

No.14/12/2006-DGAD
Government of India
Ministry of Commerce & Industry
(Department of Commerce)

New Delhi, the 18th April 2007

INITIATION NOTIFICATION

Subject: Initiation of Anti-dumping Investigations concerning import of "Vitamin B₁₂ and its derivatives" originating in or exported from China, Hong Kong and Japan.

No.14/12/2006-DGAD. M/s. Wockhardt Limited, Mumbai and M/s Merind Ltd, Mumbai have filed an application before the Designated Authority (hereinafter referred to as the Authority) in accordance with the Customs Tariff (Amendment) Act, 1995 and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 alleging dumping of Vitamin B₁₂ and its derivatives originating in or exported from China PR, Hong Kong and Japan and have requested for initiation of anti-dumping investigations and levy of anti-dumping duties.

1. PRODUCT UNDER CONSIDERATION

The product under consideration in the present investigation is Vitamin B₁₂ and its derivatives (also referred to as subject goods). Hydroxocobalamin and Mecobalamin or Methylocobalamin are the two known derivatives of Vitamin B₁₂. The product is sold in the market in various concentrations of Vitamin- B₁₂, generally by addition of carriers like Calcium Carbonate, DCP, Mannitol and Gelatin. The scope of the product includes all concentrations of Vitamin B₁₂ and its derivatives. However, Vitamin B₁₂ and its derivatives are known by a large number of synonyms.

However, unprocessed or semi-finished Vitamin B₁₂, also called Vitamin B₁₂ liquid has been excluded from the scope of the product under consideration. The production of Vitamin B₁₂ involves production of Vitamin B₁₂ liquid (intermediate), which is further processed to produce Vitamin B₁₂ in crystal form. Vitamin B₁₂ so produced may either be sold as Vitamin B₁₂ or further processed into animal feed grade products and food grade triturates based on different concentrations or derivatives. As opposed to these feed and food additives that are nothing but Vitamin B₁₂ in different concentrations further processed, derivatives involve a little longer chemical process. Some incremental production process, additional

inputs, plant & equipment are required for converting Vitamin B₁₂ in to derivatives, which does not alter the basic properties of the product.

Vitamin B₁₂ is primarily used in the treatment of Vitamin B₁₂ deficiency. Oral B₁₂ is effective for the treatment of pernicious anemia. The subject goods is classified under ITC (HS) subheading 293626. However, the Customs classification is indicative only and is in no way binding on the scope of the present investigation.

2. DOMESTIC INDUSTRY STANDING

The present petition has been jointly filed by M/s. Wockhardt Limited and M/s Merind Ltd. M/s Merind Ltd is the company holding production facilities and producing exclusively for Wockhardt. M/s Merind Ltd. does not sell the product under consideration in the market. Entire sales functions are carried out by Workhardt. Further, Merind Ltd. and Wockhardt Ltd. are associate companies held by Khorakhiwala Holdings and Investments Pvt. Ltd. Production of the petitioners constitutes 100% of Indian production of subject product. There is no other known producer of Vitamin B₁₂ in the country.

M/s Wockhardt has imported the subject goods under Advance License from China PR during the investigation period and the petitioner has claimed that it has already exported the goods produced from the product under consideration and completed its export obligations. The Authority considers that inputs imported under Duty Free Advance Licenses when used for export purpose only will not disqualify the producers from domestic industry status as laid down under Rule 2(b) of AD Rules.

The Authority after examining the above, determines that the petitioners constitute domestic Industry within the meaning of the rule 2(b) read with 2(d) and the petitioners satisfy the criteria of standing in terms of Rule 5 of the Rules supra.

3. COUNTRIES INVOLVED

The countries involved in the present investigation are China PR, Hong Kong and Japan (hereinafter also referred to as subject countries).

4. LIKE GOODS

The petitioners have claimed that goods produced by it are like articles to the goods originating in or exported from subject countries. There is no

significant difference in the subject goods produced by the petitioner and those exported from subject countries. Petitioners claim that the two are technically and commercially substitutable. Petitioners have provided transaction wise information on imports as compiled by DGCI&S & IBIS (International Business Information System) and have claimed that the subject goods and goods produced and supplied by the petitioner company are being interchangeably used. For the purpose of present investigation, the goods produced by the petitioner company is being treated as Like Articles to the product imported from the subject countries within the meaning of the Rules supra.

5. NORMAL VALUE

The petitioners have claimed that China PR should be treated non market economy country. Petitioners have submitted that it would be appropriate to consider India as an appropriate surrogate country for the reason that information with regard to price paid or payable in market economy third country or cost of production in market economy third country is not readily available to them. Petitioners have determined normal value on the basis of price payable in India, duly adjusted to include a reasonable profit margin. This price has been determined on the basis of cost of production of subject goods in India, including selling, general & administrative expenses and reasonable profit.

The petitioners have suggested European Union (EU) as an appropriate market economy third country/territory for determining the normal value with respect to China PR in the subject investigations. In accordance with Para 7 to Annexure-I of the Rules, it is therefore envisaged to choose EU as an appropriate market economy Country for the purpose of establishing normal value in respect of the People's Republic of China. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit laid down in this notification.

With regard to other subject countries, petitioner has claimed normal values for the subject goods in Hong Kong and Japan considering constructed cost of production including selling, general and administrative overheads and reasonable profit for subject countries. There is sufficient evidence of the Normal values claimed for the subject goods from subject countries.

6. EXPORT PRICE

The petitioner has claimed export price of the subject goods from the subject countries as the weighted average import price in the proposed period, based on transaction wise import data provided by the DGCIS&S IBIS. Adjustments have been claimed on account of ocean freight, marine insurance and inland transportation in the country of exports, port handling and port charges to arrive at ex-factory export price. There is sufficient evidence of the export price for the subject goods from the subject countries.

7. DUMPING MARGIN

Normal value and export price have been compared at ex-factory level, which shows significant dumping margin in respect of each of the subject countries. It is considered that there is, prima facie, evidence that the normal value of the subject goods in the subject countries is significantly higher than the ex-factory export price indicating, prima facie, that the subject goods are being dumped by exporters from the subject countries.

8. INJURY AND CAUSAL LINK

The Petitioners have furnished information on various parameters relating to material injury to the domestic industry. Parameters such as increase in the absolute volume of imports from the subject countries, increase in the market share of imports from the subject countries in total imports, significant price undercutting, underselling, price depression, decline in market share of the domestic industry, deterioration in profit, cash profits, return on capital employed from a situation of profits to significant financial losses, decline in production, capacity utilization, productivity, etc. collectively & cumulatively, prima facie, show that the domestic industry has suffered material injury. In addition to the material injury, the domestic industry has claimed threat of material injury on the ground that the rate of increase in dumped imports is substantial, and the imports are significantly undercutting the prices of the domestic industry, and the imports are entering at such a prices as to have significantly depressing effect on the domestic industry.

9. INITIATION OF ANTI DUMPING INVESTIGATIONS

The Designated Authority, in view of the foregoing paragraphs, initiates anti-dumping investigations into the existence, degree and effect of alleged dumping of the subject goods originating in or exported from the subject countries.

10. PERIOD OF INVESTIGATION (POI)

The Period of Investigation for the purpose of the present investigation is 1st January 2006 to 31st December 2006. However, the period for injury examination would cover periods from 1st April 2003 to the end of the POI.

11. SUBMISSION OF INFORMATION

The exporters in the subject countries and the importers in India known to be concerned with this investigation are being addressed separately to submit relevant information in the form and manner prescribed and to make their views known to the Designated Authority at the following address

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Ministry of Commerce & Industry,
Department of Commerce,
Directorate General of Anti Dumping & Allied Duties
(DGAD)
Government of India,
Room No. 240,
Udyog Bhavan, New Delhi – 1100 11.

As per Rule 6(5) of Rule supra, the Designated Authority is also providing opportunity to the industrial users of the article under investigation, and to representative consumer organizations who can furnish information which is relevant to the investigation regarding dumping, injury and causality. Any other interested party may also make its submissions relevant to the investigation within the time limit set out below.

12. TIME LIMIT

a) General Time Limits

Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days from the date of publication of this notification. The known exporters and importers, who are being addressed separately, are however required to submit the information within forty days from the date of the letter addressed to them separately. It may be noted that no request, whatsoever, shall be entertained for extension in the prescribed time limit.

b) Specific time limit for selection of market economy country

Interested parties to the investigation may wish to comment on the appropriateness of the European Union, which, as mentioned in the Para 5 of this initiation notification, is envisaged as a market economy third country/territory for the purpose of establishing normal value in respect of the China PR. These comments must be submitted within two weeks from the date of publication of this notification.

13. INSPECTION OF PUBLIC FILE

In terms of Rule 6(7), Designated Authority maintains a public file. Any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

14. NON -COOPERATION

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 Designated Authority may record findings on the basis of facts available and make such recommendations to the Central Government as deemed fit.

(Christy L. Fernandez)
Designated Authority