COMMISSION REGULATION (EC) No 492/2008

of 3 June 2008

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 5 September 2007, the Commission announced, by a notice (notice of initiation) published in the *Official Journal of the European Union* [2], the initiation of an anti-dumping proceeding with regard to imports into the Community of monosodium glutamate (MSG) originating in the People's Republic of China (PRC or country concerned).

(2) The proceeding was initiated as a result of a complaint lodged on 23 July 2007 by Ajinomoto Foods Europe SAS representing 100 % of the total Community production of MSG. The complaint contained prima facie evidence of dumping of the said product and of material injury suffered by the sole Community producer resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

1.2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, the exporting producers, importers, suppliers and users known to be concerned, and representatives of the countries concerned of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

(4) The complainant, exporting producers, importers, supplier associations and users made their views known. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(5) In the notice of initiation, the Commission indicated that in view of the apparent large number of exporting producers in the PRC and importers in the Community, sampling may be applied in this investigation. However, given the lower than expected number of exporting producers in the PRC and importers in the Community which indicated their willingness to cooperate, it was decided that sampling was not necessary.

(6) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the exporting producers known to be concerned and the authorities of the PRC.

(7) The Commission sent questionnaires to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation, namely to the sole Community producer, 22 importers and 27 users of the product concerned as well as two raw materials suppliers.

(8) Replies were received from the complainant Community producer, three unrelated importers, four users, and two suppliers.

(9) With regard to the country concerned by this investigation, the Commission received replies from three exporting producers in the PRC.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).
[2] OJ C 206, 5.9.2007, p. 20.

(10) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:

(a) *Producer located in the Community*

— Ajinomoto Foods Europe SAS, Nesle, France and its related trader Ajinomoto Foods Deutschland, Hamburg, Germany.

(b) *Community user*

One user requested in terms of Article 19 of the basic Regulation that their details are not published, as to do so would have a significantly adverse effect upon them. The request was found to be sufficiently substantiated and therefore granted.

— Nestlé, Vevey, Switzerland,

— Unilever, Neuhausen, Switzerland.

(c) *Importers in the Community*

— Omya Peralta GmbH, Hamburg, Germany,

— Helm AG, Hamburg, Germany,

— Standard Sp. z o.o., Lublin, Poland.

(d) *Exporting producers and related companies in the PRC*

1. Meihua Group

— Hebei Meihua MSG Group Co., Ltd, Bazhou, Hebei,

— Tongliao Meihua Bio-Tech Co., Ltd, Tongliao, Neimenggu, Inner Mongolia,

— Tongliao Jianlong Hyperacidity Co., Ltd, Tongliao, Neimenggu, Inner Mongolia,

— Langfang Jianlong Hyperacidity, Bazhou, Hebei;

2. LingHua Group,

— Shandong Linghua MSG Incorporated Company, Jining, Shandog. Verification visits scheduled for other two companies of the group,

— Shangong Lingwei Seasoning Co., Ltd., Jining, Shandog, and

— Jining Jusheng Gourmet Powder Food Co., Ltd., Jining, Shandog had to be abandoned for the reasons explained in recitals 15 to 18;

3. Fujian Province Jianyang Wuyi MSG Co., Ltd., Jianyang, Fujian.

(e) *Producer in the analogue country*

— Ajinomoto Co., (Thailand) Ltd, Bangkok, Thailand.

1.3. **Investigation period**

(11) The investigation of dumping and injury covered the period from 1 July 2006 to 30 June 2007 (IP). The examination of trends relevant for the assessment of injury covered the period from April 2004 to the end of the IP (period considered).

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(12) MSG exported to the Community and originating in the PRC (the product concerned) is a food additive and is mainly used as a flavour enhancer in soups, broths, fish and meat dishes and ready-made foods. It is also used in the personal care cosmetics industry. It is normally declared within CN code ex 2922 42 00.

(13) MSG is available in various packing sizes, ranging from consumer packs of 0,5 gram to 1 000 kg bulk bags. Smaller packing sizes are sold via retailers to private consumers, while the larger sizes of 20 kg and more are destined for industrial users. In addition, different purity grades exist. However, there are no differences in the characteristics of monosodium glutamate packed in the various sizes nor for different purity grades.

2.2. **Like product**

(14) No differences were found between the product concerned and the MSG produced by the Community industry and sold on the Community market. The PRC is an economy in transition and as mentioned in recitals 30 to 33 normal value had to be established on the basis of information obtained in a market economy third country. According to the information available, MSG produced and sold on the market economy third country, has the same basic physical and chemical characteristics as MSG produced in the PRC and exported to the Community. It is therefore provisionally concluded that all types of MSG are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Application of Article 18 of the basic Regulation

(15) In the case of one exporting producer it was found, during the first day of the on-the-spot verification, that it had submitted falsified information relating to its export sales which were considered as false and misleading information in the sense of Article 18(1) of the basic Regulation.

(16) In view of this finding, the verification was ceased and the company was informed that pursuant to Article 18 of the basic Regulation, it was envisaged to base the findings (provisional or definitive, affirmative or negative) on facts available and was given an opportunity to comment.

(17) The company in its response did not contest the findings of the investigation concerning the falsification of documents and did not raise any objection regarding application of Article 18 of the basic Regulation.

(18) Under these circumstances, the information provided by this exporting producer was disregarded and facts available were used.

3.2. Market economy treatment (MET)

(19) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those exporting producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation, i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the like product. Briefly, and for ease of reference only, these criteria are set out in a summarised form below:

1. business decisions and costs are made in response to market conditions, and without significant State interference;

2. firms have one clear set of basic accounting records which are independently audited, in line with International Accounting Standards (IAS) and applied for all purposes;

3. there are no significant distortions carried over from the former non-market economy system;

4. legal certainty and stability is provided by bankruptcy and property laws;

5. currency exchanges are carried out at the market rate.

(20) Three Chinese exporting producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines.

(21) For one Chinese exporting producer Article 18 of the basic Regulation had to be applied (see recitals 15 to 18).

(22) The verification established that the remaining two Chinese exporting producers did not meet all five MET criteria.

(23) The verification established that one Chinese exporting producer (Meihua Group constituted of five companies) could not show that it met criteria 2 and 3 mentioned above. Firstly, Meihua Group failed to present audited consolidated financial statements, in line with IAS 27, in its MET claim or during the verification visit. The investigation showed that, as there were many transactions within the Group, only audited consolidated financial statements, whereby all intra-Group balances, transactions, income, and expenses are eliminated in full, would allow obtaining a clear picture about the Group. Meihua Group only provided audited consolidated financial statements well after the verification visit which did not allow the Commission to perform any verification of the information contained in these accounts nor to obtain a clear picture about the financial situation of the Group. Moreover, it was found that the accounts of the individual companies were not in compliance with IAS 1 and IAS 18, as the mother company was offsetting revenues and expenses and that this offsetting was of material nature. In view of these breaches of IAS and the fact that they were not even mentioned in the audit reports, it is considered that Meihua Group did not demonstrate that its records were audited in line with the said standards (criterion 2).

(24) Secondly, on the basis of the individual accounts of the companies of the Group verified during the verification visit and on the basis of the unverified information mentioned above, significant distortions in the financial situation of the companies and of the Group were detected. Significant amounts of interest-free borrowings were found to exist. This resulted in a significant amount of negative working capital and in potential high financial costs not reflected in the records of the individual companies or the Group (criterion 3).

(25) The second company, Fujian Province Jianyang Wuyi MSG Co., Ltd, could not show that it met criteria 1 to 3. Firstly, its decisions were not made in response to market signals and without significant State interference, notably because the State was over-represented in its Board and because the company had certain dubious, yet significant in amount, transactions with State-owned enterprises (loan with the State with interest twice above the market rate, advances to State-owned enterprises without any justification) (criterion 1). Secondly, it did not substantiate that it had one clear set of basic accounting records which were prepared and audited in compliance with IAS, because the accounts were found not to be in compliance with IAS 1 and IAS 18 as the company was offsetting (i) accounts payable with accounts receivable and (ii) revenues and expenses. Both types of offsetting which were of material nature reduced in this way the ability to understand the transactions, other events and conditions that have taken place in the activity of the company. As these breaches of IAS were not mentioned in the audit report, the company did not demonstrate that its records were audited in line with the said standards (criterion 2). Finally, distortions carried over from the non-market economy system were observed in the form of inappropriate asset and land-use right evaluations (criterion 3).

(26) Consequently, it was concluded that no Chinese exporting producer demonstrated that it fulfilled the conditions set out in Article 2(7)(c) of the basic Regulation.

3.3. **Individual treatment (IT)**

(27) Pursuant to Article 2(7)(a) of the basic Regulation, a countrywide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation and are therefore granted individual treatment.

(28) The exporting producers which did not meet the MET criteria had also claimed IT in the event that they were not granted MET.

(29) On the basis of information available, it was found that two Chinese exporting producers meet all the requirements for IT as set forth in Article 9(5) of the basic Regulation.

3.4. **Normal value**

3.4.1. *Analogue country*

(30) According to Article 2(7)(a) of the basic Regulation, in economies in transition normal value for exporting producers not granted MET has to be established on the basis of the price or constructed value in a market economy third country (analogue country).

(31) In the notice of initiation Thailand was proposed as an appropriate analogue country for the purpose of establishing normal value for the PRC. The Commission invited all interested parties to comment on this proposal.

(32) Only one interested party submitted comments proposing as alternative analogue countries Brazil or Indonesia. The Commission contacted known companies in Brazil and Indonesia. However, no questionnaire replies or any meaningful comments were received from producers in Brazil or Indonesia.

(33) Moreover, Thailand is worldwide one of the biggest MSG producers with a competitive market and the major MSG producer in Thailand fully co-operated. Thailand met the criteria for an appropriate analogue country as there is competition in the Thai market, the quantities sold on the Thai market are sufficient and both the Chinese and the Thai markets are comparable in terms of product range and production process.

(34) In view of the above, it was therefore provisionally concluded that Thailand constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

3.4.2. *Methodology applied for the determination of normal value*

(35) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the PRC was established on the basis of verified information received from the co-operating producer in the analogue country, i.e. on the basis of prices paid or payable on the domestic market of Thailand for comparable product types, since these were found to be made in the ordinary course of trade. Regarding the product types, it is noted that essentially only one product type was exported from the PRC during the IP, i.e. MSG with purity above or equal to 99 % and this was directly comparable with the product sold by the analogue country producer on its domestic market. The investigation showed certain differences in the production process between the Thai and the Chinese manufacturers, in that the latter use different equipment that require less use of electricity energy. The

Thai domestic selling prices were therefore adjusted downwards by an amount which reflects these differences.

3.5. **Export Price**

(36) All cooperating Chinese exporting producers made export sales to the Community either directly to independent customers in the Community or through unrelated companies located in the PRC and Taiwan. Therefore, the export prices were established on the basis of the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.

(37) With regard to all other Chinese exporters, the Commission first established the level of cooperation. A comparison was made between the total export quantities indicated in the questionnaire replies of the two cooperating exporting producers and total dumped imports from the PRC as derived from the Eurostat import statistics. The percentage of cooperation found was 74 %. On this basis, the level of cooperation was deemed to be low. As a consequence, export prices were provisionally established on the basis of the transactions with the highest dumping margin made by one of the two cooperating Chinese exporting producers that were granted IT in accordance with Article 18(1) of the basic Regulation.

3.6. **Comparison**

(38) The comparison between normal value and export price was made on an ex-works basis.

(39) For the purpose of ensuring a fair comparison between the normal value and the 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. For all investigated companies (cooperating exporting producers and the producer in the analogue country) allowances for differences in transport costs, ocean freight and insurance costs, handling, loading and ancillary costs, packing costs, credit costs and commissions have been granted where applicable and justified.

3.7. **Dumping margins**

3.7.1. *For the cooperating producers granted IT*

(40) For those companies granted IT, the weighted average normal value was compared with the weighted average export price as provided for in Article 2(11) and (12) of the basic Regulation.

(41) On this basis, the provisional weighted average dumping margins expressed as a percentage of the cif Community frontier price, duty unpaid, are:

Company	Provisional dumping margin
Hebei Meihua MSG Group Co., Ltd, and Tongliao Meihua Bio-Tech Co., Ltd	33,8 %
Fujian Province Jianyang Wuyi MSG Co., Ltd	36,5 %

3.7.2. *For all other exporting producers*

(42) The countrywide dumping margin was calculated on the basis of a comparison between the export price as set out in recital (36) and the normal value as set out in recital (35).

(43) On this basis, the country-wide level of dumping was provisionally established at 39,7 % of the cif Community frontier price, duty unpaid.

4. **INJURY**

4.1. **Definition of the Community industry**

(44) The sole cooperating Community producer accounted for 100 % of the Community production of MSG during the IP. It is therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

(45) As the Community industry is thus constituted of only one producer, all figures related to sensitive data had to be indexed or given in a range for reasons of confidentiality. Bracketed figures relate to negative figures.

(46) Since the Community producer uses a fiscal year from 1 April to 31 March of the following year, all the data below are presented for fiscal years (FY) rather than for calendar years (e.g. FY2005 covers the period from 1 April 2004 to 31 March 2005). The data concerning imports are presented on the same comparable basis.

4.2. **Community consumption**

(47) Community consumption was established on the basis of sales volumes of the Community industry on the Community market plus imports from the PRC and other third countries, based on Eurostat. Community consumption of MSG increased between FY2005 and FY2006 before continually decreasing in FY2007 and the IP. Overall, consumption decreased by 4 % during the period considered.

Table 1

	FY2005	FY2006	FY2007	IP
Community consumption (tonnes)				
Index	*100*	*107*	*98*	*96*

4.3. **Imports into the Community from the PRC**

4.3.1. *Volume and market share*

(48) Import volumes from the PRC increased significantly from 4 701 tonnes in FY2005 to 34 613 tonnes in the IP, i.e. by 636 % over the period considered.

(49) The corresponding market share was in the range of 3 % to 7 % in FY2005 and increased to in the range of 38 % to 43 % over the period considered, despite the decrease in consumption.

Table 2

	FY2005	FY2006	FY2007	IP
Imports from PRC (tonnes)	4 701	11 376	34 254	34 613
Index	*100*	*242*	*729*	*736*
Market share PRC				
Index	*100*	*226*	*745*	*768*

Source: Imports quantities from Eurostat.

4.3.2. *Unit selling price*

(50) Average prices for imports from China fluctuated during the period considered and overall showed a slight decrease of 2 %.

Table 3

	FY2005	FY2006	FY2007	IP
Prices of imports from PRC (EUR/tonne)	790	818	785	773
Index	*100*	*104*	*99*	*98*

Source: Import prices from Eurostat.

4.3.3. *Price undercutting*

(51) For the purposes of analysing price undercutting, the weighted average sales prices per product type of the Community industry to unrelated customers on the Community market, adjusted to an ex-works level, were compared to the corresponding weighted average prices of the imports concerned, established on a cif basis with an appropriate adjustment for the customs duties and post-importation costs. The comparison was made after deduction of rebates and discounts.

(52) Based on the above methodology, the difference between the prices, expressed as a percentage of the Community industry's weighted average price (ex-works), i.e. the price undercutting margin, ranged from 21 % to 24 %.

4.4. **Economic situation of the Community industry**

(53) The trends of all economic factors mentioned in Article 3(5) of the basic Regulation were examined to establish the economic situation of the Community industry during the period considered.

4.4.1. *Production capacity, production and capacity utilisation*

(54) The production capacity increased by 5 % in FY2006 followed by a further increase of three percentage points in FY2007 before remaining stable in the IP. The increases in the production capacity resulted from new investments as explained in recital 60 below.

(55) Production of MSG by the Community industry decreased continually to show an overall decrease of 6 % in the period considered. The production figures for FY2007 and the IP reflects the fact that the Community industry had to stop the production for one month in 2006.

(56) As a result of the decrease in production volumes, the capacity utilisation decreased by 14 % over the period considered.

Table 4

	FY2005	FY2006	FY2007	IP
Production capacity				
Index	*100*	*105*	*108*	*108*
Production				
Index	*100*	*99*	*93*	*94*
Capacity utilisation				
Index	*100*	*95*	*86*	*86*

Source: Questionnaire reply.

4.4.2. *Sales volume, market share and average unit prices in the Community*

(57) Sales of MSG by the Community industry to independent customers on the Community market increased slightly in FY2006 before showing a massive decrease in FY2007 of 25 percentage points. Over the period considered, the decrease in sales was 24 %. This huge drop in sales volumes led to a significant decrease in market share by a total of 12,5 percentage points over the period considered (from 58,6 % market share in FY2005 to 46,1 % in the IP).

(58) Average sales prices to unrelated customers in the Community market increased by 19 % over the period considered. The increase was even sharper in the FY2007 (+ 23 %) but then a slight decrease in prices took place in the last three months of the IP. The increase in prices was necessary to cover the increase of costs of raw materials and other inputs. Despite the fact that the Community industry managed to actually increase its efficiencies in the production of MSG, sales prices could not cover the cost of production during the IP.

Table 5

	FY2005	FY2006	FY2007	IP
Sales volumes				
Index	*100*	*101*	*76*	*76*
Market share				
Index	*100*	*94*	*77*	*79*
Average prices				
Index	*100*	*106*	*123*	*119*

Source: Questionnaire reply.

4.4.3. *Stocks*

(59) During the period considered stocks increased by 52 %. This growth in inventories took place in the second half of the period considered and coincided with the big decrease in sales starting as from FY2007. At the end of the IP, the level of stocks remained at a high level.

Table 6

	FY2005	FY2006	FY2007	IP
Stocks				
Index	*100*	*101*	*153*	*152*

Source: Questionnaire reply.

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

(60) The sales of the Community industry of the like product in the Community market were not profitable during the period considered. At the beginning of this period this situation had to be seen against the background of the acquisition of Orsan SA by Ajinomoto Foods Europe (AFE), and the restructuring that took place at that time. Indeed, Orsan SA had been in a poor financial situation up to 2003 and AFE proceeded to conduct an in-depth restructuring to reduce costs and improve efficiency with specific investments in 2004 and 2005. These investments aimed at increasing the production capacity, developing a new line of products and increasing energy efficiency. The Group to which the Community industry now belongs also transferred know-how including new and better performing bacteria strains for the fermentation process necessary for the production of MSG in the Community.

(61) Although investments continued also in 2006 and 2007, the Community industry managed to reduce its losses in particular during the IP due to the increased selling prices but also to better efficiency in the raw material and energy use. However, further upward movement in prices was not possible. Chinese exporters were more and more present and rapidly penetrated the Community market. As a result, the Community industry still experienced significant losses on its sales on the Community market during the IP.

(62) The return on investment from the production and sale of the like product was negative throughout the period considered, reflecting the above mentioned negative trend in profitability.

(63) As with the other financial indicators, the cash flow generated by the MSG produced and sold in the EU was negative throughout the period considered.

(64) Apart from the financial losses, there were no indications that the Community industry, being a part of the Ajinomoto Group, encountered other problems to raise capital for its activities.

Table 7

	FY2005	FY2006	FY2007	IP
Profitability				
Index	*(100)*	*(103)*	*(66)*	*(75)*
Investments				
Index	*100*	*211*	*65*	*51*
Return on investments				
Index	*(100)*	*(92)*	*(63)*	*(67)*
Cash flow				
Index	*(100)*	*(102)*	*(59)*	*(83)*

Source: Questionnaire reply.

4.4.5. *Employment, productivity and wages*

(65) Employment in the Community industry decreased by 9 % in the period considered. Wages initially increased by 6 % in FY2006 compared to FY2005. However, in FY2007 and in the IP, wages dropped back to the level in FY2005.

(66) Productivity increased by 3 % in FY2006, followed by a slight decrease in FY 2007. In the IP productivity increased again to the same level as FY2006.

Table 8

	FY2005	FY2006	FY2007	IP
Employment				
Index	*100*	*95*	*92*	*91*
Wages				
Index	*100*	*106*	*100*	*100*
Productivity				
Index	*100*	*103*	*101*	*103*

Source: Questionnaire reply.

4.4.6. *Growth*

(67) While Community consumption decreased by 4 % over the period considered, the sales volume of the Community industry decreased by 24 %. This led to the loss of market share by the Community industry during the period considered of 12,5 percentage points.

4.4.7. *Magnitude of the actual margin of dumping and recovery from past dumping*

(68) The dumping margins for exporters in the PRC are specified above in the dumping section and are significantly above *de minimis*. Furthermore, given the volumes and the prices of the dumped imports, the impact of the actual margin of dumping cannot be considered to be negligible.

(69) There is no indication that the Community industry is recovering from the effects of past dumping. It is noted that imports of MSG have not been subject to measures since 2003.

4.5. **Conclusion on injury**

(70) Most injury indicators pertaining to the Community industry developed negatively during the period considered. Production and capacity utilisation fell by 6 % and 14 %, respectively. While consumption on the Community market decreased by 4 %, the sales volumes of the Community industry fell significantly more, i.e. by 24 %, leading to a loss in market share of 12,5 percentage points. Other injury indicators such as stocks and employment, also developed negatively during the period considered.

(71) The investigation showed that low priced Chinese imports were undercutting Community industry prices by up to 24 % during the IP. The selling prices of the Community industry increased during the period considered by 19 %, due to cost increases, but the consequence of this was a decrease in sales volumes and a drop in market share. Hence, the other financial injury indicators, including return on investments, cash flow and profitability also developed negatively during the period considered.

(72) In the light of the foregoing, it can be concluded that the Community industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSALITY

5.1. **Introduction**

(73) In accordance with Article 3(6) and Article 3(7) of the basic Regulation, the Commission has examined whether the dumped imports of MSG originating in the PRC have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

5.2. **Effect of the dumped imports**

(74) Over the period considered, low priced dumped imports from the PRC in terms of volume increased more than seven times, which resulted in an increase of Community market share by Chinese MSG from in the range of 3 % to 7 % in FY2005 to in the range of 38 % to 43 % in the IP. At the same time, Chinese exporters were the only players on the market who decreased their selling prices. Available information indicates that both the Community producer and exporters from other third countries increased their prices following growing costs of production (mainly increases in prices of raw material and energy).

(75) This increase in imports from the PRC coincided with the deterioration of the situation of the Community industry. In FY2006 the import volumes from the PRC increased by 142 % while the Community sales volume increased by 1 %. In FY2007 the import volume from the PRC increased by a further 201 % and sales prices decreased by 4 % while the Community sales volume decreased by 25 percentage points. As a result, the Community industry suffered a decrease in its sales volumes on the Community market and a resulting loss of market share of 12,5 percentage points during the IP. Price suppression by the dumped Chinese imports did not allow the Community industry to raise its sales prices to the level which would eliminate the losses and further improve its financial situation.

(76) Based on the above, it is provisionally 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, which is reflected in its poor financial situation and in the deterioration of other injury indicators during the IP, as well as in loss of market share.

5.3. **Effect of other factors**

5.3.1. *Imports from other third countries*

(77) The imports from third countries not concerned by this investigation decreased by 65 % in the period considered resulting in a market share drop from in the range of 35 % to 40 % in FY2005 to in the range of 10 % to 15 % in the IP. The prices of these imports increased by 20 % during the period considered which follows the trend of the Community industry's price development.

(78) The trends in import volumes and prices from other third countries between FY2005 and IP were as follows:

Table 9

Other third country	FY2005	FY2006	FY2007	IP
Total imports (tonnes)	31 910	30 926	13 080	11 225
Index	*100*	*97*	*41*	*35*

Source: Eurostat.

Other third countries	FY2005	FY2006	FY2007	IP
Average price all imports (EUR/tonne)	789	831	976	945
Index	*100*	*105*	*124*	*120*

Source: Eurostat.

(79) On the basis of the above, it was provisionally concluded that imports from other third countries did not break the causal link between the dumping found and the material injury caused by the dumped imports from the PRC to the Community industry.

5.3.2. *Development of demand*

(80) As to the development of demand, the Community consumption of MSG decreased between FY2005 and IP. This decrease, however, was not significant (– 4 %) and cannot explain the decrease in Community industry sales volume on the Community market which fell by 24 %. It has to be emphasised that, during the period considered, the Community industry lost 12,5 percentage points of its market share and these sales were replaced by dumped imports originating in the PRC. Therefore, the material injury suffered by the Community industry cannot be attributed to a contraction in demand on the Community market.

5.3.3. *Export performance and productivity of the Community industry*

(81) Contrary to the claims of some interested parties according to which the poor export performance of the Community industry might be the cause of the injury suffered, it should be noted that export sales increased by more than 50 % during the period considered. The claim has therefore to be rejected.

(82) As to the productivity factor it should be noted that, during the period considered, the Community industry was able to reduce its fixed costs and labour costs and increased productivity per employee.

(83) In view of the above, neither the export performance nor any alleged decrease in productivity of the Community industry has contributed to the deterioration of its situation in the IP.

5.3.4. *Currency fluctuations*

(84) Some interested parties have claimed that the depreciation of the USD against the euro has favoured imports of MSG into the European Community. It was indeed found that the vast majority of import transactions from the PRC into the European Community are invoiced in USD.

(85) It is recalled that the investigation has to establish whether the dumped imports (in terms of prices and volume) have caused material injury to the Community industry or whether such material injury was due to other factors. In this respect, Article 3(6) of the basic Regulation states that it is necessary to show that the price level of the dumped imports cause injury. It therefore merely refers to a difference between price levels, and there is thus no requirement to analyse the factors affecting the level of those prices.

(86) In practice, the effect of the dumped imports on the Community industry's prices is essentially examined by establishing price undercutting, price depression and price suppression. For this purpose, the dumped export prices and the Community industry's sales prices are compared, and export prices used for the injury calculations may need in certain cases to be converted into another currency in order to have a comparable basis. Consequently, the use of exchange rates in this context only ensures that the price difference is established on a comparable basis. From this, it becomes obvious that the exchange rate cannot in principle be another factor of injury.

(87) The above is also confirmed by the wording of Article 3(7) of the basic Regulation, which refers to known factors other than dumped imports. The list of the other known factors in this Article does not make reference to any factor affecting the price level of the dumped imports. To summarise, if the imports are dumped, and even if they benefited from a favourable development of exchange rates, it is not considered that the development of such exchange rate could be another factor causing injury.

(88) Thus, the analysis of the factors affecting the level of the prices of the dumped imports, such as the exchange rate fluctuations, cannot be conclusive and such analysis would go beyond the requirements of the basic Regulation.

(89) In any event, and without prejudice to the above, even based on the exchange rate prevailing at the beginning of FY2005, imports from the PRC significantly undercut the prices of the Community industry. Thus, this significant undercutting margin cannot be explained by the change in the exchange rate between the euro v USD in the period considered.

(90) In light of the above, it was provisionally concluded that the appreciation of the euro compared to the USD is not a factor sufficient to break the causal link between the dumped imports and the material injury suffered by the Community industry.

5.3.5. *Imports by the Community industry*

(91) Some interested parties have claimed that the Community industry imported MSG from its non-Chinese related factories located outside the Community which has had an impact on its sales volumes of MSG produced in the Community.

(92) The investigation showed that after the acquisition of Orsan, the Community industry reorganised its sales structure/channels in the Community. Almost all the MSG sold on the Community market by the Community industry in the IP was produced by the sole Community producer. Sales of MSG on the Community market originating from exporters related to the Community industry in countries outside the Community were constantly and significantly reduced over the period considered.

(93) Some interested parties also argued that the Community industry itself or other companies of the Ajinomoto Group are related to Chinese MSG producers that export the product concerned to the Community. It has been claimed that exports to the Community by these related companies have caused the injury suffered by the Community industry. It has also been claimed that it is the Ajinomoto Group itself which is responsible for the price policies of these Chinese exporters.

(94) The investigation showed that in the case of one Chinese company allegedly related to the Ajinomoto Group, this relationship ceased to exist before the IP. Moreover, the export sales of this company to the Community in the years preceding the IP were found to be negligible. In the case of two other Chinese MSG producers related to the sole Community producer, it was established that their exports to the Community in the IP were insignificant. In this regard, the fact that the Ajinomoto Group may have been responsible for the price policies of these companies was not considered relevant.

(95) Therefore, it was provisionally concluded that the imports of the Community industry from related parties outside the Community have not contributed to the material injury suffered by them.

5.3.6. *New sugar regime*

(96) The allegation made by certain interested parties concerning the negative impact of the new Communities' sugar regime (and the increase of sugar prices resulting therefrom) on the production costs of the Community industry was not confirmed. The investigation has shown that the Community industry benefited from long-term agreements signed well before the implementation of the new regime which ensured that their sugar purchase price was low throughout most of the period considered. In the second part of the IP, following the implementation of the new sugar regime, the sugar purchase price increased slightly but this impact was partially counterbalanced by the development of more efficient fermentation technology. The fermentation yield increased in the IP and is high compared to that achieved on average by Chinese producers. This means that per tonne of MSG, the Community producer requires substantially less sugar compared to the needs of the Chinese producers.

5.3.7. *Difference in basic raw materials*

(97) MSG in the Community is produced from sugar molasses while in China it is produced from corn or rice starch. Some interested parties claimed that the evolution of prices of these raw materials might have given a comparative advantage to the Chinese producers. However, a comparison of the costs of raw materials needed to produce the same quantity of MSG indicates that there is a comparative advantage for producing MSG from molasses. On the basis of available information, there are indications that this comparative advantage has even been strengthened during the IP by the steep increase of corn prices, both internationally and on the Chinese market. However, due to the dumping of Chinese products, this comparative advantage failed to generate gains of market share for MSG produced from molasses by the Community industry.

(98) Therefore, it was provisionally concluded that the difference in raw materials used by the Community industry compared to that used by the Chinese exporting producers did not contribute to the material injury suffered by the Community industry.

5.4. **Conclusion on causation**

(99) The above analysis has demonstrated that there was a substantial increase in volume and market share of the dumped imports originating in the PRC between FY2005 and the IP, together with a high level of price undercutting during the IP. This increase in market share of the low priced imports from the PRC coincided with a significant drop in market share of the Community industry, which, together with the downward pressure on prices, resulted, inter alia, in substantial losses of the Community industry during the period considered. On the other hand, the examination of the other factors which could have injured the Community industry revealed that none of these could have had a significant negative impact.

(100) Based on the above analysis, which has properly distinguished and separated the effects of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is provisionally concluded that the imports from the countries concerned have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

6. **COMMUNITY INTEREST**

6.1. **Preliminary remark**

(101) In accordance with Article 21 of the basic Regulation, the Commission examined whether, despite the conclusion on injurious dumping, compelling reasons existed for concluding that it is not in the Community interest to adopt measures in this particular case. The determination of the Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the raw material suppliers, the importers and the users of the product concerned.

6.2. **Community industry**

6.2.1. *Nature and structure of the Community industry*

(102) The Community industry is composed of one sole producer located in France. The company is owned by the Ajinomoto Group which is involved, among other activities, in the production and sale of MSG worldwide. The Community industry bought its raw materials from Community suppliers, thus having an impact on the employment levels of raw material suppliers.

6.2.2. *Effects of the imposition or non-imposition of measures on the Community industry*

(103) The Community industry has made efforts since FY2005 to invest in an in-depth restructuring to reduce costs and, as a result, can be considered to be viable. However, due to the dumped imports, injury has occurred which has taken the form of a significant decrease in the volume of sales and an insufficient increase in the sales price, which in turn resulted in significant financial losses for the Community industry. It is expected that, following the imposition of anti-dumping duties, the volume of MSG sold by the industry would increase and, to a certain extent, its prices on the Community market would also increase. This would enable the Community industry to reach an acceptable level of profitability.

(104) It is considered that the imposition of measures would restore fair competition on the market. It should be noted that the Community industry's losses are the result of its difficulty in competing with the dumped, low priced imports originating in the PRC. The imposition of anti-dumping measures is likely to put the Community industry in the position to regain at least part of its lost market share with a consequent positive impact on profitability.

(105) As mentioned above, the Community industry suffered material injury caused by dumped imports originating in the PRC. If measures are not imposed, a further deterioration in the situation of the Community industry is probable, thus undermining the positive effects of the investments made in recent years. The price-depressive effect of the dumped imports would continue to foil all efforts made by the Community industry, in particular, to regain a profitable level. Not taking measures would put at risk the long-term presence of the Community industry.

(106) In conclusion, it is expected that measures would be effective in giving the Community industry the opportunity to recover from the injurious dumping found during the investigation.

6.3. **Importers**

(107) A total of three importers cooperated in the investigation and all were against the imposition of anti-dumping measures. These importers accounted for around 46 % of the total imports from the PRC into the Community and around 19 % of the Community consumption of MSG during the IP.

(108) On the basis of the provisional findings, it has been concluded that the impact of the introduction of anti-dumping measures would be negligible for two of the cooperating importers. For the remaining cooperating importer, the preliminary indications are that MSG accounts for in the range of 7 % to 12 % of its turnover. This company employs less than five people directly in the MSG part of their business. The company's profit on sales of MSG is low. In view of that, the impact of the imposition of any anti-dumping duty should not be negligible. However, the expected effect of the imposition of measures will be to raise prices of MSG (from all sources) on the Community market. This importer should therefore be in a position to pass on all or almost all of the increase resulting from the imposition of anti-dumping measures, without having any significant effect on its overall profit.

(109) In these circumstances, it was provisionally concluded that, on the basis of the information provided, the effect of the anti-dumping measures, if any, will most likely not have a material impact on importers.

6.4. **Users**

(110) A total of four user companies accounting for 18 % of imports of MSG from the PRC cooperated in the investigation. These companies are active in the food processing industry and the personal care cosmetics industry.

(111) Two of the cooperating users are involved in the food processing industry. In total, these two companies accounted for approximately 17 % of imports of MSG from the PRC in the IP. It has to be noted that both companies also source significant quantities from the Community industry as well as from other sources. It has also to be noted that MSG-related activities only account for a small part of the overall business of both companies. For one of the companies which had a very small quantity of imports of MSG from the PRC in the IP, the impact of the imposition of any measures will be negligible. For the other company, the impact of the possible imposition of measures will be investigated further.

(112) As regards the two other cooperating users, it was found that they accounted for only about 1 % of imports from China in the IP. In these circumstances, it was considered that the imposition of anti-dumping measures would not have a significant effect on the financial situation of these companies.

(113) In these circumstances, it was provisionally concluded that, on the basis of the information provided, the effect of the anti-dumping measures, if any, will most likely not have a material impact on users.

6.5. **Suppliers of raw materials**

(114) Two suppliers replied to the questionnaire and supported the imposition of anti-dumping measures. One of them is a supplier of raw material, namely sugar molasses, to the Community industry. The sugar molasses which is supplied by this company to the Community industry accounts for approximately 5 % of the company's turnover. If anti-dumping measures are not to be imposed, there is a risk, as stated above, that the long-term presence of the Community industry will be put in doubt. Should this happen, there would be a clear negative impact on the situation of raw material suppliers to the Community industry.

(115) As to the second supplier, this will be further investigated after the imposition of any provisional measures.

(116) If measures are not imposed, the sales of the Community industry will continue to fall with the result that their demand for raw materials will also decrease. This will most likely negatively affect the profitability of the raw material suppliers.

6.6. **Competition and trade distorting effects**

(117) Some interested parties alleged that the Ajinomoto Group could have a dominant position not only on the Community market but also on the world market. These interested parties claimed that, apart from Chinese competitors, the Ajinomoto Group in fact monopolises MSG production worldwide. However, it should be emphasised that, on the basis of information provided by one of the interested parties that made this claim, non-Chinese and non-Ajinomoto-related MSG production still accounts for over 500 000 tonnes (which is more than total production of MSG by the Ajinomoto Group).

(118) With respect to the Community market, if anti-dumping measures are imposed, the Chinese exporting producers concerned, given their strong market positions, will likely continue to sell their products, albeit at non-dumped prices. It is also likely that there will still be a sufficient number of major competitors on the Community market, including the producers in Indonesia, South Korea, Vietnam, Brazil and Taiwan. It should be emphasised that, at the beginning of the period considered, imports from these sources accounted for 31,4 % of the Community market and it decreased substantially due to the dumped import from the PRC. Therefore, it is likely that users will continue to have the choice of different suppliers of MSG. If, however, no measures were to be imposed, the future of the Community industry would be at stake. Its disappearance would severely reduce competition on the Community market.

6.7. **Conclusion on Community interest**

(119) Given the above, it is provisionally concluded that there are no compelling reasons against the imposition of anti-dumping duties in the present case.

7. **PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES**

7.1. **Injury elimination level**

(120) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional anti-dumping measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports.

(121) In order to establish the level of duty, account has been taken of the level of the dumping margins found and of the amount of duty necessary to eliminate the injury suffered by the Community industry.

(122) As the Community industry suffered financial losses during the whole of the period considered, the profit that could be achieved in the absence of dumped imports was based on profit margins of the like product which were achieved in the period considered by MSG producers in countries where Chinese dumped imports were not present (namely Taiwan and Thailand). On this basis, it was found that a profit margin of 5 % of turnover could be regarded as an appropriate minimum which the Community industry could have expected to obtain in the absence of injurious dumping. The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the price undercutting calculations, with the non-injurious price of products sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry by the actual loss made during the IP and by adding the above mentioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.

7.2. **Provisional measures**

(123) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping duties should be imposed in respect of imports originating in the PRC at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule.

(124) 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 countrywide 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'.

(125) The proposed anti-dumping duties are the following:

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 %

8. **DISCLOSURE**

(126) The above provisional findings will be disclosed to all interested parties which will be invited to make their views known in writing and request a hearing. Their comments will be analysed and taken into consideration where warranted before any definitive determinations are made. The provisional findings may have to be reconsidered for the purposes of any definitive findings,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

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. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

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

Article 2

1. Without prejudice to Article 20 of Council Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 21(4) of Council Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

Article 1 of this Regulation shall apply for a period of six months.

This Regulation shall enter into force on the day following 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, 3 June 2008.

For the Commission
Peter MANDELSON
Member of the Commission