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Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
Jeevan Tara Building, 5 Parliament Street, New Delhi -110001

Dated 10th September 2021

INITIATION NOTIFICATION

(Case No. AD (SSR)-24/2021)

Subject: Initiation of Sunset Review of anti-dumping duty imposed on imports of "Amoxycillin"/ 'Amoxycillin Trihydrate', originating in or exported from China PR.

Whereas M/s Aurobindo Pharma Limited (hereinafter referred to as the applicant/ domestic industry) has filed an application before the Designated Authority (hereinafter also referred to as the "Authority") in accordance with the Customs Tariff Act,1975 as amended in 1995 and thereafter (hereinafter also referred to as the "Act") and Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the "Rules") for Sunset Review of Anti -Dumping duty imposed on imports of Amoxycillin/ Amoxycillin Trihydrate (hereinafter also referred to as the "subject goods" or the "product under consideration" or PUC), originating in or exported from China PR (hereinafter also referred to as the "subject country").

2. The Applicants has alleged that dumping of the subject goods originating in or exported from the subject country has continued even after imposition of anti-dumping duty and there is a likelihood of continuation of dumping of the subject goods, and recurrence of injury to the domestic industry and has requested for extension of the anti-dumping duty imposed on the imports of the subject goods originating in or exported from the subject country.

Background

3. The Authority had initiated the original investigation concerning imports of Amoxycillin originating in or exported from China PR vide Notification No. 14/5/2015-DGAD dated 27th April, 2016. The Final Findings Notification was issued by the Authority vide Notification No. 14/5/2015-DGAD dated 3rd April 2017 recommending imposition of definitive Anti-dumping duty on the imports of the subject goods, originating in or exported from China PR. Definitive anti-dumping duties were imposed by the Department of Revenue, Ministry of Finance, vide Notification No. 21/2017-Customs (ADD) dated 16th May 2017.

Domestic industry & standing

4. The application has been filed by M/s Aurobindo Pharma Limited as the domestic industry and has been supported by M/s Penam Laboratories Limited and M/s Centrient Pharmaceuticals India Private Limited. The Applicant has neither imported the PUC from the subject country in the period of investigation nor is it claimed to be related to any exporter or producer of PUC in the subject country or any importer of the PUC in India.

5. As per the evidence available on record, the applicant company constitutes a major proportion of the total domestic production of the subject goods. The Authority, therefore, determines that the applicant company constitutes eligible domestic industry within the meaning of Rule 2 (b) of the Anti-Dumping Rules and the application satisfies the criteria of standing in terms of Rule 5 (3) of the Rules.

Product under consideration

6. The product under consideration in the investigation is "Amoxycillin Trihydrate"also known as "Amoxicillin". Amoxicillin Trihydrate is a semi synthetic antibiotic, an analog of ampicillin, with a broad spectrum of bactericidal activity against many Gram-positive and Gram-negative microorganisms. The following types of products are however, excluded from the scope of the product under consideration:

i. *Amoxycillin Sodium Sterile and Flucloxacillin Sodium Sterile,*
ii. *Amoxicillin Trihydrate Compacted Ampicillin Trihydrate Compacted and*
iii. *Amoxicillin Trihydrate and Clavulanate Potassium.*

7. Amoxicillin is used to reduce the development of drug-resistant bacteria. To maintain the effectiveness of Amoxicillin and other antibacterial drugs, Amoxicillin should be used only to treat infections that are proven or strongly suspected to be caused by bacteria.

8. Amoxicillin being an organic chemical is categorized under Chapter 29 of the Customs Tariff Act under subheading 29411030. The Customs classification is, however, indicative only and in no way binding on the scope of the investigation.

Like article

9. The applicant has claimed that the goods produced by the domestic industry are identical to the subject goods exported from the subject country to India. Subject goods produced by the domestic industry are comparable to the imported goods from the subject country in terms of technical specifications, manufacturing process & technology, functions & uses, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable and should be treated as 'like article' under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the domestic industry are being treated as 'like article' to the subject goods being imported from the subject country.

Subject Country

10. The subject country in the present sunset review investigation is China PR.

Period of Investigation (POI)

11. The period of investigation (POI) for the present investigation is 1st April 2020 to 31st March,2021. The injury period of investigation will, however, cover the periods April, 2017-March, 2018, April, 2018-March, 2019, April, 2019-March, 2020 and the period of investigation.

Normal Value

12. The applicant has cited and relied upon Article 15 (a) (i) of China's Accession Protocol. The applicant has claimed that producers in China PR must be asked to demonstrate that market economy conditions prevail in their industry producing the like product with regard to the manufacture, production and sale of the product under consideration. It has been stated by the applicant that in case the responding Chinese producers are not able to demonstrate that their costs and price information are market-driven, the normal value should be calculated in terms of provisions of Para 7 and 8 of Annexure- I to Rules.

13. The applicant has stated that it has not been able to gather information either with regard to costs or prices in a market economy third country, or price from such third country to other countries, including India. Therefore, the applicant has suggested normal value for China PR on the basis of "any other reasonable basis" as per Para 7 of Annexure I to the Rules. The applicant has claimed normal value by considering the export price of 6-APA from China PR and the import price of Methyl Ester into India. The cost of raw material so arrived along with the estimated conversion cost and other selling and general administration overheads to produce and sell the final product has been considered to arrive at the cost of production/sales of subject goods. Profit of 5% has been added to arrive at the normal value of the subject goods.

14. For the purpose of initiation, the Authority has considered the methodology suggested by the applicant for determination of normal value.

Export Price

15. The export price for subject goods from the subject country has been computed based on the Directorate General of Commercial Intelligence and Statistics (DGCI&S) transaction-wise import data. Price adjustments have been made on account of ocean freight, inland freight, handling charges, marine insurance, bank charges, and non-refundable VAT.

Dumping Margin

16. The normal value has been compared with the export price at ex-factory level. There is sufficient prima facie evidence that the normal value of the subject goods in the subject country is higher than the ex-factory export price, indicating that the subject goods are

being dumped into Indian market by the exporters from the subject country.

Likelihood of continuation or recurrence of injury

17. There is prima facie evidence of likelihood of continuation/recurrence of dumping and injury to the domestic industry in the event of cessation of duty considering positive dumping margin, export orientation of the producers in the subject country, unutilized capacities in the subject country and potential trade diversion and price attractiveness of Indian market.

Initiation of Sunset Review Investigation

18. On the basis of the duly substantiated written application on behalf of the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, substantiating likelihood of continuation/recurrence of dumping of the product under consideration originating in or exported from the subject country and injury to the domestic industry, and in accordance with Section 9A of the Act read with Rule 23 of the Rules, the Authority hereby initiates a sunset review investigation to review the need for continued imposition of duties in force in respect of the subject goods, originating in or exported from the subject country 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.

Procedure

19. The review will cover all aspects of the final findings published vide Notification No. 14/5/2015 DGAD dated 3rd April 2017. The Authority will also undertake likelihood analysis of dumping and injury as required.

20. The provisions of Rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the Rules shall be mutatis mutandis applicable in this review.

Submission of Information

21. In view of the special circumstances arising out of COVID- 19 pandemic, all communication should be sent to the Designated Authority via email at email address adg12-dgtr@gov.in, dir12-dgtr@gov.in, rajbir.sharma@nic.in and jd14-dgtr@gov.in. It should be ensured that the narrative part of the submission is in searchable PDF/ MS Word format and data files are in MS Excel format.

22. The known producer/ exporters in the subject country, their Government through its Embassy in India, the importers and users in India known to be concerned with the subject goods and the Domestic Industry are being informed separately to enable them to file all the relevant information in the form and manner prescribed within the time-limit set out below.

23. 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.

24. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

25. Interested parties are further advised to keep a regular watch on the official website of the Designated Authority http://www.dgtr.gov.in/ for any updated information with respect to this investigation.

Time Limit

26. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses mentioned above within thirty days from the date of receipt of the notice as per Rule 6(4) of the Anti-Dumping Rules. It may, however, be noted that in terms of explanation of the said Rule, the notice calling for information and other documents shall be deemed to have been received within one week from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country. 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 Rules.

27. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses within the above time limit

Submission of information on confidential basis

28. Any party making any confidential submission or providing information on confidential basis before the Authority, is required to simultaneously submit a non-confidential version of the same in terms of Rule 7(2) of the Rules and the Trade Notices issued in this regard. Failure to adhere to the above may lead to rejection of the response / submissions.

29. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.

30. The "confidential" or "non-confidential" submissions must be clearly marked as "confidential" or "non-confidential" at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority, and the Authority shall be at liberty to allow the other interested parties to inspect such submissions.

31. The confidential version shall contain all information which is by nature confidential and/or other information which the supplier of such information claims as confidential. For information which are claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, 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.

32. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not feasible) and 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, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority

33. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied the request for confidentiality is not warranted or if 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.

34. Any submission made without a meaningful non-confidential version thereof or without good cause statement on the confidentiality claim shall not be taken on record by the Authority.

35. 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.

Sharing of responses/ submission amongst interested parties

36. A list of registered interested parties will be uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other interested parties since the public file will not accessible physically due to ongoing global pandemic.

Non-cooperation

37. In case any interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.

(Anant Swarup)
Designated Authority