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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-993, C-560-827]

Monosodium Glutamate from the People's Republic of China and the Republic of Indonesia: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: EFFECTIVE: (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao (the People's Republic of China (the PRC)), or Gene Calvert (the Republic of Indonesia (Indonesia)) at (202) 482-1396, or (202) 482-3586, respectively, AD/CVD Operations, Office 6, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTAL INFORMATION

The Petitions

On September 16, 2013, the Department of Commerce (the Department) received countervailing duty (CVD) petitions concerning imports of monosodium glutamate (MSG) from Indonesia and the PRC filed in proper form on behalf of Ajinomoto North America Inc. (Petitioner).[1] Petitioner is a domestic producer of MSG. On September 20, 2013, the

[1] See Countervailing Duty Petitions on Monosodium Glutamate from the PRC and Indonesia, filed on September 16, 2013 (the Petitions).

Department requested additional information and clarification of certain areas of the Petitions.[2] Petitioner filed responses to these requests on September 24, 2013, and September 26, 2013.[3]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that the Governments of Indonesia (the GOI) and the PRC (the GOC) are providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) to imports of MSG from Indonesia and the PRC, and that such imports are materially injuring, and threaten to further cause material injury to, the domestic industry producing MSG in the United States pursuant to section 701 of the Act. The Department finds that Petitioner filed the petitions on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act, and that Petitioner has demonstrated sufficient industry support with respect to the initiation of the investigations that Petitioner is requesting.[4]

Periods of Investigations

The periods of these investigations (POI) is January 1, 2012, through December 31, 2012.

Scope of the Investigations

The product covered by these investigations is MSG from Indonesia and the PRC.[5]

Comments on the Scope of the Investigations

During our review of the petitions, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations,[6] we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all

[2] See Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Monosodium Glutamate from the People's Republic of China and the Republic of Indonesia: Supplemental Questions, September 20, 2013.
[3] See Supplement to the PRC Petition, September 24, 2013 (September 24 Supplement to the PRC Petition); and Supplement to the Indonesia Petition, September 24, 2013 (September 24 Supplement to the Indonesia Petition).
[4] See "Determination of Industry Support for the Petitions," below.
[5] See Appendix I of this notice for a full description of the scope of these investigations.
[6] See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997).

interested parties to submit such comments by November 12, 2013, 5:00 PM Eastern Time, which is 20 calendar days from the signature date of this notice. All comments and submissions to the Department must be filed electronically using Enforcement and Compliance's electronic service system (IA ACCESS).[7] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (i.e., in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above. All comments must be filed on the records of both the Indonesia and PRC CVD investigations, as well as the concurrent Indonesia and PRC antidumping duty (AD) investigations.

The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Filing Requirements

All submissions to the Department must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the applicable deadline. Documents excepted from the electronic submission requirements must be filed manually (i.e., in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline.

[7] See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures, 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at https://iaaccess.trade.gov/help.aspx and a handbook can be found at https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.

Tolling of Deadlines

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[8] Therefore, all deadlines in these investigations have been tolled by 16 days. The revised deadline for the initiation of these investigations is October 23, 2013.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives from the GOC and the GOI for consultations with respect to the Petitions.[9] Consultations were held with the GOC on September 27, 2013. The Department and the GOI were unable to schedule consultations regarding the Indonesia petition.[10]

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50

[8] See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," (October 18, 2013).
[9] See Letter of Invitation Regarding the Countervailing Duty Petition on Monosodium Glutamate from the People's Republic of China (September 18, 2013); see also Letter of Invitation Regarding the Countervailing Duty Petition on Monosodium Glutamate from the Republic of Indonesia (September 18, 2013).
[10] See Ex-Parte Memoranda for the File from Mark Hoadley, "Consultations with Officials from the Government of the People's Republic of China regarding the Countervailing Duty Petition concerning Monosodium Glutamate," (October 21, 2013); see also Memorandum to the File from Gene Calvert, "Consultations with the Government of Indonesia," (October 23, 2013).

percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (see section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[11]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the

[11] See USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing Algoma Steel Corp., Ltd. v. United States, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989)).

information submitted on the record, we have determined that MSG constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[12]

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations," in Appendix I of this notice. To establish industry support, Petitioner provided its own production of the domestic like product in 2012.[13] Petitioner states that there are no other known producers of MSG in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.[14]

Our review of the data provided in the Petitions and other information readily available to the Department indicates that Petitioner has established industry support.[15] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (e.g., polling).[16] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[17] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the

[12] For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Monosodium Glutamate from Indonesia (Indonesia CVD Checklist) at Attachment II, Analysis of Industry Support for the Petitions Covering Monosodium Glutamate from Indonesia and the People's Republic of China (Attachment II); and Countervailing Duty Investigation Initiation Checklist: Monosodium Glutamate from the People's Republic of China (PRC CVD Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

[13] See Volume I of the Petitions, at Exhibit I-1.B.

[14] Id., at 3 and Exhibits I-1.A and I-1.B.

[15] See Indonesia CVD Checklist and PRC CVD Checklist, at Attachment II.

[16] See section 702(c)(4)(D) of the Act; see also Indonesia CVD Checklist and PRC CVD Checklist, at Attachment II.

[17] See Indonesia CVD Checklist and PRC CVD Checklist, at Attachment II.

Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[18] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigations that it is requesting the Department initiate.[19]

Injury Test

Because Indonesia and China are "Subsidies Agreement Countries" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from Indonesia and the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act. Petitioner also demonstrates that the volume of subject imports from Indonesia is 15 percent, which exceeds the negligibility threshold provided for under section 771(24)(B) of the Act, which states

[18] Id.
[19] Id.

that in countervailing duty proceedings, imports of subject merchandise from developing countries must exceed the negligibility threshold of four percent.[20]

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; and decline in financial performance.[21] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[22]

Initiation of CVD Investigations

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. In the Petitions, Petitioner alleges that producers of MSG in Indonesia and the PRC benefitted from countervailable subsidies bestowed by their respective governments. The Department has examined the Petitions, and finds that they comply with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating CVD investigations to determine whether manufacturers, producers, or exporters of MSG from Indonesia and the PRC receive countervailable subsidies from their respective governments.

[20] See Volume I of the Petitions, at 22.
[21] Id., at 13-40 and Exhibits I-1, I-8, I-10 and I-12 through I-32; see also AD/CVD Supplement, at 2 and Exhibit SQR-1.
[22] See China CVD Initiation Checklist and Indonesia CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Monosodium Glutamate from Indonesia and the People's Republic of China.

Indonesia

Based on our examination of the Petitions, we find that there is sufficient information to initiate a CVD investigation of 10 alleged programs. For a full discussion of the basis for our decision on whether to initiate an investigation on each program, see the Indonesia CVD Initiation Checklist.

The PRC

Based on our examination of the Petitions, we find that there is sufficient information to initiate a CVD investigation of 49 alleged programs. For a full discussion of the basis for our decision on whether to initiate an investigation on each program, see the PRC CVD Initiation Checklist.

Respondent Selection

For these investigations, the Department, if necessary, intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI (i.e., January 1, 2012, through December 31, 2012) under the following Harmonized Tariff Schedule of the United States numbers: 2922.42.10.00, 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of the announcement of the initiation of these investigations. Interested parties may submit comments regarding the CBP data and respondent selection within five calendar days of release of this data. Comments on respondent selection must be filed electronically using IA ACCESS in accordance with the filing requirements, referenced above. We intend to make our decision regarding respondent selection within 20 days of the publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act, and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOI and GOC via IA ACCESS. Because of the particularly large number of producers/exporters identified in the Petitions, the Department considers the service of the public versions of the Petitions to the foreign producers/exporters to be satisfied by the provision of the public versions of the Petitions to the GOI and GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of MSG from Indonesia and the PRC are materially injuring, or threatening material injury to, a U.S. industry.[23] A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: (1) The definition of factual information (19 CFR 351.102(b)(21)), and (2) the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as

[23] See section 703(a) of the Act.

follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) – (iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to these investigations. Please review the final rule, available at http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt, prior to submitting factual information for these investigations.

Extension of Time Limits

On September 20, 2013, the Department published Extension of Time Limits, Final Rule, 78 FR 57790 (September 20, 2013), which modified one regulation related to AD and CVD proceedings regarding the extension of time limits for submissions in such proceedings (19 CFR 351.302(c)). These modifications are effective for all proceeding segments initiated on or after October 21, 2013, and thus are applicable to this investigation. Please review the final rule, available at

http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm prior to requesting an extension.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[24] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD or CVD investigations or proceedings initiated on or after August 16, 2013, including these investigations.[25] The formats for the revised certifications are provided at the end of the Final Rule. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

[24] See section 782(b) of the Act.
[25] See Certifications of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings, 78 FR 42678 (July 17, 2013) (Final Rule).

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 23, 2013.

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Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Attachment I
Scope of the Investigations

The scope of these investigations covers monosodium glutamate ("MSG"), whether or not blended or in solution with other products. Specifically, MSG that has been blended or is in solution with other product(s) is included in this scope when the resulting mix contains 15% or more of MSG by dry weight. Products with which MSG may be blended include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. Further, MSG is included in these investigations regardless of physical form (including, but not limited to, substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging.

MSG has a molecular formula of $C_5H_8NO_4Na$, a Chemical Abstract Service ("CAS") registry number of 6106-04-3, and a Unique Ingredient Identifier ("UNII") number of W81N5U6R6U.

Merchandise covered by the scope of these investigations is currently classified in the Harmonized Tariff Schedule ("HTS") of the United States at subheading 2922.42.10.00. Merchandise subject to the investigations may also enter under HTS subheadings 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. The tariff classifications, CAS registry number, and UNII number are provided for convenience and customs purposes; however, the written description of the scope is dispositive.

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