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Government of India
Ministry of Commerce & Industry
Department of Commerce
(Directorate General of Anti Dumping & Allied Duties)

30th May 2011

Initiation Notification
(Sunset Review)

Subject: Sunset Review of anti-dumping duty imposed concerning imports of 'Metronidazole' originating in or exported from China PR.

No.15/18/2010--DGAD Whereas having regard to the Customs Tariff Act, 1975 as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (herein after referred to as the AD Rules), the definitive anti-dumping duty was originally recommended vide notification No.17/1/99-DGAD dated 14th July 2000 on import of 'Metronidazole' (hereinafter referred to as the subject goods) originating in or exported from China PR (hereinafter referred to as the subject country). Whereas upon a Sunset Review undertaken by the Designated Authority (hereinafter referred to as the Authority), the Authority recommended continuation of definitive Anti-dumping duty vide its notification No.15/9/2003-DGAD dated 5th April 2006 and whereas the Central Government issued its Notification No. 61/2006 – Customs dated 15th June 2006.

2. Whereas M/s Aarti Drugs Ltd. and M/s Unichem laboratories Ltd.(India), have filed a duly substantiated application in accordance with the Act and the AD Rules) before the Authority alleging dumping of 'Metronidazole' originating in or exported from China PR and requested for review and continuation of the anti-dumping duties.

Domestic industry

3. The application has been filed by M/s Aarti Drugs Ltd. and M/s Unichem laboratories Ltd. (India), on behalf of the domestic industry. The Applicants have claimed that they represent the domestic industry as the other domestic producers of the subject goods have already stopped their production. Thus, as per information available on record, the Applicants account for the total Indian production of the subject goods.

4. It is, however, noted that M/s. Aarti Drugs Limited has imported *** MT of the subject goods under the duty free advance licensing scheme out of the total imports of ***MT during the proposed POI viz. 1st January 2010 till 31st December 2010. It has been contended by them that these imports were necessitated in order to meet their export commitments. On examination of the relevant rules and considering the facts of the case, the Authority is of the view that M/s Aarti Drugs Ltd. is not required to be excluded from the ambit and scope of the domestic industry in terms of the AD Rules.

5. Notwithstanding the above, even if M/s. Aarti Drugs Limited were to be excluded from the ambit and scope of the domestic industry in terms of Rule 2(b) of the AD Rules because of the imports effected by it; M/s. Unichem Laboratories would constitute as the domestic industry, being the only remaining producer of the subject goods and thus satisfy the requirement of Rule 2(b) of the AD Rules.

Product under consideration and Like Article

6. The product involved in the original investigation was 'Metronidazole'. This being a Sunset review, therefore, the investigation covers the product covered in the original investigation and the previous SSR investigation. Metronidazole is anti-diarrhea and anti-microbial drug. It is used in cases of amoevises, trichomonas, to prevent post-operative infection after surgery, giardiasis, acute ulcerative and gingivitis, anaerobic, vaginosis treatment of infection caused by anaerobic micro formation. It is an organic chemical falling under heading No. 29332920 in Chapter 29 of the First Schedule to the said Customs Tariff Act and ITC HS Classification. This classification however, is indicative only and in no way binding on the scope of the present investigation.

7. The domestic industry also produces Metronidazole having similar characteristics and specifications. No argument has been extended, by any interested party in the previous investigations, on the issue of product under consideration or like article and therefore, the Authority considers that the product being manufactured by the domestic industry is 'like article' to the product under consideration as per the AD Rules.

Initiation:

8. Thus, in view of the duly substantiated application filed and in accordance with Section 9 A (5) of the Act, read with Rule 23 of the AD 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 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.

Country involved:

9. The country involved in this investigation is China PR.

Period of Investigation:

10. The Period of Investigation (POI) for the purpose of the present review is 1st January 2010 to 31st December 2010 (12 months). However, injury analysis shall cover the years 2007-08, 2008-09, 2009-10 & POI. The data beyond POI may also be examined to determine the likelihood of dumping and injury.

Procedure:

11. The review covers all aspects of Notification No. 15/9/2003-DGAD dated 5th April 2006 (final findings of the SSR investigation).

Submission of Information:

12. 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 and Industry
Directorate General of Anti-Dumping and Allied Duties
Department of Commerce
Room No.243, Udyog Bhawan,
New Delhi-110107.

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.

Time Limit:

13. 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 publication of this Notification. If no information is received within the prescribed time limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the AD Rules.

14. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire's responses and offer their comments to the domestic industry's application regarding the need to continue or otherwise the AD measures within 40 days from the date of initiation of this investigation.

Submission of information on confidential basis.

15. In case confidentiality is claimed on any part of the questionnaire's 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.

16. Information supplied without any mark 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 each of the confidential version and the non-confidential version must be submitted.

17. 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.

18. 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, party submitting the confidential information may indicate that such information is not susceptible of summary; a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Authority.

19. 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.

20. 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:

21. In terms of rule 6(7) any interested party may inspect the public file containing non-confidential versions of the evidence submitted by other interested parties.

Non-cooperation

22. 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 record its findings on the basis of the facts available to it and make such recommendations to the Central Governments as deemed fit.

(*Vijaylaxmi Joshi*)
Designated Authority