



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-992]

Monosodium Glutamate from the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty Order

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

SUMMARY: In response to a request from Ajinomoto Health & Nutrition North America, Inc. (AHN, a domestic interested party), the U.S. Department of Commerce (Commerce) is initiating a country-wide circumvention inquiry to determine whether imports of monosodium glutamate (MSG) from Malaysia are circumventing the antidumping duty (AD) order on MSG from the People's Republic of China (China).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jacob Saude, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0981.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 2024, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(c), AHN filed a circumvention inquiry request alleging that MSG finished in Malaysia using glutamic acid produced in China, and subsequently exported from Malaysia to the United States is circumventing the AD order on MSG from China¹ and,

¹ 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) (*Order*).

accordingly, should be included within the scope of the *Order*.² On April 24, 2024, we extended the deadline to initiate this circumvention inquiry in accordance with 19 CFR 351.226(d)(1).³

Scope of the *Order*

The product covered by this *Order* is MSG, whether or not blended or in solution with other products. Merchandise covered by the scope of this *Order* is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2922.42.1000. Merchandise subject to the *Order* may also enter under HTSUS subheadings 2922.42.5000, 2103.90.7200, 2103.90.7400, 2103.90.7800, 2103.90.8000, and 2103.90.9091. The HTSUS subheadings are provided for convenience and customs purposes; however, the written description of the scope is dispositive. For a full description of the scope of the *Order*, see the Initiation Checklist.⁴

Merchandise Subject to the Circumvention Inquiry

The circumvention inquiry covers MSG finished in Malaysia using glutamic acid produced in China and subsequently exported from Malaysia to the United States.

Initiation of Circumvention Inquiry

Section 351.226(d) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce "will accept the request and initiate a circumvention inquiry." Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each request for a circumvention inquiry allege "that the elements necessary for a circumvention determination under section 781 of the Act exist" and be "accompanied by information reasonably available to the interested party supporting these allegations." AHN allege circumvention pursuant to section 781(b) of the Act (merchandise completed or assembled in other foreign countries).

² See AHN's Letter, "MSG from China: Circumvention Inquiry Request," dated March 25, 2024 (Circumvention Inquiry Request).

³ See Memorandum, "Extension of Time to Determine Whether to Initiate Circumvention Inquiry," dated April 24, 2024.

⁴ See Checklist, "Malaysia Assembly Circumvention Initiation Checklist," dated concurrently with, and hereby adopted by, this notice (Initiation Checklist).

Section 781(b)(1) of the Act provides that Commerce may find circumvention of an order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting a circumvention inquiry, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an AD or countervailing duty (CVD) order; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order.

In determining whether the process of assembly or completion in a foreign country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country; (B) the level of research and development in the foreign country; (C) the nature of the production process in the foreign country; (D) the extent of production facilities in the foreign country; and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a foreign country is minor or insignificant.⁵ Accordingly, it is Commerce's practice to evaluate

⁵ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994), at 893.

each of these five factors as they exist in the foreign country, depending on the totality of the circumstances of the particular circumvention inquiry.⁶

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a foreign country within the scope of an AD or CVD order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise that was shipped to the foreign country is affiliated with the person who, in the foreign country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the foreign country have increased after the initiation of the investigation that resulted in the issuance of such order.

Analysis

Based on our analysis of AHN's circumvention inquiry request, we determine that AHN has satisfied the criteria under 19 CFR 351.226(c), and thus, pursuant to 19 CFR 351.226(d)(1)(iii), we have accepted the request and are initiating the requested circumvention inquiry of the *Order*. For a full discussion of the basis for our decision to initiate the requested circumvention inquiry, *see* the Initiation Checklist. As explained in the Initiation Checklist, the information provided by AHN warrants initiating this circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.⁷

⁶ *See Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

⁷ *See, e.g., Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty Order*, 88 FR 74150 (October 30, 2023); *see also Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty Order*, 88 FR 43275 (July 7, 2023); *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018); *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention*

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in Malaysia concerning their shipments to the United States and the origin of glutamic acid being further processed into MSG (*i.e.*, the merchandise subject to the *Order*).

Respondent Selection

Commerce intends to base respondent selection on U.S. Customs and Border Protection (CBP) data. Commerce intends to place the CBP data on the record within five days of the publication of this initiation notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after placement of the CBP data on the record of the inquiry.

Commerce intends to establish a schedule for questionnaire responses after respondent selection. A company's failure to completely respond to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce intends to notify CBP of this initiation and direct CBP to continue the suspension of liquidation of entries of products subject to this circumvention inquiry that were already subject to the suspension of liquidation under the *Order* and to apply the cash deposit rates that would be applicable if the products were determined to be covered by the scope of the *Order*. Should Commerce issue affirmative preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)-(4).

Inquiries on the Antidumping Duty and Countervailing Duty Orders, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

Notification to Interested Parties

In accordance with 19 CFR 351.226(d) and section 781(b) of the Act, Commerce determines that AHN's request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of this circumvention inquiry to determine whether MSG finished in Malaysia using glutamic acid produced in China, and subsequently exported from Malaysia to the United States is circumventing the *Order*. In addition, we have included a description of the products that are the subject to this inquiry and an explanation of Commerce's decision to initiate this inquiry as provided in the accompanying Initiation Checklist.⁸ In accordance with 19 CFR 351.226(e)(1), Commerce intends to issue its preliminary circumvention determination no later than 150 days from the date of publication of the notice of initiation of this circumvention inquiry in the *Federal Register*.

This notice is published in accordance with section 781(b) of the Act, and 19 CFR 351.226(d)(1)(iii).

Dated: May 9, 2024.

Ryan Majerus,

Deputy Assistant Secretary

for Policy and Negotiations,

performing the non-exclusive functions and duties

of the Assistant Secretary for Enforcement and Compliance.

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⁸ See Initiation Checklist at 4 and 6.