

Post Issuance of Notice of Initiation

Format as Prescribed under Rule 5(2) of Safeguard Duty Rules

Trade Notice on Safeguard Applications Issued by Director General (SG/TN/1/97 DT:06/09/1997)

Rule 5(2) of the Safeguard Duty Rules requires an application for safeguard investigation to be in the form as specified by the Director General. The Director General has issued a Trade Notice in this behalf prescribing the information to be provided in an application for safeguard investigation and the supporting documents required to be submitted therewith. The Trade Notice having been issued under the authority of the Rules, has the force of law. The applicants need to abide by the provisions contained in the Trade Notice.

Trade Notice on Safeguard Applications

1. Attention of the Trade and Industry is invited to Section 8B of the Customs Tariff Act of 1975 and the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 framed thereunder (Hereinafter referred to as the Safeguard Rules). In exercise of the powers conferred by sub-rule (1) of Rule 3 of the Safeguard Rules, the Central Govt. has appointed the undersigned as the Director General (Safeguards), for the purpose of the said rules.
2. In accordance with the provisions of the Safeguard Rules, safeguard duty can be imposed on any product imported into the country, in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten serious injury to the domestic producers of like or directly competitive products, irrespective of the source of origin of the imported product.
3. The safeguard duties can be imposed for a short duration with the immediate intention of preventing or remedying serious injury to the domestic industry. Such a measure would, however, also require the industry to adjust itself to the new situation of the competition offered by the increased imports. A safeguard measure can be imposed only after the Director General arrives at a finding, after due investigation, that the increased imports of particular product(s) are causing or are threatening to cause serious injury to the domestic producers of like- or directly competitive articles.
4. An application for initiation of a safeguard investigation can be made by any aggrieved producer / manufacturer, trade representative body, firm or institution, which is representative of domestic industry. This application should be in the format and should include information as detailed in Annex to this Trade Notice alongwith all supportive evidence / data / annexes.
5. The following further requirements need to be fulfilled by all parties concerned.
 - i. Information should be provided for the most recent period of three years (or longer) for which data is available.
 - ii. The details of the source of information must be provided along with copies of source document wherever practicable.
 - iii. Information provided on confidential basis, on cause being shown, be treated as Confidential Information. Confidential Information should be provided separately and not mixed up with the non-confidential information. Each page of the confidential information should be clearly and distinctly marked 'Confidential' in bold letters both at the top right hand and bottom right hand side of the page. Non-confidential summary of confidential information may be provided by the supplier of the information. If the confidential information cannot be provided in a summarised or generalized form on non-confidential basis, such information may be disregarded unless it is demonstrated by the supplier of the information to the satisfaction of the investigating authorities from appropriate sources that the information is correct.
 - iv. Applicant(s) shall submit initial two copies of the application together with all supportive enclosures, data and annexes. Once the application is found to be properly documented and complete in all respects, applicants will be required to provide sufficient number (number of interested parties + seven) of copies of the application alongwith all enclosures / annexes etc.
 - v. If any application is found to be incomplete or deficient in any manner, it may be returned (after retaining one copy) to the applicant(s) for necessary action.
 - vi. Documents which are not clearly legible and / or which are not authenticated by the submitter thereof, may be disregarded.
 - vii. Subject to the provisions of rules in this regard, on cause being shown, a party to the investigation may be considered as an interested party.
 - viii. Request received within 15 days of publication of a notice of initiation of investigation for inclusion of any party to the investigation as an interested party, may be considered by the Director General (Safeguards) and a list of interested parties shall be established by the Director General within 2 1 days of the publication of notice of initiation, a copy of which shall be sent to all interested parties.
 - ix. A public file containing all relevant material (non-confidential) shall be available for inspection by all interested parties in the office of the Director General (Safeguards).
 - x. Information presented orally by any interested party in a public hearing shall be submitted in writing by such party to the Director General within 5 days of the hearing or within such period as allowed by the Director General. Interested Parties may collect copies of such submissions on a day indicated by the Director General and submit rebuttals, if any, within such period as allowed by the Director General.
 - xi. Any evidence or any other submissions made by any party shall be provided in sufficient number of copies (number of interested parties + seven) to the Director General.
 - xii. All notices shall be displayed on the notice board of the Directorate General for a period of 10 days from the date of the notice.
 - xiii. An English translation of any information provided in a language other than Hindi or English would need to be supplied simultaneously by the submitter of the information, failing which the information may be disregarded.
 - xiv. All information / material should also preferably be provided on 3-1/2" (three and a half inch) floppy in Word for Windows compatible format. All the Trade Associations and Chambers of Commerce and Industry are requested to bring the contents of this Trade Notice to the notice of their Members / Constituents.

Annexe to Trade Notice

Information to be provided in an Application for Safeguard Investigation

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- Section 1** General Information
- Section 2** Product in respect of which Increase in Imports Noticed

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Section 1: General Information [Back to Table of Contents](#)

1. Date of Application
2. Applicant(s) Provide name(s) and address(es) of the applicant(s).
3. Domestic Producers of the like or directly competitive products on whose behalf the application is filed (Give details of all domestic producers who support the application).
4. Information on production accounted for by the domestic producers of the like or directly competitive products (in respect of those domestic producers who support the application).
5. Information on the total domestic production of the product concerned of the like or directly competitive products (in respect of all producers whether they support the application or not).

Section 2: Product in respect of which increase in imports alleged [Back to Table of Contents](#)

1. Name of the product.
2. Description: Provide full description of the product including chemical formula, grade constituent materials / Components, process of manufacture in brief, uses and inter-changeability of various grades, etc.
3. Tariff classification: Provide the classification of the product under the HS classification as well as Indian customs Tariff Classification at 6/8/10 digit level.
4. Import Duty: Provide information relating to rates of import duty levied during the past three years. If the product enjoys any concessional or preferential treatment, provide details.
5. Country(ies) of Origin: Provide name(s) of country(ies) where the product has originated (where the country of origin is different then the country of export, the name of the country of origin should also be provided).
6. Provide a list of all known foreign producers, exporters & importers of the imported product, country-wise, together with names and addresses of concerned trade associations and user associations etc.
7. Information on major industrial users, organization of industrial users and representative consumer organisations. (In case the product is commonly sold at retail level).
8. Export Price: Details of export price of the imported Product exporter / country-wise and the basis thereof (provide the f.o.b. / c.i.f. price at which the goods enter into India).

Section 3: Increased Imports [Back to Table of Contents](#)

1. Provide full and detailed information regarding the imports of the said product in terms of quantity and value year wise for the last three years (or longer).
2. Provide break up of (1) above country wise in absolute terms as well as a percentage of the total imports of the said product.
3. Provide full and detailed information on the share of the imported products and the share of the domestic production of the like product and the directly competitive products in the total domestic consumption for the last three years (or longer) both in terms of quantity and value.
4. Provide information on factors that may be attributing to increased imports.

Section 4: Domestic Production [Back to Table of Contents](#)

1. Details of the like product and directly competitive products produced by the domestic producers. Information similar to II above i.e.
 - i. Name
 - ii. Description
 - iii. Tariff classification both under the Central Excise Tariff as well as under the Customs Tariff.
 - iv. Details of domestic producers
2. Names and addresses of all known domestic producers and concerned trade associations and users associations etc.
3. Details of production accounted for by each of the producers at 2 above.
4. Details of total domestic production.
5. Installed capacity, capacity utilization and fall in capacity utilization etc.

Section 5: Injury or Threat of Injury [Back to Table of Contents](#)

1. Impact of increased imports on Domestic Industry: Detailed information on how the increased imports are causing serious injury or threat of serious injury to the domestic industry. This should, *inter alia*, include information on
 - a. Sale volumes, total domestic consumption and how the market share of domestic production has been affected.
 - b. Price undercutting / price depression / prevention of rise in prices. Information on costs of production and how the increased imports have affected the prices of domestic production needs to be provided.
 - c. Any significant idling of production facilities in the industry including data indicating plant closure or fall in normal production capacity utilization.
 - d. Loss of employment

- e. Financial situation Full information on the financial situation of the domestic industry including information on decline in sales, growing inventory, downward trend in production, profits, productivity or increasing unemployment needs to be provided.
2. Other Factors of Injury: Provide details of any other factors that may be attributing to the injury to the domestic industry and an explanation that injury caused by these other factors is not attributed to injury caused by increased imports. (Information on injury caused due to dumping or subsidization, if any, needs to be specifically provided here. Also mention if any application for anti-dumping or countervailing duty investigation has been filed).

Section 6: Cause of Injury: [Back to Table of Contents](#)

Please provide an analysis of data presented above bringing out a nexus between the increased imports, either actual or relative to domestic production, and the injury or threat of injury caused to the domestic industry and the basis for a request for initiation of safeguards investigation under Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997.

Section 7: Submission [Back to Table of Contents](#)

- a. A statement describing the measure requested including:
 - Nature and quantum of safeguard duty requested.
 - Purpose of seeking the relief and how such objective will be achieved.
 - Duration for which imposition of safeguard duty is requested and the reasons therefore.
- b. If a request is made for provisional safeguard measures, full and detailed information regarding existence of critical circumstances and how delay would cause damage which it would be difficult to repair.
- c. If the safeguard measures are requested to be imposed for more than one year, details on efforts being taken and planned to be taken or both to make a positive adjustment to import competition with details of progressive liberalization adequate to facilitate positive adjustment of the industry.

Section 8: Annexes [Back to Table of Contents](#)

All supporting information can be provided as annexes to the application. (The main information must be provided at the appropriate places. The details of the information can be provided in annexes).