international firms with production facilities inside and outside the Community. It is also noted that the majority of sales of this exporting producer are mainly made to such international firms. In view of the above, it was considered that the risk of cross-compensation of prices between sales agreements made with international firms for their production facilities in the Community and for their facilities located in other countries outside the Community as very high. It was also considered that such cross-compensation would be extremely difficult to be detected in the framework of the monitoring of the undertaking. Therefore, the undertaking offer of this exporting producer, in its current form, had to be rejected as its acceptance was considered impractical in view of the fact that it could not be appropriately monitored by the Commission.

[1] European Commission, Directorate-General for Trade, Directorate H, Office N105 04/092, 1049 Brussels, Belgium.

11.4. Definitive collection of provisional duties and special monitoring

(68) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, i.e. Commission Regulation (EC) No 492/2008, should be definitively collected to the extent of the amount of the definitive duties imposed.

(69) It is recalled that should the exports by the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the anti-dumping measures, such increase could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances, and provided the conditions are met, an anti-circumvention investigation may be initiated. This investigation may, *inter alia*, examine the need for the removal of individual duty rates and the consequent imposition of a country-wide duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of monosodium glutamate falling within CN code ex 2922 42 00 (TARIC 2922 42 00 10) and originating in the People's Republic of China.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products manufactured by the companies listed below shall be as follows:

Company	AD duty rate (%)	TARIC additional code
Hebei Meihua MSG Group Co., Ltd., and Tongliao Meihua Bio-Tech Co., Ltd.	33,8	A883
Fujian Province Jianyang Wuyi MSG Co., Ltd.	36,5	A884
All other companies	39,7	A999

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Amounts secured by way of provisional anti-dumping duties pursuant to Commission Regulation (EC) No 492/2008 on imports of monosodium glutamate falling within CN code ex 2922 42 00 (TARIC 2922 42 00 10) and originating in the People's Republic of China shall be definitely collected.

Article 3

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

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

Done at Brussels,

For the Council
The President