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Unit SANCO/D/6,
DM24 02/34,
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Brussels

Taizhou, China, May 31, 2012,

By e-mail to SANCO-PHARMACEUTICALS-D6@EC.EUROPA.EU

Re: Comments on Directive 2011/62/EU and the draft template for the written confirmation for Active Substances imported to the European Union.

Dear Sir,Madam,

Please find below the Zhejiang Jiuzhou Pharmaceutical Co.Ltd's response to the consultation on the "*draft template for the written confirmation for active substances imported into the European Union for medicinal products for human use*."

As a API manufacturer located in Taizhou of China, we are exporting API products into European Union directly or through trading companies registered in EU member states (we are not small and medium-sized enterprise under EU definition). We have obtained CEP certificate for all API products and EU GMP certificate for three of these API products. We would like take this opportunity to express our comments on both Directive 2011/62/EU and the draft template of the written confirmation. China is one of major countries exporting API to European Union. Therefore, Our comments are mainly related with China's Health Authority (SFDA) and China's API manufacturers.

Comments on Article 46b(2) of Directive 2011/62/EU
We understand objective of Directive 2011/62/EU is to control an alarming increase of medicinal products detected in the Union which are falsified in relation to their identity, history or source. It is really necessary to take actions to mitigate the risk related with falsified API and drug product. However, we have some suggestions on method and specific requirements behind the Article 46b(2).

Firstly, so far we did not see transparent communication between European Union or its representative health authority and the State Food and Drug Administration of China (SFDA). As we know, till now the SFDA has no plan to issue the written confirmation for API manufacturers of China because issuing of a written confirmation is not a bilateral agreement between EU and any other third countries involved. If no proactive communication is initiated by European Union, enforcement of this Directive most probably lead to unexpected similar legal action from the Ministry of Commerce and SFDA of China. The situation will cause big loss on both medicinal product manufacturers of EU and API manufacturers of China. Therefore, we urge European Union to begin proactive dialogue with such important third countries as China as early as possible to reach bilateral agreement.

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Secondly, It goes too far requiring competent authority of third countries to make such statement as that Chinese GMP is equivalent to EU GMP. It is common opinion of SFDA regulators that it can not be accurately judged and stated how current Chinese GMP guideline is equivalent to EU GMP although Articles of new Chinese GMP have been mainly referred to that of EU GMP. In other words, SFDA can not and is not intending to make this legal judgment, instead of that, Chinese SFDA is only willing to state Chinese API manufacturers meets Chinese GMP. What if Chinese SFDA requires EU competent authorities state EU pharmaceutical manufacturers meets Chinese GMP? So it's more become a political issue rather than technical issue. Our suggestions : Can European Union accept Chinese SFDA written confirmation that Chinese API manufacturer comply with Chinese GMP ?

Thirdly, we suggest not to request competent authority make a statement that European Union will be informed if non-compliance with GMP is founded by competent authority. It is more appropriate to require competent authority publicly disclose all non-compliance of pharmaceutical companies and warning on illegal manufacturing in territory through official website (In fact, SFDA is posting warning and withdraw of GMP certificate for severe non-compliance of pharmaceutical companies in China). If this mechanism has been established by competent authority, European Union should not insist on informing of non-compliance to European Union, unless a bilateral agreement between EU and country involved is available. The Union can also rely on Qualified Persons of medicinal product producers in the EU to monitor the warning information issued by third country competent authority. And on the other hand, every time when renewed Chinese SFDA GMP statement is available with the imported goods, it means GMP certificate and regular inspection is maintained; in case any critical issue found by Chinese SFDA during their monitoring inspection, the statement on compliance with Chinese GMP definitely will not be issued.

Fourthly, China's manufactuers that are exporting API products to European Union can be categorized as two groups. Group 1, licensed pharmaceutical companies. These companies are under surveillance of SFDA and GMP inspection mechanism. These companies normally obtained both CEP certificate from EDQM and Marketing Authorization as well as Chinese GMP from SFDA, even EU GMP from a member state of European Union. There is minimum risk involved with these licensed pharmaceutical companies. Aritcle 46b(2) will push back these pharmaceutical companies and cause significant barrier for API supply to drug product manufactuers in EU if SFDA do not agree to issue the written confirmation. Group 2, some pharmaceutical companies or chemical companies that have not obtained CEP certificate, Chinese GMP and/or EU GMP. The supply chain has high risk of falsified API, therefore, should be controlled through more stringent legal enforcement. Our suggestion: If a pharmaceutical company can provide notarized copy of following legal documents for each shipment, written confirmation OR shortage proof should be waived. These notarized document include valid **CEP certificate, API Marketing Authorization in China, Chinese GMP certificate issued by SFDA and EU GMP certificate issued by a member state of EU.**

Fifthly, we suggest that GMP certificate issued by those countries in MRA with EU should be treated as equivalence with GMP certificate issued by a member state of EU. These authorities include at least US FDA, Australian TGA, Japanese PMDA, Canadian Health Authority etc.

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Finally, if SFDA of China probaly do not take action to issue the written confirmation, it could be anticipated that lots of China's API manufacturers will submit GMP inspection application to health authorities of EU member states before the deadline, which will definitely cause jam of GMP inspection and resources shortage in member state health authority although API shortage proof is also needed for a waiver of written confirmation. Therefore, we hope a GMP inspection mechanism on third countries can be established by the Union. EDQM could be representative entity for GMP inspection on API manufacturers of third countries. Recources are surely needed for a surge of GMP inspection application. Charging for the GMP inspection could be assessed to assure sufficient resources on this job.

Comments on Draft template for the written confirmation

The draft template is based on the assumption that health authority of third countries are intending to issue the written confirmation without disagreement on 2011/62/EC.

We suggest to modify the sentence:

The standards of good manufacturing practice applicable to this manufacturing plant are at least equivalent to those laid down in the EU;

As

The standards of good manufacturing practice applicable to this manufacturing plant are least equivalent to those laid down in ***WHO GMP guideline.***

(**Comment**: WHO GMP does not diminish enforcement, and is more liable to be accepted by competent authority of exporting countries.)

We suggest to modify the sentence:

In the event of findings relating to non-compliance, information on such findings is supplied by the exporting third country without delay to the EU.

As

In the event of findings relating to ***critical*** *non-compliance, information on such findings is* ***disclosed to the public by competent health authority*** *of the exporting third country.*

(**Comment**: Informing the public through website of health authority is common practice worldwide. It is more liable to be accepted by competent authority, and will not diminish its effect of 2011/62/EC. Warning to the public of exporting countries should also be regarded as a kind of INFORMING. Also, European Union could require Qualified Persons of drug product manufacturers in EU to inform the Union without delay)

In Summary, we urge European Union to come up with practical solution and assess Article 46b(2) again. Thanks for your consideration of our comments.

Yours sincerely,

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