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

Dated: 24.09.2020

INITIATION NOTIFICATION

(Case No. AD (OI)-39/2020)

Subject: Initiation of anti-dumping investigation concerning imports of Ceftriaxone Sodium Sterile originating in or exported from China PR.

1. M/s Nectar Life Sciences and M/s Sterile India (hereinafter also referred to as the "Applicants") have filed an application before the Designated Authority (hereinafter also referred to as the "Authority") as domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (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 initiation of anti-dumping investigation concerning imports of Ceftriaxone Sodium Sterile originating in and exported from China PR (hereinafter also referred to as "subject country").

2. The Applicants have contended that material injury is being caused to the Domestic Industry due to dumped imports from subject country and have requested for imposition of anti-dumping duty on the imports of the subject goods from subject country.

A. Product under Consideration (PUC)

3. The product under consideration in the present investigation is "Ceftriaxone Sodium Sterile" also known as Ceftriaxone Disodium Hemiheptahydrate-Sterile. This is a third-generation parenteral Cephalosporin Antibiotic.

4. Ceftriaxone Sodium Sterile is an Active Pharmaceutical Ingredient (API) used for formulation for treating disease like lower respiratory tract infection, skin & skin structure infection, pelvic inflammatory disease, intra-abdominal infection, uncomplicated gonorrhea infection, and surgical prophylaxis.

5. Ceftriaxone Sodium Sterile does not have dedicated classification and is being imported into India under different HS codes as under subheading 2941.1090, 2941.9090 & 2942.0090 of Chapter 29 of Schedule 1 of the Act. Customs classification is only indicative in nature and not binding on the scope of the investigation.

B. Like article

6. The applicants have claimed that the goods produced by the domestic industry are identical to the subject goods exported to India. Subject goods produced by the domestic industry are comparable to the imported goods from 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 applicants are being treated as 'Like Article' to the subject goods being imported from the subject country.

C. Domestic industry and standing

7. The application has been filed by M/s Nectar Life Sciences Ltd. and M/s Sterile India Pvt Ltd. The Applicants have neither imported the subject goods from the subject country nor are they related to any exporter or producer of the subject goods in the subject country or importer in India. The application has been supported by M/s Aurobindo Pharma Ltd.

8. As per evidence available on record, the Applicants' production accounts for a major proportion in the domestic production of the like article in India. On the basis of information available, the Authority has considered the Applicants as Domestic Industry within the meaning of the Rule 2(b). Further, the application along with supporter satisfies the criteria of standing in terms of Rule 5(3) of the Rules.

D. Basis of Alleged Dumping

a. Normal Value

9. For China PR, 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 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 the Rules.

10. The applicants have submitted that normal value could not be determined on the basis of price or constructed value in a market economy third country or the price from such a third country to other country, including India, for the reason that the subject goods is only produced in China and India. The normal value has therefore been constructed considering international prices of the raw materials and available facts with regard to conversion cost, duly adjusted for selling, general and administrative expenses. Further, profit @5% has been added to arrive at the normal value.

b. Export Price

11. The export price for subject goods for the subject country has been computed based on the Directorate General of Commercial Intelligence and Statistics. Price adjustments have been made for ocean freight, marine insurance, commission, port expenses, bank charges and inland freight expenses.

c. Dumping Margin

12. The normal value and the export price have been compared at ex-factory level, which prima facie shows that the dumping margin is above the de-minimis level in respect of the product under consideration from the subject country. There is prima facie evidence that the product under consideration is being dumped into the Indian market by the exporters from the subject country.

E. Injury and causal link

13. Information furnished by the applicants has been considered for assessment of injury to the domestic industry. The applicants have furnished prima facie evidence regarding the injury having taken place as a result of the alleged dumping in the form of increased volume of dumped imports in absolute terms and also in relation to production and consumption in India, price undercutting depressing the prices of the domestic industry. The price underselling is significantly positive. Performance of the domestic industry has deteriorated in respect of various parameters such as capacity utilization, market share, profits, cash profits and return on capital employed. There is prima facie evidence that the dumped imports from subject country are causing material injury to the domestic industry.

F. Initiation of Anti-Dumping Investigation

14. On the basis of the duly substantiated written application by the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry, about 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.

G. Subject country

15. The subject country for the present investigation is China PR.

H. Period of Investigation (POI)

16. The period of investigation (POI) for the present investigation is 1st April 2019 – 31st March 2020 (12 months). The injury investigation period will cover the periods 1st April 2016-31st March 2017, 1st April 2017- 31st March 2018, 1st April 2018- 31st March 2019 and the POI.

I. Procedure

17. Principles as given in Rule 6 of the Rules will be followed for the present investigation.

J. Submission of Information

18. 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, adv12-dgtr@gov.in, dir13-dgtr@gov.in and dd15-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. The known producers/exporters in the subject country, Governments of the subject country through their 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.

20. 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.

21. 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.

K. Time Limit

22. Any information relating to the present investigation should be sent to the Designated Authority via email at the email addresses adg12-dgtr@gov.in, adv12-dgtr@gov.in, dir13-dgtr@gov.in and dd15-dgtr@gov.in. within 37 days from the date of receipt of the notice as per as per Rule 6(4) of the Rules. 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 limit.

24. The interested parties are further advised to keep a regular watch on the official website of DGTR i.e. www.dgtr.gov.in for any updated information with respect to this investigation.

L. Submission of information on 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 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, 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

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 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.

31. 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.

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.

M. Inspection of Public File

33. In terms of Rule 6(7) of the Rules, any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties. The modality of maintaining public file in electronic mode is being worked out.

N. Non-cooperation

34. 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.

(B.B.Swain)
Special Secretary & Designated Authority