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File No. 7/6/2017-DGAD
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi - 110001

Dated the 29th August, 2017

Case No. SSR- 09/2017
INITIATION NOTIFICATION

Sub: - Initiation of Anti-Dumping Sun Set Review investigation concerning imports of “Metronidazole” originating in or exported from China PR.

This Initiation Notification is subject to the final outcome of the Writ Petition No. WP (C) No. 7464/2017 being heard in the High Court of Delhi, at New Deli.

No. 7/6/2017-DGAD Having regard to the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter also referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Designated Authority (hereinafter also referred as the Authority) initiated anti dumping investigations on imports of “Metronidazole” (hereinafter also referred as the subject goods), originating in or exported from China PR (hereinafter also referred as the subject country) vide Notification No. 17/1/99-DGAD dated 29th July 1999, and recommended imposition of provisional anti dumping duty vide Notification No. 17/1/99-DGAD dated 21st February 2000. The provisional antidumping duty in the original investigation was imposed on imports of Metronidazole from China PR vide customs notification no. 44/2000-Customs dated 17th April 2000. The final findings were notified by the Authority vide notification dated 14th July 2000 and the Department of Revenue imposed definitive anti dumping duties on the subject goods from subject country vide Notification No. 115/2000-Customs dated 31st August 2000.

2. Pursuant to the first sunset review, the Authority notified its Final Findings vide Notification No. 15/9/2003-DGAD dated 5th April 2006 and recommended continued imposition of anti-dumping duty, on the imports of the subject goods, originating in or exported from the subject country. As per the recommendations of the Authority, the anti-dumping duty was imposed by the Central Government vide Notification No. 61/2006–Customs dated 15th June, 2006.

3. Pursuant to the second sunset review, the Authority notified its final findings vide Notification No. 15/18/2010 - DGAD dated 29th June, 2011 and recommended continued imposition of the anti-dumping duty on the imports of the subject goods, originating in or exported from the subject country. As per the recommendations of the Authority, the anti-dumping duty was imposed by the Central Government vide Notification No. 40/2012-Customs dated 30th August, 2012.

4. Pursuant to mid-term review conducted at the behest of M/s Hubei Hongyuan Pharmaceutical Technology Company Ltd. formerly known as M/s Hubei Hongyuan Pharmaceutical Co. Ltd. requesting change in name of the exporter, the Authority notified final findings recommending the above change vide Notification No. 15/11/2015-DGAD dated 7th March 2016. The Central Government notified the above change vide Notification No. 19/2012-Customs dated 20th October, 2011.

5. Whereas, M/s Aarti Drugs Ltd. (hereinafter referred to as 'petitioner') have filed a duly substantiated petition before the Authority, in accordance with the Act and the Rules alleging likelihood of continuation or recurrence of dumping of the subject goods, originating in or exported from China PR and consequent injury to the domestic industry and have requested for review and continuation of the anti-dumping duties, imposed on the imports of the subject goods, originating in or exported from the subject country.

6. Whereas, the Authority duly examined this petition and based on that examination issued an Order dated 22nd August, 2017 that it '*does not find it appropriate to initiate the sunset review investigation concerning import of "Metronidazole" originating in or exported from China PR at this stage*'. Thereby, it rejected the petition.

7. Whereas, the petitioner M/s Aarti Drugs Ltd. filed a Writ Petition - WP(C) No. 7464/207 and CM. No. 30761/2017 in the Hon'ble High Court of Delhi. The Hon'ble High Court in its Order dated 25th August, 2017 has directed that the Authority to initiate the SSR in this case no later than 29th August, 2017. The operative portion of order is as below:

"3. Considering that the date of expiry of the Anti-Dumping Duty in the present case is 29th August, 2017, the Court directs the Respondents to initiate the SSR in the Petitioner's case not later than 29th August, 2017. The SSR notification shall clearly state that the proceedings would be subject to the final outcome of the writ petition. This order is without prejudice to the rights and conditions of the parties and will continue till further orders.

4. As regards the question of Continuation of the ADD... learned counsel for the respondents seeks time for instructions".

8. In compliance with the above stated directions of the Hon'ble High Court, a sunset review case is hereby initiated with the following details:

Country Involved

9. The subject country in the present sunset review investigation is China PR.

Product under Consideration and Like Article

10. The product under consideration in the present investigation is "Metronidazole". Metronidazole is anti-diarrhea and anti-microbial drug. It is used in cases of *Amoebiasis*, *Trichomoniasis*, post-operative infection after surgery, giardiasis, acute ulcerative and gingivitis, anaerobic, vaginosis treatment of infection caused by anaerobic micro formation.

11. Metronidazole is an organic chemical classified under Chapter 29 subheading 29332920 of the Custom Tariff Act, 1975. However, the customs classification is indicative only and is in no way binding on the scope of the present investigation.

Like Article

12. Rule 2(d) with regard to like article provides as under: -

"like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation;"

13. Petitioner has claimed that there is no known difference in subject goods produced by them and exported from the subject country. The product under consideration produced by the petitioner and imported from the subject country are having comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The petition filed is for the review and continuation of the anti-dumping duty in force, and the issue of like article has been already dealt with in the previous investigations. In the earlier investigations, the Authority has already held that the subject goods produced by the domestic industry are like article to the same imported from the subject country.

Domestic Industry & Standing

14. The petition has been filed by M/s. Aarti Drugs Ltd., Mumbai. The petitioner has imported the subject goods from China PR during the period of investigation. The petitioner has explained that the imports are under advance license, i.e. on a duty free basis for production of Metronidazole Benzoate and thereby to meet their export obligation of this product. The petitioner is not related to any other producer/exporter of subject goods in the subject country or

any importer in India. The issue of the imports of the subject goods from the subject country by the petitioner during the POI which was one of the grounds for declining the application for initiation of SSR vide the Authority's Order dated 22 August 2017 will be taken into consideration on merits as per the applicable Rules during the investigation now being initiated.

15. Unichem Laboratories Ltd. is the other known producer of the subject goods in India. However, Unichem produces the product primarily for export.

16. It is seen that the production of the petitioner is about 91% of the total Indian production. The petitioner in any case is the majority producer of the subject goods in India and is eligible domestic industry within the meaning of Rule 2(b) read with Rule 5(3) of the Rules of Anti-Dumping Rules.

Initiation of Sunset Review of Anti-Dumping Duty

17. Whereas the petitioner has filed a detailed petition in accordance with Section 9A(5) of the Act, read with Rule 23 of the Anti-dumping Rules, the Authority hereby initiates a Sunset review investigation to review the need for continued imposition of the duties in force in respect of the subject goods, originating in or exported from the subject country and to examine whether the expiry of such duty is likely to lead to continuation or recurrence of dumping and injury to the domestic industry in terms of the interim Order of The Hon'ble High Court of Delhi dated 25th August, 2017 on Writ Petition No. WP (C) No. 7464/2017 filed by the petitioner wherein the Hon'ble High Court has directed that the Authority *inter alia* initiate the SSR in this case no later than 29th August, 2017.

Period of Investigation

18. The period of investigation (POI) is April 2016 – March 2017 (12 months) for the purpose of present investigation. The injury investigation period will however cover the periods April 2013-March 2014, April 2014 - March 2015, April 2015-March 2016 and the POI. The data beyond POI may also be examined to determine the likelihood of dumping and injury.

Procedure

19. The present sunset review covers all aspects of Notification No. 15/18/2010 -DGAD dated 29th June 2011 (final findings of the second sunset review investigation) and Notification No. 15/11/2015-DGAD dated 7th March 2016 (final findings of the mid-term review).

20. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules supra shall be mutatis mutandis applicable in this review.

Submission of information

21. The known exporters in the subject country, the government of the subject country through its embassy in India, the importers and users in India known to be concerned with the product are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping and Allied Duties
4th Floor, Jeevan Tara Building
5, Parliament Street, New Delhi – 110001
[**dgad.india@gov.in**](mailto:dgad.india@gov.in)

22. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below. Any party making any confidential submission before the Authority is required to submit a non-confidential version of the same to be made available to the other parties.

Time Limit

23. Any information relating to the present review and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 Days) from the date of issuance of such letter. Any other interested party, whose address is not available, may also submit comments/ information within 40 days from date of publication of this notification.

Submission of information on confidential basis

24. In case confidentiality is claimed on any part of the questionnaire response/submissions, the same must be submitted in two separate sets (a) marked as Confidential (with title, index, number of pages, etc.) and (b) other set marked as Non-Confidential (with title, index, number of pages, etc.). All the information supplied must be clearly marked as either “confidential” or “non-confidential” at the top of each page and accompanied with soft copies.

25. Information supplied without any confidential marking shall be treated as non-confidential and the Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Two (2) copies of the confidential version and two (2) copies of the non-confidential version must be submitted by all the interested parties.

26. For information claimed as confidential, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed and/or why summarization of such information is not possible.

27. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out /summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

28. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.

29. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim may not be taken on record by the Authority. The Authority on being satisfied and accepting the need for confidentiality of the information provided; shall not disclose it to any party without specific authorization of the party providing such information.

Inspection of public file

30. In terms of rule 6(7) of the Rules, any interested party may inspect the public file containing non-confidential version of the evidences submitted by other interested parties.

Non-cooperation

31. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

(Dr. Inder Jit Singh)
Additional Secretary & Designated Authority