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Government of India
Department of Commerce
Ministry of Commerce & Industry
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5 Parliament Street,
New Delhi -110001

Dated: 2nd August, 2021.

Initiation Notification
(Case No. AD-OI-11/2021)

Subject: Initiation of Anti-dumping investigation concerning imports of "(4R-Cis)-1,1-Dimethylethyl-6-cyanomethyl-2,2-dimethyl-1,3-dioxane-4-acetate also known as ATS-8" originating in or exported from China PR.

1. An application has been filed by **M/s Arch Pharma labs Limited** (hereinafter referred to as the 'the petitioner' or 'the applicant') before the Designated Authority (hereinafter also referred to as 'the Authority') in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped articles and Determination of injury) Rules, 1995 as amended from time to time (hereinafter referred to as the Rules) for initiation of anti-dumping investigation and imposition of an anti-dumping duty concerning imports of **"4R-Cis)-1,1-Dimethylethyl-6-cyanomethyl-2,2-dimethyl-1,3-dioxane-4-acetate also known as ATS-8"** (hereinafter also referred to as the subject goods or product under consideration) originating in or exported from China PR (hereinafter also referred to as the subject country).

2. The applicant has alleged that the domestic injury is suffering material injury due to the dumped imports of subject goods from the subject country, and has requested for imposition of anti-dumping duty on the import of the subject goods from the subject country.

Product under consideration

3. The product under consideration ("PUC") is "(4R-Cis)-1,1-Dimethylethyl-6-cyanomethyl-2,2-dimethyl-1,3-dioxane-4-acetate also known as ATS-8". While the chemical name of the product remains "(4R-Cis)-1,1-Dimethylethyl-6-cyanomethyl-2,2-dimethyl-1,3-dioxane-4-acetate" the product is also known in trade names like ATS-8, ASC-3P, TBIN, Cyano Ketal Compound and Atorvastatin Intermediate wherein ATS-8 is the most commonly used trade name.

4. ATS-8 is a key intermediate for manufacture of Atorvastatin API (Active Pharmaceutical Ingredient). Atorvastatin drug formulation is widely used to treat for lowering of excess cholesterol condition in the human beings, which can otherwise lead to cardio vascular problems like heart attack and stroke, if not treated. This is a lifesaving drug finding classification under the National List of Essential Medicines (NLEM). The intermediate is manufactured in the form of bulk powder by the company and does not have any separate grades or types.

5. The imports of the PUC have been reported under subheadings of Chapter 29 for the purpose charging of duty at the time of imports with highest imports having been reported under subheading numbers 2932 and 2933 though there have been imports under other subheadings like 2915, 2916, 2917, 2918, 2926, 2931 and 2934 also as per the petition.

Like Article

6. The applicant has claimed that there is no known difference in the subject goods produced by the Indian industry and the product under consideration produced and exported from the subject country. The two products are comparable in terms of essential product characteristics such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. Consumers can use and are using the two interchangeably. The two are technically and commercially substitutable.

7. The applicant has claimed that there are no known major differences in the production process employed by the applicant and the exporters from the subject countries. Therefore, for the purposes of the present investigation, the Authority treats the subject goods produced by the applicant in India as "like article" to the product under consideration being imported from the subject country.

Domestic Industry and Standing

8. The application has been filed by **M/s Arch Pharma labs Limited** as the domestic industry.

9. The applicant has submitted that they are the sole producer of the subject goods in India. 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 Anti-dumping Rules.

Subject Country

10. The petition has been filed in respect of the dumping of the product concerned from China PR. As per the application, ATS-8 is only produced in India and in China PR.

Basis of alleged dumping

a) Normal Value

11. The petitioner has claimed that China PR should be treated as a non-market economy and the normal value should be determined in accordance with para-7 of Annexure-I to the Rules. The applicant has claimed that the product under consideration is classified under multiple HS codes and therefore the applicant does not have accurate information regarding the cost or price in a market economy third country, or the export price of the subject goods from an appropriate third country for determination of the normal value. Therefore, the normal value for the subject country has been estimated by considering the normal value on the basis of cost of production in India, duly adjusted.

b) Export Price

12. The applicant has arrived at the export price at ex-factory level from the CIF import price obtained from DGCI&S import statistics after making certain adjustments. Adjustments have been claimed on account of ocean freight, marine insurance, inland freight, D/O charges, handling & clearing charges to arrive at the export price at the ex-factory level.

Dumping Margin

13. The normal value and the ex-factory export price have been compared which shows significant dumping above de mininmis in respect of the subject goods from the subject country. There is sufficient prima facie evidence that subject goods are being exported to India at price below the normal value, resulting in the dumping of the subject goods from the subject country, justifying initiation of an antidumping investigation.

Evidence of Injury and Causal Link

14. Information furnished by the applicant has been considered for assessment of injury to the domestic industry. The applicant has furnished evidence regarding it being materially injured on account of dumping of the subject goods from subject country. It has claimed that there is significant price suppression, price underselling, low-capacity utilization and continued losses to the industry on account of the dumped imports. Further, there is no change in the pattern of consumption, trade restrictive practice, change in the technology and the imports from other countries which could have contributed to the injury being suffered by the domestic industry.

15. From the foregoing, the Authority prima facie finds sufficient evidence of dumping of the subject goods originating in or exported from the subject country, causing injury to the domestic industry and the causal link between the alleged dumping and the injury sufficient to justify initiation of an anti-dumping investigation in terms of Rule 5 of the Anti-dumping Rules, to determine the existence,

degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

Initiation of anti-dumping investigation

16. On the basis of the duly substantiated written application by or on behalf of the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted, about the dumping of the subject goods originating in or exported from the subject country, injury to the domestic industry and causal link between such alleged dumping and injury, and in accordance with Section 9A of the Act read with Rule 5 of the Rules, the Authority, hereby, initiates an investigation to determine the existence, degree and effect of any alleged dumping in respect of the subject goods originating in or exported from the subject country and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

Period of Investigation (POI)

17. The proposed POI is from 1st April 2020 to 31st March 2021 (12 Months). The injury investigation period for the present investigation will be 2017-18, 2018-19, 2019-20 and the POI.

Submission of information

18. In view of the special circumstances arising out of the COVID-I9 pandemic, all communication should be sent to the Designated Authority via email at the email addresses adg11-dgtr@gov.in, dir13-dgtr@gov.in, dir11-dgtr@gov.in, jd16-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.

19. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time-limit set out below on the email addresses mentioned in Para 18 above.

20. 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.

21. 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.

Time limit

22. Any information relating to the present investigation should be sent to the Designated Authority via email at the email adg11-dgtr@gov.in, dir13-dgtr@gov.in, dir11-dgtr@gov.in, jd16-dgtr@gov.in, within thirty days from the date of receipt of the notice as per as per Rule 6(4) of the Rules. It may, however, be noted that in terms of the 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.

23. 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 limits.

24. 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.

Submission of information of non-Confidential basis

25. 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 the rejection of the response / submissions.

26. 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:

27. 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.

28. 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

29. 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, parties submitting the confidential information may indicate that such information is not susceptible to summarization; a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority.

30. 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 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.

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

32. 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

33. A list of 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

34. In case any interested party refuses access to and 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