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Government of India

Ministry of Commerce & Industry

Department of Commerce

(Directorate General of Anti-Dumping & Allied Duties)

New Delhi

Dated the 22nd July, 2009.

INITIATION NOTIFICATION

Subject: Initiation of Anti-Dumping investigations concerning imports of Penicillin-G Potassium originating in or exported from China PR and Mexico and 6-APA (6- Amino Penicillanic Acid) originating in or exported from China PR.

No.14/19/2009-DGAD, M/s Alembic Ltd., Vadodara and M/s. Southern Petrochemical Industries Corporation Ltd. (SPIC), Chennai. has filed an application before the Designated Authority (herein after referred to as the Authority) in accordance with the Customs Tariff Act, 1975 as amended in 1995 and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (herein after referred to as Rules) for initiation of anti dumping investigations concerning alleged dumping of Penicillin-G Potassium originating in or Exported from China PR and Mexico and 6-APA (6- Amino Penicillanic Acid) (hereinafter referred to as subject goods) originating in or exported from People's Republic of China (hereinafter referred to as subject countries).

AND WHEREAS, the Authority finds that sufficient prima facie evidence of dumping of subject goods by the subject country(ies), injury to the domestic industry and causal links between the dumping and injury exist, the Authority hereby initiates an investigation into the alleged dumping and consequent injury to the domestic industry in terms of the Rules 5 of the said Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which, if levied, would be adequate to remove the injury to the domestic industry.

Domestic Industry

2. Application has been filed by M/s Alembic Ltd., Vadodara and M/s. Southern Petrochemical Industries Corporation Ltd. (SPIC), Chennai. As per evidence available, the petitioner accounts for 100% of the Indian production for imports of

Penciling G. M/s Alembic has also filed petition for imposing of ADD on imports of 6 APA. In case of 6 APA, petitioner has also submitted that there are number of producers in India but such production is made only for captive consumption and is not sold in the market. Accordingly, the petitioners have submitted that production of 6 APA by those producers who consumes it captively and do not sell in the market, should not be considered for determination of standing and scope of the domestic industry. The Authority on the basis of evidence available finds that the applicants has the standing to file the present petition for anti dumping investigation on behalf of domestic industry in accordance with Rule 2(b) and Rule 5(3)(a) of Anti Dumping Rules.

Product under consideration

3. The product under consideration is Penicillin-G Potassium and 6-APA (6-Amino Penicillanic Acid).

Penicillin-G is an organic compound. It is an amorphous white powder, sparingly soluble in water and soluble in methanol, ethanol, ether, ethyl acetate, chloroforms, acetone, benzene. Penicillin is insoluble in petroleum ether. Chemical properties of the product are described in terms of percentage of carbon, hydrogen, nitrogen, oxygen and sulphur. Penicillin is a [β-lactam antibiotic](#) used in the treatment of bacterial infection caused by susceptible, usually [Gram-positive](#), organisms. Penicillin is the first antibiotic to be isolated and used in the treatment of various diseases and infections. Penicillin is also known by alternative chemical names, such as benzylpenicillin; benzylpenicillin acid; penicillin II.

6-APA is a derivative of Penicillin-G and is also an organic chemical. 6- APA is a white powder. It is stable in ordinary conditions and the melting point is 198 - 200 C. 6-APA is an intermediate for manufacture of derivative such as Ampicillin, Amoxicillin and Cloxacillin.

4. The product under consideration is classified under Customs Tariff Chapter 29 at sub-heading 294110 and subheading 29411010 and 29411050 under the Indian Trade Classification (Based on Harmonized Commodity Description and Coding System). Customs classification is indicative only and not binding on the scope of investigations.

Like Articles

5. Petitioner has claimed that there is no significant difference in Subject goods produced by the domestic industry and those exported from the subject country(ies).

According to the petitioners, subject goods produced by the Indian industry and imported from Subject Country(ies) are comparable in terms of characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable and consumers have used the two interchangeably. For the purpose of present investigations, the subject goods produced by the applicant is being treated as like articles of subject goods imported from subject country(ies) within the meaning of the Anti Dumping Rules.

Countries involved

6. The country involved in the present investigation is People's Republic of China for the imports of both Penicillin G and 6-APA and Mexico for the imports of Penicillin G.

Normal value

7. The applicant has proposed that China being a Non Market Economy, the normal value should be determined in terms of Para 7 of Annex-I of Anti Dumping Rules. The applicants have stated that they have not been able to procure the prices in the Market Economy Third Country or prices from such third countries to other countries. Accordingly, the applicant has proposed that Normal Value in respect of China may be determined on the basis of cost of production in India.

As regards Mexico, in the absence of any information with respect to selling price in the domestic market of the Mexico, the normal value has been constructed based on estimates of cost of production, including selling, general & administrative expenses and reasonable profits.

Export Price

8. The applicant has worked out export price based on the data compiled information of Penicillin G as per DGCI&S for the period 2005-06 to 2007-08. However, the applicant has collected imports information from secondary sources, i.e. M/s. International Business Information Services, Mumbai (IBIS) for the period Apr.2008 to Mar.2009. The import data of 6-APA is collected from IBIS. The net export price has also been estimated based on the CIF price and adopting various elements of adjustments towards ocean freight, commission, etc. to arrive at net export price at ex-factory level.

Dumping margin

9. Dumping margin has been determined for “product under consideration”. However, in view of significant change in the prices within the proposed investigation period (from as high as Rs. 834 per unit to as low as Rs. 281 per unit), petitioner has submitted that claimed that the Authority to considers date of sale as the date of order booking by the foreign producers for the present purpose. The Authority also directs the exporters to provide relevant information accordingly i.e. date of order booking as date of sale in their questionnaire responses. At this stage, given that the relevant factual information is not accessible a three months time lag has been adopted in order to determine injury to the domestic industry.

Injury and Causal Link

10. The applicant has furnished evidence regarding the injury having taken place as a result of the alleged dumping in the form of decline in market share as a result of increased volume of dumped imports, significant increase and thereafter decline in the import prices of the subject goods from the subject country(ies) over the injury period, significant price undercutting, continued significant financial losses, negative cash flow, negative return on capital employed, significant idling of production capacities, low level of production and sales of the domestic industry, etc.. Petitioner has claimed that so severe was the extent of dumping that one of the applicants had to close production of the subject goods for nearly 20 months. There is sufficient prima-facie evidence of the material injury being suffered by the applicants because of dumped imports from the subject country.

Period of investigation

11. The period of investigation for the purpose of present investigation is October 08- March’09 (6 Months). . The injury investigation period will however cover the periods April 2005–March 2006, April 2006-March 2007, April 2007-March 2008, April 2008- September 2008 and the Period of Investigation (POI).

12. Imposition of anti dumping duties on Retrospective basis

The applicants have requested for retrospective imposition of duty on the grounds that there is history of dumping, the exporters are well aware that they are resorting to dumping; importers are, or should have been, well aware that the exporters are practicing dumping; there is significant decline in import prices in a relatively short period. On the basis of information submitted, the Authority proposes to consider the claim of the applicant in this regard and invites the interested parties to make their submissions in this regard as well.

Submission of information

13. The exporters in the subject country(ies) and their respective Government through their Embassy in India, importers and users in India known to be concerned and the domestic industry are being informed separately to enable them to file all relevant information in the form and manner prescribed. Any other party interested to participate in the present investigation may write to:

**The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Ministry of Commerce & Industry,
Department of Commerce
Room No.240, Udyog Bhavan,
New Delhi-110107.**

Time limit

14. Any information relating to this investigation should be sent in writing so as to reach the Authority at the above address not later than 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 their findings on the basis of the facts available on record in accordance with the Rules supra.

Submission of Information on Non-Confidential basis

15. In terms of Rule 7, the interested parties are required to submit non-confidential summary of any confidential information provided to the Authority and if in the opinion of the party providing such information, such information is not susceptible to summarization, a statement of reason thereof, is required to be provided.

Notwithstanding anything contained in para above, if the Authority is satisfy that the request for Confidentiality is not warranted or the Supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalised or summary form, it may disregard such information.

INSPECTION OF PUBLIC FILE

16. 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.

17. In case where an interested party refuses access to or 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 Government as deemed fit.

(R. Gopalan)
The Designated Authority