

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE
(DIRECTORATE GENERAL OF ANTI-DUMPING &
ALLIED DUTIES)

NOTIFICATION

New Delhi, the 4th March 2005

Final Findings
(Mid-term Review)

Subject: Anti-Dumping (Mid-Term Review) investigations concerning imports of Vitamin AB2D3K originating in or exported from EU, USA, Thailand and Singapore.

No. 15/21/2004- 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 (herein also referred to as AD Rules) thereof:

A. PROCEDURE

1. **The procedure described below has been followed:**
 - i. The Designated Authority (hereinafter also referred to as the Authority) notified final findings vide Notification No. 19/1/2001- DGAD dated 01/7/2002 recommending imposition of anti-dumping duties on all imports of Vitamin AB2D3K originating in or exported from EU, USA, Thailand and Singapore.
 - ii. The Customs Tariff Act, 1975(as amended) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 made thereunder require the Authority to review from time to time, the need for the continued imposition of definitive anti dumping duty imposed by the Central Government. European Union(EU hereinafter also referred to as EU) vide letter dated 24th August, 2004 had requested for initiating a review of the recommendation made by the Authority vide Notification No. 19/1/2001- DGAD dated 01/7/2002 due to changed circumstances.
 - iii. Having decided to review these final findings, the Authority initiated the present investigations vide Notification No. 15/21/2004-DGAD dated 14th

September 2004 to review the need for continued imposition of anti dumping duty on Vitamin AB2D3K from EU, USA, Thailand and Singapore (hereinafter referred to as subject countries) in accordance with the Customs Tariff Act, 1975 (as amended) and the Customs Tariff (Identification, Assessment and Collection of Anti Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as AD Rules). This review covers all aspects of Notification No. 19/1/2001- DGAD dated 01/7/2002.

- iv. The Designated Authority sent a copy of the Initiation Notification to the embassies of the subject countries / territories, the exporters, importers and the domestic industry as per the list available in the original Anti-dumping investigation and requested them to make their views known in writing within 40 days of the initiation of this review investigation. None of the interested parties filed their submissions to the initiation notification.
- v. A request was made to the Director General Commercial Intelligence & Statistics (DGCI&S) to make available details of imports of subject goods.
- vi. Copies of the initiation notification were also sent to FICCI, CII and ASSOCHAM for wider circulation.
- vii. The Authority made available the public file to all interested parties containing non-confidential version submitted by interested parties for inspection.
- viii. The Authority provided an opportunity to all interested parties to present their views verbally in the public hearing held on 23rd December 2004. None of the interested parties attended the public hearing except the applicant of the mid-term review.
- ix. There was no response to the initiation notification by any of the interested parties.
- x. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed on 2nd January, 2005 to known interested parties and none of the interested parties made any comments on the disclosure of facts.
- xi. Investigations were carried out for the period of investigation (POI) from 1st April 2003 to 31st March 2004 (12 months). However information were called for injury analysis have been carried out for the years April 2000 – March 2001, April 2001 – March 2002, April 2002 – March 2003 and the period of investigation which were not provided by the domestic industry.

B. PRODUCT UNDER CONSIDERATION

2. The product involved in the original investigation and the current review is Vitamin AB2D3K falling under Chapter 23 of the First Schedule to the said Customs Tariff Act. It is a loose brownish yellow coloured powder, containing AB2D3 and K groundnut meal is the carrier. This classification however, is

indicative only and in no way binding on the scope of the present investigation.

C. LIKE ARTICLE

3. Vitamina AB2D3K is an essential component of poultry feed as it is to provide required vitamin level in poultry feed for better nutrition. It is added to the poultry feed at the poultry feed mills, hatcheries and farms who make their own feed. Vitamin AB2D3K is used interchangeably by the poultry feed mills and other users. It is noted that Vitamin AB2D3K produced by the domestic industry as characteristics closely resembling the imported AB2D3K and is substitutable both commercially and technically. The subject goods produced by domestic industry has been treated as like article to the product exported from subject countries within the meaning of Rule 2(d).

D. DOMESTIC INDUSTRY

4. In the original investigation the application for anti dumping investigation was filed by M/s Nicholas Piramal India Ltd., on behalf of domestic industry. They were the major producer of the subject goods in India and had the required standing to file the petition under AD Rules. In this mid-term review anti-dumping investigation none of the domestic producer of the subject goods filed the information / submissions to the initiation notification of the mid-term review of the anti-dumping duty levied vide notification no. 94/2002-Customs, dated 09/9/2002.

E. METHODOLOGY FOR CALCULATION OF DUMPING MARGIN:

5. The Authority sent exporters questionnaire to the known exporters (provided by the petitioner in the original investigation) of subject goods for the purpose of determination of normal value in accordance with Section 9A(1) (c). However none of the exporter responded to the Authority with information for determination of normal value in the form and manner specified by the Authority. None of the exporters from the subject countries responded to the initiation notification.
6. The petitioner has submitted that there is no exports from EU of Vitamin pre-mix AB2D3K to India since the imposition of anti-dumping duty. It is further stated that it is specifically prepared for the Indian market therefore there were no sales to other countries including the domestic market. In a situation when

there is no exports of the subject goods, the determination of dumping margin is not possible. The transaction wise import data of DGCI&S has been examined and found that there was no imports of subject goods during the POI.

7. The Authority also sent importer's questionnaire to known importers (provided by the petitioner in the original investigation) of the subject goods. However none of the importers responded to the Authority to the initiation notification. Accordingly it was held that importers of subject goods have also not cooperated and filed the required information.
8. The domestic industry did not file any response in the application pro-forma sent to them. A reminder was also sent on 01/12/2004 to furnish the required information. However no response was filed by domestic industry. Since none of the interested parties responded to the questionnaire, the Authority could not determine the normal value, export price and dumping margin in the present mid-term review of anti-dumping duty.

F. INJURY AND CAUSAL LINK:

9. The petitioner has argued that the domestic producer M/s. Nicholas Piramal Ltd., has undergone a significant structural change since the original investigation. In April 2002 M/s. Nicholas Piramal has merged with another major pharmaceutical company i.e., M/s. Rhone Poulenc, India. The merger of this two companies made it possible to rationalise capacity utilization by closing down the number of production centres of the original company leading towards a new level of growth and profitability. The petitioner has submitted that the overall profit has increased by 65% in 2004 compared with 2003 although sales volume has increased marginally. It is also argued that the demand for imported pre-mixes is gradually decreased due to increased availability of all major vitamins at highly competitive prices amongst other from China PR. This development could possibly have had a negative impact on the sales and injury to the domestic industry.
10. In absence of any response from the domestic industry, the Authority could not examine whether the imports of subject goods from subject countries have caused material injury to the domestic industry or likely to cause injury to domestic industry. Accordingly, the Authority holds that there is no impact of imports of subject goods from subject countries to the domestic industry. The Authority could not determine the non-injurious price for the domestic industry and also could not determine any injury due to imports during the period of investigation if any in absence of response from domestic industry.

G. FINAL FINDINGS:

11. From the above, the Authority has concluded that in absence of any response from any of the interested parties including the domestic industry, the critical parameters such as dumping, material injury and the causal relationship between the two could not be established. In the absence of participation and cooperation from any of the interested parties, the Authority is **constrained to conclude** that cessation of anti-dumping duty on imports of subject goods from subject countries is not likely to lead to continuation or recurrence of injury to the domestic industry. Hence, the Authority proposes to recommend to discontinue the anti-dumping duty on imports of subject goods from subject countries imposed vide Notification No. 19/1/2001- DGAD dated 01/7/2002.

12. The Authority after considering the foregoing, concludes that:

- a. In view of the above, the Designated Authority considers it appropriate to recommend discontinuation of the anti-dumping duties recommended earlier vide Notification No. 19/1/2001- DGAD dated 01/7/2002 and imposed on all imports of Vitamin AB2D3K classified under Customs Sub headings nos. 2309.90 of chapter 23 of the Customs Tariff Act, 1975 (as amended) originating in or exported from subject countries.
- b. An appeal against this order shall lie before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) in accordance with the Customs Tariff Act, 1975(as amended).

(Christy Fernandez)
Designated Authority