



A-570-992
Sunset Review
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January 24, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the First Expedited Sunset
Review of the Antidumping Duty Order on Monosodium
Glutamate from the People's Republic of China

I. SUMMARY

We have analyzed the substantive response of Ajinomoto Health & Nutrition North America, Inc. (the domestic interested party), in the first expedited sunset review of the antidumping duty (AD) *Order* covering monosodium glutamate (MSG) from the People's Republic of China (China).¹ We recommend that you approve the positions described in the *Discussion of the Issues* section of this memorandum. Below is the complete list of issues in this sunset review for which we received a substantive response:

1. Likelihood of the Continuation or Recurrence of Dumping; and
2. Magnitude of the Margins of Dumping Likely to Prevail

II. BACKGROUND

On October 1, 2019, the Department of Commerce (Commerce) published the *Notice of Initiation* of the first sunset review of the *Order* on MSG from China, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² Commerce received a notice of intent to participate from Ajinomoto Health & Nutrition North America, Inc. (the domestic interested

¹ See *Monosodium Glutamate from the People's Republic of China, and the Republic of Indonesia: Antidumping Duty Orders; and Monosodium Glutamate from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 70505 (November 26, 2014) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 52067 (October 1, 2019) (*Notice of Initiation*).

party), a U.S. producer and wholesaler of a domestic like product, within the deadline specified in 19 CFR 351.218(d)(1)(i).³

Commerce received a complete substantive response to the *Notice of Initiation* from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁴ Commerce did not receive comments on the adequacy of responses in this sunset review. We received no substantive responses from respondent interested parties, nor was a hearing requested. On November 22, 2019, Commerce notified the International Trade Commission (ITC) that it did not receive adequate substantive responses from respondent interested parties.⁵ As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the AD order on MSG from China.

The *Order* on MSG from China remains in effect for all producers and exporters of the subject merchandise.⁶

III. SCOPE OF THE ORDER

The product covered by this order is 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 percent 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 this order regardless of physical form (including, but not limited to, in monohydrate or anhydrous form, or as substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging. MSG in monohydrate form has a molecular formula of $C_5H_8NO_4Na \cdot H_2O$, a Chemical Abstract Service (CAS) registry number of 6106-04-3, and a Unique Ingredient Identifier (UNII) number of W81N5U6R6U. MSG in anhydrous form has a molecular formula of $C_5H_8NO_4Na$, a CAS registry number of 142-47-2, and a UNII number of C3C196L9FG. Merchandise covered by the scope of this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2922.42.10.00. Merchandise subject to the order 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 HTSUS subheadings are provided for convenience and customs purposes; however, the written description of the scope is dispositive.⁷

³ See Domestic Interested Party's Letter, "Monosodium Glutamate from China: Notice of Intent to Participate," dated October 15, 2019.

⁴ See Domestic Interested Party's Letter, "Monosodium Glutamate, First Review: Substantive Response to Notice of Initiation," dated October 31, 2019 (Domestic Interested Party Substantive Response).

⁵ See Commerce's Letter to the ITC, "Sunset Review Initiated on October 1, 2019," dated November 22, 2019.

⁶ See *Order*.

⁷ See *Monosodium Glutamate from the People's Republic of China: Second Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Order*, 80 FR 487 (January 6, 2015).

IV. HISTORY OF THE ORDER

On November 26, 2014, Commerce published the amended final affirmative determination to correct a ministerial error in the less-than-fair-value (LTFV) investigation of MSG from China as well as the antidumping duty orders for MSG from China and Indonesia in the *Federal Register*, which established the following estimated weighted-average dumping margins:⁸

Exporter	Producer	Weighted-Average Dumping Margin (percent)
Langfang Meihua Bio-Technology Co., Ltd./Meihua Group International Trading (Hong Kong) Limited (collectively, Meihua)	Tongliao Meihua Biological SCI-TECH Co., Ltd./ Meihua Holdings Group Co., Ltd., Bazhou Branch	20.09
Fujian Province Jianyang Wuyi MSG Co., Ltd.	Fujian Province Jianyang Wuyi MSG Co., Ltd.	20.09
Neimenggu Fufeng Biotechnologies Co., Ltd.	Neimenggu Fufeng Biotechnologies Co., Ltd.	20.09
Baoji Fufeng Biotechnologies Co., Ltd.	Baoji Fufeng Biotechnologies Co., Ltd.	20.09
China-wide Entity		39.03

On January 6, 2015, Commerce determined there was a second ministerial error and published the second amended final affirmative determination and amended antidumping duty order.⁹ This error affected Meihua's rate, the separate rate, and the China-wide entity rate.

Exporter	Producer	Weighted-Average Dumping Margin (percent)
Langfang Meihua Bio-Technology Co., Ltd./Meihua Group International Trading (Hong Kong) Limited	Tongliao Meihua Biological SCI-TECH Co., Ltd./ Meihua Holdings Group Co., Ltd., Bazhou Branch	21.28
Fujian Province Jianyang Wuyi MSG Co., Ltd.	Fujian Province Jianyang Wuyi MSG Co., Ltd.	21.28
Neimenggu Fufeng Biotechnologies Co., Ltd.	Neimenggu Fufeng Biotechnologies Co., Ltd.	21.28
Baoji Fufeng Biotechnologies Co., Ltd.	Baoji Fufeng Biotechnologies Co., Ltd.	21.28
China-wide Entity		40.41

⁸ See Order.

⁹ See *Monosodium Glutamate from the People's Republic of China: Second Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order*, 80 FR 487 (January 6, 2015) (*Second Amended Final Determination of Sales at LTFV*).

On December 15, 2017, Commerce issued a Final Remand Redetermination, which revised the estimated weighted-average dumping margin for Meihua from 21.28 percent to 34.15 percent.¹⁰

Administrative Reviews

Since the publication of the *Order*, Commerce has completed three administrative reviews for the following periods of review: 2014-2015, 2015-2016, and 2016-2017. There is also an administrative review ongoing for the 2017-2018 period.

In the 2014-2015 administrative review, we found that the 38 companies subject to the review, including Meihua and the four producer/exporter combinations that received separate rates in the LFTV, were part of the China-wide entity because none of these companies filed a separate rate application (SRA) or a separate rate certification (SRC) in order to establish their separate status. The weighted-average dumping margin and the cash deposit rate applicable to the China-wide entity was 40.41 percent.¹¹ In the 2015-2016 and the 2016-2017 administrative reviews, we found each of the 27 companies subject to each review to be part of the China-wide entity as none of these companies filed an SRA or an SRC to establish its separate rate status. As in the 2014-15 administrative review, the weighted-average dumping margin and cash deposit rate applicable to the China-wide entity was 40.41 percent.¹² The 2017-18 administrative review is currently ongoing; in the preliminary results, Commerce found that none of the 28 companies subject to the review qualified for a separate rate.¹³ The weighted-average dumping margin and cash deposit rate applicable to the China-wide entity is 40.41 percent.¹⁴

Anti-Circumvention Inquiries, Section 129 Proceedings, Scope Inquiries, Duty Absorption or Changed Circumstance Reviews

There have been no anti-circumvention inquiries, section 129 proceedings, scope inquiries, duty absorption findings, or changed circumstance reviews since the issuance of the *Order*.

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce is conducting this sunset review to determine whether revocation of the *Order* would be likely to lead to a continuation or

¹⁰ See *Monosodium Glutamate from the People's Republic of China: Notice of Court Decision Not in Harmony with Second Amended Final Determination in Less Than Fair Value Investigation and Notice of Third Amended Final Determination*, 82 FR 59582 (December 15, 2017).

¹¹ See *Monosodium Glutamate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 81 FR 89062 (December 9, 2016) (*MSG 2014-2015 Final Results*).

¹² See *Monosodium Glutamate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 57949 (December 8, 2017); *Monosodium Glutamate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 81 FR 89062 (December 13, 2018) (*MSG 2016-2017 Final Results*).

¹³ See *Monosodium Glutamate from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018*, 84 FR 45724 (August 30, 2019).

¹⁴ See *MSG 2016-2017 Final Results*.

recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, Commerce shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and after the issuance of the *Order*.¹⁵

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action,¹⁶ the House Report,¹⁷ and the Senate Report,¹⁸ Commerce's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.¹⁹ In addition, Commerce normally determines that revocation of an AD order is likely to lead to the continuation or recurrence of dumping when, among other scenarios: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.²⁰

In addition, as a base period of import volume comparison, it is Commerce's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew the comparison.²¹ When analyzing import volumes for second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding the initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.²²

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the *Order* were revoked. Generally, Commerce selects the estimated weighted-average dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.²³ However, in certain circumstances, a more recently calculated rate may be more appropriate (*e.g.*, "if dumping margins have declined over the life of an order and imports have remained steady or increased,

¹⁵ See *Order*.

¹⁶ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA).

¹⁷ See H. Rep. No. 103-826, pt. 1 (1994), reprinted in 1994 U.S.C.C.A.N. 3773 (1994) (House Report).

¹⁸ See S. Rep. No. 103-412 (1994) (Senate Report).

¹⁹ See SAA at 879; and House Report at 56.

²⁰ See SAA at 889-90; House Report at 63-64; and Senate Report at 52; see also *Policies Regarding the Conduct of Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin 98.3*, 63 FR 18871, 18872 (April 16, 1998).

²¹ See, *e.g.*, *Stainless Steel Bar from Germany*; *Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

²² See *Ferrovandium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM at 3.

²³ See SAA at 890; see also *Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008) (*Persulfates Second Sunset Review*), and accompanying IDM at Comment 2.

{Commerce} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review”).²⁴

In February 2012, Commerce announced it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be WTO-inconsistent (*i.e.*, zeroing/the denial of offsets).²⁵ However, Commerce explained that it “retain{s} the discretion, on a case-by-case basis, to apply an alternative methodology, when appropriate” in both investigations and administrative reviews pursuant to section 777A(d)(1)(B) of the Act.²⁶ In the *Final Modification for Reviews*, Commerce stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.²⁷ Commerce further stated that apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”²⁸

Pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.²⁹

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Party’s Comments

- Commerce should find that continuing the *Order* is warranted because Chinese exporters have continued to dump at non-*de minimis* levels since the issuance of the *Order*.³⁰
- Import volumes of subject merchandise have decreased significantly since the *Order* was issued.³¹

²⁴ See SAA at 890-91.

²⁵ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

²⁶ *Id.* at 8102, 8105, and 8109.

²⁷ *Id.* at 8103.

²⁸ *Id.*

²⁹ See *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying IDM at Comment 1.

³⁰ See Domestic Interested Party Substantive Response at 8.

³¹ *Id.* at 9 and Exhibit 1, which shows that between 2014 and 2018, the sunset review period, the total annual quantity of U.S. imports of MSG (*i.e.*, HTSUS subheading 2922.42.10.00) from China have ranged from a low of

- The significant drop in imports clearly indicates that Chinese exporters could not continue to ship significant quantities of MSG under the discipline of the *Order*.³² Given the dramatic decline in imports, the continued implementation of the *Order* is warranted.

No other comments were received from interested parties.

Commerce Position: As explained in the “Legal Framework” section, when determining whether revocation of the *Order* would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct Commerce to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the *Order*. According to the SAA, existence of dumping margins after the order “is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.”³³ In addition, “declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.”³⁴

Alternatively, the legislative history provides that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping is less likely to continue or recur if the order were revoked.³⁵

Non-*de minimis* dumping margins have remained in effect for all companies for the five-year period since the imposition of the *Order*. Moreover, in the 2014-2015 administrative review, the following companies lost their separate rate status: Meihua; Fujian Province Jianyang Wuyi MSG Co., Ltd.; Neimenggu Fufeng Biotechnologies Co., Ltd.; and Baoji Fufeng Biotechnologies Co., Ltd. Since that time, all entries from these companies have been subject to the assessment of antidumping duties as part of the China-wide entity, which remains at an *ad valorem* rate of 40.41 percent.³⁶

Additionally, we examined the import statistics for the calendar year preceding the initiation of the LTFV investigation and for the five-year period since the imposition of the *Order*, which show that imports of MSG from China remain significantly lower during the sunset period of review than in the calendar year before initiation of the original investigation. Specifically,

811,867 kilograms (2018) to a high of 8,269,666 kilograms (2014). This is far below the total quantity of U.S. imports of MSG from China in the year prior to the initiation of the LTFV investigation, 25,938,095 kilograms.

³² *Id.* at 10.

³³ See SAA at 890.

³⁴ *Id.* at 889; House Report at 63; and Senate Report at 52.

³⁵ See SAA at 889-90; House Report at 63; and Senate Report at 52.

³⁶ See *MSG 2014-2015 Final Results*.

imports of MSG declined from 40,817,238 kilograms in 2012 prior to the initiation of the investigation to a low of 11,021,409 kilograms in 2016 after the imposition of the *Order*.³⁷

Therefore, pursuant to section 752(c)(1) of the Act, because non-*de minimis* dumping margins have continued after the issuance of the *Order*, and Commerce has found dramatically lower import volumes in the period since the imposition of the *Order*, we find that dumping would be likely to continue or recur if the *Order* were revoked.

2. Magnitude of the Margins of Dumping Likely to Prevail

Domestic Interested Party's Comments

- As the weighted-average dumping margins calculated during the investigation did not employ zeroing, Commerce should treat these rates as the magnitude of dumping likely to prevail if the *Order* were revoked.³⁸

Commerce Position: Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margins of dumping that are likely to prevail if the *Order* were revoked. Commerce's preference is to select an estimated weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and exporters of the subject merchandise without the discipline of an order or suspension agreement in place.³⁹ Finally, as explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that were calculated using the methodology found to be WTO-inconsistent.⁴⁰

Because dumping continued following the issuance of the *Order* and given the absence of arguments or evidence to the contrary, Commerce finds that the estimated weighted-average dumping margins calculated in the LTFV investigation are probative of the behavior of producers and exporters of subject merchandise from China if the *Order* were revoked. These rates were not affected by the denial of offsets for non-dumped U.S. sales, in accordance with the *Final Modification for Investigations* because the *Second Amended Final Determination of Sales at LTFV* occurred after Commerce ended the practice of zeroing when making average-to-average comparisons in investigations.⁴¹ Consistent with section 752(c) of the Act, Commerce will report to the ITC the margins of dumping likely to prevail up to the highest rate from the investigation concerning subject merchandise from China as indicated in the "Final Result of Sunset Review" section of this memorandum. As explained above, these weighted-average dumping margins did not involve zeroing.

³⁷ See Attachment, which shows the quantity of U.S. imports of MSG from China during this sunset review period (2014-2018), which range from a low of 11,021,409 kilograms in 2016 to a high of 20,621,808 kilograms in 2014. The quantity of U.S. imports in 2012, the year before the investigation, was 40,817,238 kilograms. We included import data for all six HTSUS subheadings included in the scope of the Order and not just for a single HTSUS subheading 2922.42.10.00 as reported in the Domestic Interested Party Substantive Response.

³⁸ See Domestic Interested Party Substantive Response at 11.

³⁹ See SAA at 890; see also *Persulfates Second Sunset Review* IDM at Comment 2.

⁴⁰ See *Final Modification for Reviews*, 77 FR at 8103.

⁴¹ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722, (December 26, 2006) (*Final Modification for Investigations*).

VII. FINAL RESULTS OF SUNSET REVIEW

We determine that revocation of the *Order* on MSG from China would likely lead to the continuation or recurrence of dumping, and that the magnitude of the margins of dumping likely to prevail would be up to 40.41 percent.

VIII. RECOMMENDATION

Based on our analysis of the response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this sunset review in the *Federal Register*.

Agree

Disagree

1/24/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler

Assistant Secretary

for Enforcement and Compliance

ATTACHMENT

Imports of MSG from China in Kilograms*

2012	2013	2014	2015	2016	2017	2018
40,817,238	39,528,698	20,621,608	12,478,017	11,021,409	11,552,735	13,728,130

* Source -- USITC's Dataweb (dataweb.usitc.gov)