UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of **CERTAIN COAMOXICLAV PRODUCTS, POTASSIUM CLAVULANATE PRODUCTS, AND OTHER PRODUCTS DERIVED FROM CLAVULANIC ACID**	**Investigation No. 337-TA-479**

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 9, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of GlaxoSmithLline plc of the United Kingdom and SmithKlineBeecham Corp. d/b/a GlaxoSmithKline of Philadelphia, Pennsylvania. A supplement to the complaint was filed on August 28, 2002. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain coamoxiclav products, potassium clavulanate products, and other products derived from clavulanic acid by reason of misappropriation of trade secrets and unfair competition. The complaint further alleges that there exists in the United States an industry as required by subsection (a)(1)(A) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing-

impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at http://www.usitc.gov. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at http://dockets.usitc.gov/eol/public.

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2571.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2002).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on September 4, 2002 ORDERED THAT --

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain coamoxiclav products, potassium clavulanate products, or other products derived from clavulanic acid by reason of misappropriation of trade secrets, or unfair competition the threat or effect of which is to destroy or substantially injure an industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are –

GlaxoSmithKline plc
Brentford, Middlesex

TW8 9GS
United Kingdom

SmithKlineBeecham Corp.
d/b/a GlaxoSmithKline
One Franklin Plaza
P.O. Box 7929
Philadelphia, Pennsylvania 19101

(b) The respondents are the following companies upon which the complaint is to be served –

Biochemie GmbH
Biochemiestrasse 10
A-6250 Kundl
Austria

Biochemie SpA
Corso Verona 165
Rovereto, Trento 38068
Italy

Novartis AG
Lichtstrasse 35
CH-4056
Basel
Switzerland

Geneva Pharmaceuticals, Inc.
506 Carnegie Center, Suite 400
Princeton, New Jersey 08540

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-E, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R.

§§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: September 5, 2002