

Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping & Allied Duties
Udyog Bhawan,

NOTIFICATION

New-Delhi, the 12th July 2002

FINAL FINDINGS

Subject: Anti-Dumping investigations concerning import of Trimethoprim (TMP) from China.

No.35/1/2001-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 thereof:

A. PROCEDURE

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority (hereinafter also referred to as the Authority) notified Preliminary Findings vide notification dated 7th September 2001 with regard to anti-dumping investigations concerning imports of Trimethoprim (TMP) from China and requested the interested parties to make their views known in writing within forty days from the date of its publication; the Authority issued a Public Notice dated 23rd July 2001, published in the Gazette of India Extraordinary initiating anti-dumping investigations concerning imports of TMP;
- b. The Authority forwarded a copy of the preliminary findings to the known interested parties, who were requested to furnish their views, if any, on the said findings within forty days from the date of the letter;
- c. The Authority provided an opportunity to all interested parties to present their views orally on 24/6/2002. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any. Only the petitioners were present at the oral hearing.

- d. The Authority made available the public file to all interested parties containing non-confidential version of all evidence submitted and arguments made by various interested parties;
- e. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;
- f. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, (submitted by the domestic industry alone) have been duly considered in these findings;
- g. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION

2. The product under consideration in the present investigation is Trimethoprim (TMP) which is an organic chemical. It is a bulk anti-bacterial pharmaceutical ingredient directly used in formulations. Formulation of TMP is used in the combination of Sulphamethoxazole. TMP goes along with the combination of Sulphamethoxazole in 1:5 ratio by weight. There is no viable substitute for Trimethoprim. The chemical formula of TMP is as under:

5-(3,4,5-Trimethoxy Benzyl) Pyrimidine-2,4-Diamine (C₁₁H₁₄N₄O₃).

The production of TMP involves four stages, which are, addition, condensation, cyclisation and purification.

TMP is classified under dedicated sub-heading no. 293359.02, of Chapter 29 of the Customs Tariff Act, 1975 and ITC No. 29335902.

The Authority confirms the preliminary findings on product under consideration.

C. LIKE ARTICLES

3. Trimethoprim (TMP) is an organic chemical. It is a bulk anti-bacterial pharmaceutical ingredient directly used in formulations. It is used particularly for treatment of urinary infections besides general prescription. Formulation of TMP is used in the combination of Sulphamethoxazole. There is however no significant difference in terms of process, equipment or technology for the production of Trimethoprim.

In order to establish that TMP produced by the domestic industry is a Like Article to that exported from China, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered by the Authority.

The Authority also finds that there is no argument disputing that TMP produced by the domestic industry has characteristics closely resembling the imported material and is substitutable by TMP imported from the subject country both commercially and technically. TMP produced by the domestic industry has been treated as Like Article to the product exported from China, within the meaning of Rule 2(d).

In view of the above, the Authority confirms the preliminary findings on Like Articles.

D. DOMESTIC INDUSTRY:-

4. The petition has been filed by M/s. Alpha Drugs India Ltd., Patiala, and M/s Inventaa Chemicals Ltd., Hyderabad, alleging dumping of Trimethoprim (TMP) originating in or exported from China. The Ministry of Chemicals and Fertilisers have informed the Authority that the list of manufacturers and their production (in MT) during 1996-97, 97-98 and 98-99 as per available data is as indicated below:-

| Sl.No. | Name of the Company | Installed Capacity | 96-97 | 97-98 | 98-99 |
|--------|---------------------|--------------------|--------|--------|--------|
| 1. | Burroughs Wellcome | N.A. | 78.65 | 92.35 | 3.60 |
| 2. | German Remedies | N.A. | 3.28 | 0.56 | NA |
| 3. | IPCA | N.A. | 19.02 | NA | NA |
| 4. | SOL Pharma | N.A. | 11.93 | NA | NA |
| 5. | Inventa Chemicals | N.A. | 115.94 | 138.12 | 280.17 |
| 6. | Alpha Drugs Ltd. | N.A. | 140.91 | 134.61 | 201.26 |

(NA-not available).

Production details for the period of investigation have not been enclosed. However, judging from the pattern of production as given above, the petitioners accounted for a major proportion of the production of TMP in 1998-99.

The petitioners have stated that the production of TMP by various producers in 1999-2000 has been as under:-

| Producer | 1999-2000 |
|--------------------|-----------|
| Petitioners | |
| Alpha Drugs Ltd. | 214.14 Mt |

| | |
|--------------------------------|----------|
| Inventaa Chemicals | 225 Mt |
| Sub total | 439.14 |
| Share | 80.31% |
| Supporter | |
| IPCA Labs | 32.60 Mt |
| Petitioner & Supporter – Total | 471.74 |
| Share | 86.28% |
| Others | |
| Zora Pharma | 75 Mt |
| Total Indian Production | 546.74 |

The petitioners alone account for 80.31% of the total production in the POI and 86.28% of the production in combination with their supporter M/s IPCA Labs as per production data submitted in the petition.

The Authority notes that the petitioners therefore constitute "domestic industry" and have the required standing to file the present petition under the Rules.

The Authority confirms the stated position on domestic industry as given at para G 8 of the preliminary findings.

E. DUMPING:-

(A) Normal Value

Authority's Position:-

The Authority observes that the exporters from China have not responded to the questionnaire in the prescribed format and have not furnished information relating to normal value, export price, and dumping margin. The Authority therefore considers the exporters to be non-cooperative and has proceeded on best available information.

The petitioners have requested that the normal value in China be accepted on the basis of constructed cost of production of Trimethoprim. In the circumstances the Authority has been constrained to determine the constructed cost.

The normal value in China is therefore considered to be USD ***/kg or Rs ***/kg at an average exchange rate during POI of 1USD=Rs 43.21.

(B) Export Price

The cif price as per the information available with the Authority is determined at Rs ***/kg. The ex-factory export price has been determined after taking USD ***/kg as

ocean freight (based on petitioner's experience), ***% as marine insurance charges, commission @***% for the agent in China, ***% as packing costs and ***% of fob value for port handling and port charges as per the Indian experience. However, commission @***% for the Indian indenting agent and transportation costs @ ***% likely to be incurred by the producers in China to their sea ports, as claimed by the petitioners are not allowed by the Authority for want of documentary evidence and lack of evidence based on petitioners exports, respectively.

After adjustments on these accounts the ex- factory fob export price is estimated to be Rs ***/kg or USD ***/kg at an average exchange rate of Rs 43.21=1USD.

(C) Dumping Margin:-

The Authority has followed the consistent policy of adopting the principles governing the determination of Normal Value, Export Price and Margin of Dumping as laid down in Annexure I of the anti-dumping rules. Based on the normal values and export prices as indicated above, the Authority has assessed the dumping margins in case of all exporters from China as given in the table below:-

| Country | Producer/Exporter | Normal Value (USD/kg) | Export Price (USD/kg) | Dumping Margin (%) |
|---------|-------------------------|-----------------------|-----------------------|--------------------|
| China | All producers/exporters | USD ***/kg | USD ***/kg | 92.09% |

5. Argument raised by domestic industry on Injury:-

As brought out in Para B. 2 of the Preliminary Findings, and after the oral hearing, the domestic industry has stated inter alia that:-

- i. Trimethoprim (TMP) is an organic chemical. It is a bulk anti-bacterial pharmaceutical ingredient directly used in formulations. Formulation of TMP is used in the combination of Sulphamethoxazole. TMP goes along with the combination of Sulphamethoxazole in 1:5 ratio by weight. There is no viable substitute for Trimethoprim.
- ii. The chemical formula of TMP is as under:

5-(3,4,5-Trimethoxy Benzyl) Pyrimidine-2,4-Diamine (C1H1N4 O3).

The production of TMP involves four stages, which are, addition, condensation, cyclisation and purification.

- iii. TMP is classified under a dedicated customs sub-heading. However, import of TMP is being cleared under a host of other customs sub-headings also. The

duties should also be imposed on imports of Trimethoprim, regardless of the customs classification under which the goods may be imported;

- iv. Chinese producers are exporting TMP to the Indian market for quite sometime. The exporters started reducing their prices recently, which has caused material injury to the domestic industry. It is a well known fact that manufacturers in China cannot export their goods directly. There are a number of large, medium and small trading houses who hold valid export licences. TMP is therefore, largely exported by traders in China.
- v. More significant than the volume of imports is the price effect of imports. The exporters from China have reduced the prices significantly, as may be seen from the following table and graph:

| Year | Export price |
|---------------------------|--------------|
| August 1996 | 972 |
| Jan. 1997 | 913 |
| May 1997 | 901 |
| June 1997 | 896 |
| July 1997 | 874 |
| December 1997 | 834 |
| August, 1999 | 619 |
| Oct. 1999 | 500 |
| Nov. 1999 | 450 |
| Dec. 1999 | 450 |
| 1999-2000 (12 months-POI) | 481 |

Source- Nov-Dec'99, Chemical Weekly & Maharishi Visveshvariya Industrial Research & Development Centre (MVIRDC periodical, World Trade Centre, Mumbai). For POI-DGCIS.

- iv. There are four producers of TMP in India, two of whom have jointly filed this petition. The third producer M/s IPCA Laboratories Ltd., has supported this petition. The fourth producer M/s Zora Pharma is a major importer of TMP and should be excluded from the scope of the domestic industry.
- v. China and India are the two largest producers of TMP in the world. Both India and China are exporting this essential bulk drug to a number of countries. The fact that China is dumping TMP is evident from the sheer fact that the export price of TMP from India to other countries is significantly higher than the prices at which it is being exported to India by China.
- vi. There is no known significant difference in TMP produced by the Indian industry and exported from China which can have an impact on price. TMP produced by the Indian industry and imported from China is comparable in terms of characteristics such as physical and chemical characteristics,

manufacturing process and technology, functions and uses, product specifications, pricing, distribution and marketing and tariff classification of the goods. The two are technically and commercially substitutable.

- vii. China is a major exporter of TMP to India. The share of imports from China in imports of TMP in India is predominant since 1996-97 and the same has been almost constant. The exporters from China are exporting the material at significantly dumped prices, far below the selling prices of the domestic industry.
- viii. The capacity utilization of the petitioners have been dropping on account of drop in sales.
- ix. Landed value of the dumped imports was significantly below the cost of production of the domestic industry. Should the present trend of prices continue from China, the imports would have severe suppressing/depressing effect on the domestic industry.
- x. The cost of production of the domestic industry has increased drastically in the period of investigation. In spite of increase in cost of production, the selling price of the domestic industry has declined resulting in severe injury to domestic industry.
- xi. The dumping margin from the subject country is not only more than de-minimis but also very significant. The impact of dumping on the domestic industry is significant.
- xii. It is submitted that the final duties may also be recommended in terms of US \$ only, so that erosion in the quantum of protection does not take place on account of changes in the exchange rate. However, the duties may please be kept in terms of reference price only.

It is evident from the above that:-

- a. The subject goods were exported to India at prices below normal values, resulting in dumping;
 - b. The domestic industry suffered material injury. The imports were causing further threat of material injury;
 - c. Injury to the domestic industry is due to dumped imports from China.
- xiii. In view of the above, definitive anti-dumping duties are required to be imposed for all imports from China.

6. INJURY

For the examination of the impact of imports on the domestic industry in India, the Authority has considered such indices having a bearing on the state of the industry as

production, capacity utilisation, quantum of sales, stock, profitability, net sales realisation, the magnitude and margin of dumping etc. in accordance with Annexure II (iv) of the rules supra, the details of which as brought out in the Preliminary Findings are reproduced below:-

a. Quantum of Imports

Quantity (kg.)

| | 1997-98 (as per DGCIS) | 1998-99 (as per secondary source) | 1999-2000 – POI (as per DGCIS) |
|-----------------|------------------------|-----------------------------------|--------------------------------|
| Total imports | 1576 | 1575 | 38,925 |
| China | 1576 | 1575 | 38,775 |
| Other countries | --- | --- | 150 (Switzerland) |

It is seen that the quantum of total imports have gone up significantly during the period of investigation.

The quantum of imports from China have also gone up significantly. Imports in 97-98 and 98-99 were exclusively from China. The share of China in total imports was 100%, 100% and 99.6% in 1997-98, 1998-99 and 1999-2000 (POI) respectively.

a. Production and Capacity Utilisation

The production capacity, actual production and capacity utilisation of the petitioners was as follows: -

| Petitioners | Year | Installed Capacity (MT) | Production (MT) | Capacity Utilisation % |
|-------------|-----------|-------------------------|-----------------|------------------------|
| Alpha Drugs | 1997-98 | 240 | 134.62 | 56.09 |
| Inventaa | | 300 | 300 | 100 |
| Total | | 540 | 434.62 | 80.4 |
| Alpha | 1998-99 | 240 | 200.75 | 83.64 |
| Inventaa | | 300 | 279.31 | 93 |
| Total | | 540 | 480.06 | 88.9 |
| Alpha | 1999-2000 | 240 | 214.14 | 89.22 |
| Inventaa | | 375* | 315.36 | 84 |
| Total | | 615 | 529.5 | 86.09 |

* average for the POI

Production and capacity utilisation of domestic industry has declined in the period of investigation. One of the petitioners has added significant capacities and should the trend of prices from China remain the same, the company would be forced to hold its additional capacities.

a. Sales and Market Share

The quantum of sales (MT) by the petitioners were as follows:-

| Petitioner | 1997-98 | 1998-99 | 1999-2000 (POI) |
|------------|---------|---------|-----------------|
| Alpha | 102.73 | 160.37 | 171.35 |
| Inventaa | 162 | 207 | 179 |
| Total | 264.73 | 367.37 | 350.35 |

It is observed that the demand of TMP was 2,66,306kg, 3,68,945kg and 3,89,275 kg in 97-98, 98-99 and 1999-2000 (POI) respectively. The share of dumped imports in total demand was 0.59%, 0.42% and 9.96% in 97-98, 98-99 and 99-2000 (POI) respectively. The share of the petitioner was 99.40%, 99.57% and 90.00% in 97-98, 98-99 and 99-2000 respectively.

The sale of TMP below cost of production resulted in heavy loss of profit to the petitioner. The cost of production (per kg) and selling prices (per kg) of each of the petitioner companies were as follows:-

| Petitioners | 1996-97 | 97-98 | 98-99 | 99-2000 |
|-----------------|---------|-------|-------|---------|
| Alpha | | | | |
| COP | *** | *** | *** | *** |
| Selling Price | *** | *** | *** | *** |
| Inventaa | | | | |
| COP | *** | *** | *** | *** |
| Selling Price | *** | *** | *** | *** |

Unit selling prices have therefore showed a declining trend.

a. Closing Stocks

It is observed that the closing stocks of the petitioner went up in 97-98 over 96-97. They declined in 98-99 and 99-2000 from the level of closing stocks in 97-98. Alpha Drugs accounted for 61.26% of closing stocks in the POI, while Inventaa accounted for 38.73%.

| Closing Stocks (MT) | 96-97 | 97-98 | 98-99 | 99-2000 |
|---------------------|-------|-------|-------|---------|
| Alpha Drugs | 20.59 | 24.49 | 20.74 | 15.91 |
| Inventaa | 1.88 | 3.57 | 5.97 | 10.06 |
| Total | 22.47 | 28.06 | 26.71 | 25.97 |

b. Price undercutting and price depression

The petitioner has stated that the selling prices of the domestic industry are insufficient to recover the full costs and are below the cost of production and the notified prices by the Government of India under the Drug Price Control Order (DPCO), resulting in severe financial losses to the domestic industry. Further, the imports from the subject country are significantly undercutting the prices of the domestic industry as the landed price of the imported material is below the selling price of the domestic industry as illustrated in the table below:-

Rs/kg

| Year | Sales Realisation (wt.ave) | Landed Price of Imports |
|---------------------------|----------------------------|-------------------------|
| 1997-98 | *** | 1172 |
| 1998-99 | *** | 1174 |
| 1999-2000 (12 months-POI) | *** | 675 |

c. Profitability:-

The domestic industry has been forced to reduce its selling prices below its cost of production, resulting in substantial financial losses. The injury to the domestic industry is evident from the per unit profit/loss made by the industry from sales in the domestic markets, as shown below:-

| Rs/kg | 97-98 | 98-99 | 99-2000 |
|--------------------|-------|-------|---------|
| Alpha Drugs | | | |
| COP | *** | *** | *** |
| Selling Price | *** | *** | *** |
| P/L | (***) | (***) | (***) |
| Inventaa | | | |
| COP | *** | *** | *** |
| Selling Price | *** | *** | *** |
| P/L | *** | *** | (***) |

In view of the foregoing the Authority confirms the conclusions on injury at Para K.13 of the Provisional Findings and reiterates that:-

- the quantum of imports from the subject country have increased in absolute terms;
- the market share of the petitioners have gone down while that of imports has increased;
- the capacity utilisation of the petitioners have gone down ;
- the petitioners have been forced to sell at prices below their non-injurious price resulting in losses;
- imports are undercutting the prices of the domestic industry;

- f. the domestic industry is left with substantial closing stocks.

The Authority therefore concludes that the domestic industry has suffered material injury.

7. Causal Link

The Authority holds that the material injury to the domestic industry has been caused by imports from the subject country. China is the main exporter of Trimethoprim to India and there has been a tremendous increase in import volumes from China in the period of investigation. As already noted, China accounts for almost the entire volume of imports prior to and in the POI. Export prices from the subject country have been declining significantly from 1997-98 onwards reaching an all time low in the POI. The sharp reduction in the export price resulted in steep reduction in the landed price followed by reduction in sales realisation of the petitioners. The increase in the market share of imports from China resulted in the decline in the market share of the petitioner and undercut the prices of the domestic product forcing the domestic industry to sell below its non-injurious price which resultantly, the domestic industry was unable to recover. The material injury to the domestic industry was therefore caused by the dumped imports from the subject country.

8. Anti-Dumping duty imposed:-

The Authority has carefully evaluated the injury caused to the domestic industry on account of dumping of Trimethoprim (TMP) and has recommended the amount of anti-dumping duty equivalent to the dumping margin or less, which if levied, would remove injury to the domestic industry. For this purpose, the Authority has compared the non-injurious selling price of the domestic industry with the landed value of imports from the subject country. Wherever the margin is found to be less than the dumping margin, the Authority has recommended duty lower than the dumping margin.

9. FINAL FINDINGS:-

The Authority after considering the foregoing, concludes that:

- a. Trimethoprim (TMP) originating in or exported from China has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered material injury;
- c. material injury has been caused by imports from the subject country.

10. The Authority recommends imposition of definitive Anti-dumping duty on all imports of Trimethoprim (TMP) falling under customs sub-heading no. 293359.02, of Chapter 29 of the Customs Tariff Act and ITC No. 29335902. as specified under the para relating to product under consideration originating in or exported from China. The anti-dumping duty shall be the difference between the amount mentioned in Col.3. and the landed value of imports.

| Country | Name of the producer/exporter | Amount (USD/kg) |
|---------|-------------------------------|-----------------|
| China | All producers/exporters | 19.71 |

11. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

12. Subject to the above, the Authority confirms the preliminary findings dated 7th September, 2001.

13. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

L.V.SAPTHARISHI
DESIGNATED AUTHORITY