

EU review mechanism on customs laws not likely to cover drug seizure issue

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Even as the repeated seizure of drugs by the European authorities raised resentment and the EU claimed to be reviewing the contentious regulatory clause relating to the issue, India has expressed apprehension about the review and its chances of resolving the matter permanently.

European Union has learnt to be conveyed to India that it was reviewing the controversial regulation of EC 1383/2003 which has created the problem leading to the seizure of drugs in the recent past. However, Indian authorities view that the issue cannot be solved with the ongoing review.

The review mechanism, built into the 2003 regulation, started in September 2008, before the issue of drug seizure grabbed the headlines. EU is understood to be reviewing the regulations with regard to other EU laws and not with the international obligations under TRIPS or the Doha Declaration on public health. It has nothing to do with the scenario arising after the seizure of drugs, sources with the Commerce Ministry said.

Much to the displeasure of India, European Union is also having the opinion that it cannot take up and deal with case of drug delays as an exceptional category under the regulation. Asserting that the cases were not 'drug seizures' but 'delays' as the shipments were released after a while, EU officials claimed the cases were isolated as the number of shipments pass through Europe.

As contented by India, the details for the review mechanism does not cover the issue but it is taking up a general review of the regulation. "In particular, the new EU Action Plan should focus on improving and wherever necessary modifying, existing IPR legislation, improving cooperation with right holders, strengthening operational cooperation between customs in the EU and with third countries, developing further international cooperation on IPR enforcement, improving publicity and awareness, and responding to the problem of Internet sales and delivering ad hoc training to customs officers. The new plan should also take into account other new trends and forms employed in the distribution of counterfeit goods dangerous to society, resulting from the globalisation of world trade, and growing involvement of organised crime," according to the European Council resolution on the EU Customs Action Plan to combat IPR infringements for the years 2009 to 2012

"The Commission and the Member States reviewed activities in the EU relating to customs enforcement of intellectual property rights (IPR) from 2005-2008, for the period of the previous anti-counterfeiting (1) customs action plan. The implementation of Council Regulation (EC) No 1383/2003 and the activities contained in the action plan

were considered to have provided a successful response to the trade in counterfeit goods," it said.