

**NO. 17/1/99/DGAD**  
**GOVERNMENT OF INDIA**  
**MINISTRY OF COMMERCE**  
**(DIRECTORATE GENERAL OF ANTI-DUMPING AND**  
**ALLIED DUTIES)**

New Delhi. 14th July, 2000.

**NOTIFICATION**

**FINAL FINDINGS**

**Subject:** Anti-dumping investigation concerning imports of Metronidazole from Peoples Republic of China.

**17/1/99-DGAD** - Having regard to the Customs Tariff Act, 1975 as amended in 1995 and the Customs Tariff (Identification, Assessment and Collection of anti-dumping duty on Dumped Articles and for Determination of Injury) Rules, 1995, thereof

**A. PROCEDURE**

**1. The procedure described below has been followed:**

- i. The Designated Authority (hereinafter also referred to as the Authority) notified the preliminary findings vide notification dated 21.2.2000 on anti-dumping investigation concerning imports of Metronidazole from Peoples Republic of China (herein after also referred to as subject country) and requested the interested parties to make their views known in writing within forty days from the date of its publication.
- ii. The Authority forwarded a copy of the Preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the preliminary findings within forty days of the date of the letter.
- iii. The Authority also forwarded a copy of the, preliminary findings to the Embassy of Peoples Republic of China in New Delhi with a request to them to advise the exporters and other interested parties to furnish their views on the preliminary findings in the time frame as stipulated in (i) and (ii) above.
- iv. The Authority provided an opportunity of public hearing to all interested parties to present their views orally on 2nd May, 2000. All parties presenting their views were requested to file written submissions of the views expressed.

- The parties were given copies of the views expressed by the opposing parties and were provided with the opportunity to file rejoinders.
- v. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted by various interested parties for inspection, upon request;
  - vi. Arguments raised by the interested parties before announcing the preliminary findings, which have been brought out in the preliminary findings notified have not been repeated herein for the sake of brevity. However, the arguments not covered in the Preliminary findings and those raised by the interested parties subsequently, to the extent they are relevant under the Rules, have been appropriately dealt with in these findings.
  - vii. Since no exporter responded to the questionnaire circulated to them and submitted the requisite information relevant to the present investigation, there was no scope for the Authority to verify the exporter data.
  - viii. In accordance with Rule 16 of the Rules supra, the essential facts/basis considered for these findings were disclosed to known interested parties in the Disclosure statement dtd. 13.06.2000 and comments received on the same have also been duly considered in these findings. .
  - ix. The period of investigation (POI) considered in this case is 1st April, 1998 to 31st December, 1998.

## **B. VIEWS OF PETITIONERS. EXPORTERS. IMPORTERS AND OTHER INTERESTED PARTIES AND EXAMINATION BY AUTHORITY.**

2. The views expressed by various interested parties have been discussed in the preliminary findings and also in the disclosure statement. The views which have not been discussed earlier in the Preliminary findings and the disclosure statement and those now raised in response to the disclosure statement, are discussed in the relevant paras herein below to the extent these are relevant as per the Rules and have a bearing upon the case. The arguments raised by the interested parties have been examined and wherever appropriate, dealt in the relevant paras herein below.

## **C. PRODUCT UNDER CONSIDERATION**

3. The product involved in the present investigation is Metronidazole, originating in or exported from the subject country, classified under Sub heading No. 2933.2902 of ITC(HS) classification. Since no interested party has made any argument in this regard, the Authority confirms the Finding in the matter given at para 5 of the Preliminary Findings.

## **D. Domestic Industry Standing of the petitioner**

4. The Authority in this regard reiterates the finding under para 7 of the Preliminary Findings. The arguments with regard to the domestic industry standing of the petitioner were examined by the Authority in the disclosure statement dtd. 13th June, 2000. However, no interested party has responded to the Authority's position in this regard. Therefore, the Authority upholds the position as taken at para 7 of the Preliminary Findings.

## **E. Like Article**

5. The Authority reiterates the finding under para 6 of the Preliminary Findings that Metronidazole produced by the petitioner is a Like Article to the same imported from the subject country after due consideration of such aspects as the fundamental technical characteristics, their similar end uses, their technical and commercial substitutability and the common tariff classification, which are considered appropriate for the purpose of assessment of Like Article. No interested party has contested this view expressed in the Preliminary findings.

## **F. ASSESSMENT OF DUMPING**

### **6. NORMAL VALUE AND EXPORT PRICE**

The parameters of dumping, namely, the Normal value and the export price, in relation to the exporters of the subject countries are examined and determined in terms of Section 9A(1)(c) of the Customs Tariff (Amendment) Act, 1995.

7. The general arguments raised in regard to the assessment of Normal Value and Export Price by the Authority in the Preliminary Findings are as under: -

#### Argument raised

The importers have argued that the petitioner's view that the Normal Value is not ascertainable because despite their efforts no information is available on the price of Metronidazole in the domestic market of China nor any information is available on price evidence for Chinese exports to other countries and also the Authority's view that exporters have not responded to the questionnaire is doubtful. An e-mail message from the Chinese exporter is submitted indicating the domestic price of Metronidazole in China and their price to other countries which rule out dumping.

#### Examination by the Authority

The Authority, after initiation of the proceedings, followed the procedure prescribed under the Rules and sought information from the exporters of the subject countries regarding the Normal Value. A questionnaire was circulated to the exporters for submitting requisite information on the Normal Value, Export Price and adjustments thereon and also on their domestic and export -price structure. However, the exporters did not respond and, as on date, have not furnished any information on the Normal Value and Export Price. Therefore, the Authority rightly concluded that the exporters did not respond to the questionnaire.

The Authority has therefore relied upon the information furnished by the petitioner treating the same as the best available information with regard to Normal Value. The Authority relies upon export price data of DGC1&S, which is the official body for trade statistics, treating it as the best available information. Since the E-mail message submitted by the importers is not addressed to the Authority and is not in response to the Authority's questionnaire, the Authority does not take cognizance of the same.

Therefore, the Authority has adopted the Normal Value, Export Price and the Dumping Margin determined in the Preliminary Findings for the purpose of Final findings as well.

## **8 Country : Peoples Republic of China**

### **Exporter: All Exporters**

#### Normal Value

The Authority notes that no information on the domestic selling price of Metronidazole in China is available either from the petitioner's source or from the exporter's source. Nor is any information available on price evidence for the Chinese exports to other countries. Therefore, the Authority has relied upon the constructed cost of production as furnished by the petitioner, which the Authority treats as the best available information to determine the Normal value. The Authority has carefully examined the various elements of the constructed cost and determined the Normal value at US\$ 10.35/Kg.

#### Export price

In regard to export price, the Authority notes that the weighted average cif value of exports from the subject country during the period of investigation is US\$ 7.55/Kg. as per DGCI&S. The petitioner have claimed adjustments of US\$xxxxx/Kg. on accounts of Ocean freight, marine insurance, commission, clearing and forwarding charges and inland freight. The Authority, however, allows adjustments only on Ocean freight,

marine insurance, commission to the Indian indenting agent and inland freight, which total upto US\$ 0.55/Kg. Thus, the export price at ex-factory level is determined at US\$ 7.00/Kg..

## **G. ASSESSMENT OF DUMPING MARGIN: COMPARISON OF NORMAL VALUE AND EXPORT PRICE:**

The Authority has determined the dumping margin for various exporters/producers on the basis of a fair comparison between the Normal value and the Export price and on the basis of the principles laid down in Annexure-1 to the Rules. For the purpose of fair comparison between the Normal value and the Export price, the Authority has taken into consideration the information available, which the Authority has treated as the best available information. Since the Authority has determined that all exporters from the subject country are non-cooperative exporters, the Normal value and the export price determined, as detailed above, are applicable uniformly to all exporters of the subject country. These are at same level of trade, i.e. at ex-factory level, and the comparison is on a weighted average to weighted average basis for the purpose of determining the dumping margin.

### **Dumping Margin**

Comparing the Normal value and export price as determined above, the Authority calculates the dumping margin at US\$ 3.35/Kg., which is 47.85% of the export price. This dumping margin applies to all exporters of the subject country.

## **H. INJURY AND CAUSAL LINK:**

### **10. ASSESSMENT OF INJURY:**

The Authority reiterates the finding under paras 12 and 13 of the Preliminary Findings and states that the domestic industry has suffered material injury caused by the dumped imports from the subject country. In the assessment of injury, the Authority has taken into account all relevant facts and principles laid down under Annexure-II to the Rules.

### **11. Causal Link**

The Authority finds that no argument has been raised by any interested party with regard to Causal Link. Therefore, the Authority reiterates the finding in this regard under para 14 of the Preliminary findings.

## **I. Indian Industry interest and other issues**

12. The purpose of anti dumping duties, in general, is to eliminate dumping which is causing injury to the domestic industry and to reestablish a situation of open and fair competition in the Indian market, which is in the general interest of the country.

13. It is recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the domestic industry. On the contrary, imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the domestic industry and help maintain availability of wider choice to the consumers of Metronidazole. Imposition of anti dumping measures would not restrict imports from the subject country in any way, and, therefore, would not affect the availability of the product to the consumers.

14. To ascertain the extent of anti-dumping duty necessary to remove the injury to the domestic industry, the Authority may rely upon non-injurious selling price of Metronidazole in India for the domestic industry, by considering the optimum cost of production at optimum level of capacity utilisation for the domestic industry.

## **J. FINAL FINDINGS:**

15. The Authority, after considering the foregoing, concludes that

(a) Metronidazole originating in or exported from the People's Republic of China has been exported to India at a price below the Normal value, thereby resulting in dumping.

The domestic industry has suffered material injury

The injury has been caused to the domestic industry by the dumping of the subject goods originating in or exported from the subject country.

16 In view of the above, the Authority recommends imposition of definitive anti-dumping duty on all imports of Metronidazole falling under Customs Subheading 2933.2902 and originating in or exported from Peoples Republic of China.

17 It was considered to recommend the amount of anti-dumping duty equal to the margin of dumping or less which, if levied, would remove injury to domestic industry.

Landed value of imports from the subject country, for the purpose, was compared with the non-injurious selling price of the domestic industry, determined by the Authority for the period of investigation. Wherever the difference was less than the dumping margin a duty lower than the dumping margin is recommended.

18 Accordingly, it is recommended that definitive anti dumping duty be imposed by the Central Government on all imports of Metronidazole originating in or exported from People's Republic of China falling under Customs Subheading No. 2933.2902 of Customs Tariff Act. The infinitive anti-dumping duty in respect of the subject country and its exporters/producers shall be the difference between the amount mentioned in column 4 of the following table and the landed value of imports Per Kg:

Sl. No.	Country	Exporter/ Producer	Amount(US\$ Per Kg.)
1.	Peoples Republic of China	All exporters	12 27

### **Landed Value**

Landed value of imports for the purpose shall be the sum of the assessable value as determined by the Customs under the Customs Act,1962 and all duties of customs except duties levied under Section 3, 3A, 8B, 9 and 9 A of the Customs Tariff Act, 1975.

20. Subject to the above, the Authority confirms the Preliminary Findings dtd. 21.2.2000.

21. The appeal against this order shall lie to the Customs, Excise and Gold (Control) Tribunal in accordance with the Act Supra.

**RATHI VINAY JHA...**  
DESIGNATED AUTHORITY