

**SOUTH AFRICA – ANTI-DUMPING DUTIES ON  
CERTAIN PHARMACEUTICAL PRODUCTS FROM INDIA**

Request for Consultations by India

The following communication, dated 1 April 1999, from the Permanent Mission of India to the Permanent Mission of South Africa and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Republic of South Africa pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT) and Article 17.3 of the Agreement on Implementation of Article VI of GATT 1994, regarding the recommendation of imposition of definitive anti-dumping duties by the Board on Tariffs and Trade (BTT) vides its report No. 3799 dated 10 March 1997, on the import of certain pharmaceutical products from India.

South Africa initiated anti-dumping proceedings against the import of ampicillin and amoxycillin 250 mg. capsules from India. The Board on Tariffs and Trade of South Africa made a preliminary determination on 26 March 1997 that ampicillin and amocycillin 250 mg. and 500 mg. capsules exported by M/s Ranbaxy Laboratories Ltd., India, were being allegedly dumped into South Africa Customs Union (SACU). This was followed by the recommendation to impose final duties on these products by the above mentioned BTT reported on 10 September 1997.

The Government of India considers that the definition and calculation of the normal values is inconsistent with the provisions of the WTO and an erroneous methodology was used for determining the normal value and the resulting margin of dumping. The method of arriving at constructed export price was also not reasonable which resulted in a higher margin of dumping. The Government of India further considers that the determination of injury was not based on positive evidence and did not include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry which led to an erroneous determination of material injury suffered by the petitioner. India is also of the view that the South African authorities' establishment of the facts was not proper and that their evaluation was not unbiased or objective. Moreover, the South African authorities have not taken into account the special situation of India as a developing country.

The Government of India wishes to express its concern at the apparent lack of conformity of the above measures with the provisions of obligations of GATT 1994 and the Anti-Dumping Agreement. In particular the Government of India considers that infringements of the following provisions have taken place:

- (i) The following Articles of the Agreement on Implementation of Article VI of GATT 1994:
  - (a) Article 2
  - (b) Article 3
  - (c) Article 6
  - (d) (a) to (c) above alone and in conjunction with Article 12
  - (e) Article 12
  - (f) Article 15
- (ii) Article VI of GATT 1994
- (iii) Article I of GATT 1994

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations in this regard.

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