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No. 7/14/2018-DGAD Department of Commerce Ministry of Commerce & Industry
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi

Initiation Notification

(Anti-Circumvention Investigation – [AC] 02/2018)

Dated the 4th May, 2018

Subject: Initiation of anti- circumvention investigation concerning the alleged circumvention of anti-dumping duty imposed on the imports of "O-Acid", originating and exported from China PR.

No: 7/14/2018 -DGAD: - Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof (hereinafter referred to as the Rules or AD Rules),

2. Whereas, the Designated Authority (hereinafter referred to as the Authority), in an anti-dumping review investigation, vide its Notification No. 14/31/2016-DGAD dated 23rd May, 2017 issued preliminary finding recommending imposition of provisional duties on the subject goods which were imposed by the Ministry of Finance Notification No.35 /2017-Customs (ADD) dated 13th July, 2017. The Designated Authority vide Notification No. 14/31/2016-DGAD dated 19th December, 2017, notified its final findings recommending definitive anti-dumping duty on imports of Ofloxacin Acid or O-Acid originating in or exported from China PR and accordingly definitive anti-dumping duties were imposed vide Customs Notification No. 6/2018-Customs (ADD) dated the 12th March, 2018.

3. Whereas, in terms of the Section 9A of the Customs Tariff Act 1975, read with Rule 25 of the Anti-Dumping Rules, M/s. Aarti Drugs Limited. (hereinafter referred to as the Petitioner or the Domestic Industry), the sole producer of O-Acid in India, has filed a petition before the Authority alleging that O-Acid, which is the product subject to

provisional antidumping duty vide Customs Notification No35 /2017-Customs (ADD) dated 13th July, 2017 and later definitive anti-dumping duties, vide Customs Notification No. 6/2018-Customs (ADD) dated the 12th March, 2018 is now being circumvented into India. The exporters from China PR are exporting Ofloxacin Ester into India which is then simply being converted into O-Acid without much value addition. The production of Ofloxacin Ester is a penultimate step in the manufacturing process of O-Acid. Due to the imposition of provisional and definitive anti-dumping duty, the producers from China have found it advantageous to produce and export Ofloxacin Ester, the penultimate intermediary product and dump the same into India by evading the Anti-dumping duty imposed on O-Acid

Product under Consideration

4. The product forming the object of circumvention is "Ofloxacin Ester". The subject goods are also classified under Chapter 29 of the Customs Tariff Act, 1975 under the Sub-heading 29349900. The customs classification is indicative only and in no way binding on the scope of investigation.

Existing Measures

5. The measures currently in force and which are allegedly being circumvented are the provisional antidumping duty imposed by Ministry of Finance vide Customs Notification No35 /2017-Customs (ADD) dated 13th July, 2017 and later definitive anti-dumping duties, vide Customs Notification No. 6/2018-Customs (ADD) dated the 12th March, 2018 on the imports of O-Acid, originating in or exported from China PR.

Grounds for Initiation

6. The Petitioner claims that the circumvention of the anti-dumping duty levied on the imports of O-Acid originating in or exported from the subject country started after the imposition of provisional anti-dumping duty vide Customs Notification No35 /2017-Customs (ADD) dated 13th July, 2017 and the same has now intensified. This type of circumvention comes under "product circumvention". The petitioner claims, exporters from China PR are exporting Ofloxacin Ester into India which is then simply being converted into O-Acid without much value addition. The production of Ofloxacin Ester is a penultimate step in the manufacturing process of O-Acid. Due to the imposition of provisional and definitive anti-dumping duty, the producers from China have found it advantageous to produce and export Ofloxacin Ester, the penultimate intermediary product and dump the same into India by evading the Anti-dumping duty imposed on O-Acid. The process involved in converting Ofloxacin Ester to O-Acid is the process of hydrolysis in acidic water. The cost of converting Ofloxacin Ester to O-Acid and the value addition from

the stage of Ofloxacin Ester to O-Acid in India is much below the limits of 35% as prescribed under the Rule 25(b) of the AD Rules. The users/importers of O-Acid are now importing Ofloxacin Ester and with minimal value addition converting the same to O-Acid thereby. This has left the duty on O-Acid meaningless. Also there were NIL imports of Ofloxacin Ester prior to July 2017. However, immediately after imposition of provisional antidumping duty, the imports of Oflaxacin Ester started in significant volume. Further, imports of O-Acid have practically stopped with just One MT of O-Acid being imported in Aug 2017. Thus, there is clear change in pattern of the imports post imposition of anti-dumping duty. Imposition of ADD has led to significant imports of Ofloxacin Ester and virtual stoppage of imports of O-Acid since July 2017. It is also seen that the import price of Ofloxacin Ester is lower than the import price of O-Acid. The petitioner also alleges that the product under consideration is being circumvented from the subject country in intermediary form, below its associated normal value, nullifying the dumping duty in force. Hence, the domestic industry continues to suffer material injury. Thus, injury to the domestic industry was being caused by the dumped imports, which has not been remedied because of circumvention

Procedure

7. Having satisfied itself on the basis of the prima facie evidence submitted by the domestic industry substantiating the need for an anti-circumvention investigation, the anti-dumping duty imposed on the imports of O-Acid originating in or exported from the subject country, the Authority has concluded that sufficient prima facie evidence exists to initiate an anti-circumvention investigation of the alleged circumvention of the anti-dumping duty imposed on the imports of O-Acid originating in or exported from the subject country vide Customs Notification No35 /2017-Customs (ADD) dated 13th July, 2017 and later definitive anti-dumping duties, vide Customs Notification No. 6/2018-Customs (ADD) dated the 12th March, 2018 in accordance with Section 9A(1A) of the Act, read with Rule 25 of Antidumping Rules, to investigate as to whether imports of Ofloxacin Ester are at dumped prices and are causing injury to the domestic industry and the need for extending anti-dumping duty imposed on the imports of O-Acid originating in or exported from the subject country vide Customs Notification No. 6/2018-Customs (ADD) dated the 12th March, 2018 to the imports of Ofloxacin Ester from the subject country.

8. The country involved in this circumvention investigation is China PR.

9. The period of investigation (POI) for the purpose of the present investigation is July 2017 – March, 2018. The injury investigation period will, however, cover the periods April'2014-March'15, April'2015–March'2016, April'2016-March'2017 and the POI.

Submission of Information

10. The known exporter in the subject country, the Government of the subject country through its embassy in India, the importers and users in India known to be concerned with the product shall be addressed to submit relevant information in the form and manner prescribed and to make their views known to the Authority at the following address:

The Designated Authority
Directorate General of Anti-Dumping & Allied Duties
Department of Commerce, Jeevan Tara Building, 4th Floor
5, Parliament Street
New Delhi -110001

11. 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 by the Authority. 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.

Time Limits

12. Any information relating to the present investigation and any request for hearing should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 days) from the date of communication of initiation of this Notification. 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 Anti-Dumping Rules.

13. 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 and offer their comments to the domestic industry's application regarding the need to extend the Antidumping measures on circumvented product within 40 days from the communication of initiation of this Notification.

Submission of information on confidential basis

14. The parties making any submission (including Appendices/Annexure attached thereto), before the authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:

(a) One set marked as Confidential (with title, number of pages, index, etc.), and
(b) The other set marked as Non-Confidential (with title, number of pages, index, etc.).

15. 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. Soft copies of both the versions will also be required to be submitted, along with the hard copies, in five (5) sets of each.

16. 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 the information which is 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.

17. 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, 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.

18. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that 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.

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

20. 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.

Inspection of Public File

21. In terms of Rule 6(7) of the AD Rules, any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

Non-cooperation

22. 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.

(Sunil Kumar)
Additional Secretary & Designated Authority