

# **DIRECTOR GENERAL (SAFEGUARDS)**

## **NOTIFICATION**

New Delhi, 24<sup>th</sup> April 2009

### **Subject: Safeguard investigation concerning imports of Coated Paper and Paper Board– Preliminary findings.**

GSR D-22011/ 25/ 2009 dated 24<sup>th</sup> April 2009 having regard to the Custom Tariff Act, 1975 and the Custom Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 thereof.

#### **1. Procedure**

The notice of initiation of safeguards investigation concerning imports of Coated Paper and Paper Board into India was issued on 20<sup>th</sup> April 2009 and was published in the Gazette of India, Extraordinary on the same day. A copy of the notice was also sent to all known interested parties as under:-

#### **Domestic Producers**

- I. ITC Limited -Paperboards and Specialty Papers Division  
106, Sardar Patel Road,  
Secunderabad – 500003,  
Andhra Pradesh.
  
- II. Ballarpur Industries Limited.  
First India Place, Tower C,  
Mehrauli Gurgaon Road,  
Gurgaon (Haryana) - 122001
  
- III. JK Paper Limited

Nehru House, 4 Bafadur Shah Zafar Marg,  
New Delhi-110 002

### **Domestic Producers Association**

- I. Indian Paper Manufacturers Association  
PHD House, (4<sup>th</sup> floor),  
4/2 Siri Institutional Area,  
(Opp. Asian Games Village),  
New Delhi-110 016

### **Importers and Users**

- I. Chimanlal Fein Paper Pvt. Ltd  
40/42, Bombay Mutual Building  
293, Dr. D.N. Road  
Mumbai
  
- II. Infinity Industries Pvt. Ltd  
Haroon House, 1<sup>st</sup> Floor,  
294, Parin Nariman Street, Opp RBI  
Mumbai
  
- III. Ajanta Offset and Packaging Limited:  
Plot no. 61, Sector 27- C, Faridabad,  
Haryana – 121003
  
- IV. Aero Exports  
Plot no. 183, Sector IV,

Manesar, Gurgaon, Haryana,

- V. Nutech Photolithographic  
C-74, Okhla Industrial Area, Phase – I,  
New Delhi – 110020
  
- VI. Replika Press Private Limited  
310 & 311, HSIDC, Kindli, Haryana – 131028
  
- VII. Brijbasi Printers  
E-46/11, Okhla Industrial Area, Phase – II,  
New Delhi
  
- VIII. Rajaram  
2396 Chatta Shahji,  
Chawri Bazar, Delhi – 110006
  
- IX. Shoba Cards  
Global House,  
4800/24, Bharatram Road,  
Darya Ganj, New Delhi – 110002
  
- X. Suneja Sons  
423- Chilta Gate,  
Chawri Bazar, Delhi – 110006

**Exporters & Foreign Producers**

- I. Gold East Paper (Jiangsu) Co., Ltd.

8 Xing Gang Dong RD.,  
Dagang, ZhenJiang,  
JiangSu,  
China, 212132

II. APP – Indonesia

Pt. Pindo Deli Pulp and Paper Mills,  
Plaza B11- Menara II  
9th Floor, JL MH Thamrin no. 51  
Jakarta.

III. SAPPI : M/s Sappi Deutschland

GMBH Berliner allee  
14 D- 30175 Hannover  
C/o Sappi Singapore pte  
Anson Road 079903

IV. Stora Enso Oyj

P.O. Box 309, FI-00101 Helsinki,  
Finland.

V. Chenming Paper Co. Ltd

Nanchan Changbei Economic and Technical Development  
zone  
Jiangxi,  
China

VI. M/s. Stora Enso Suzhou Paper Co. Ltd

600 Binhe Road,  
Sozhou New District  
Suzhou City  
China.

VII. M-real corporation  
PO Box 20, Metsa 02020,  
Finland

VIII. Moorim Paper Co.  
281 – 1 Sangyong – dong ,  
Jinju – si , 660903, South Korea

IX. Hong Wong Paper Mfg. Co. Ltd,  
#14, Imgwang Bldg ,  
Migeun – dong ,  
Seoul , South Korea

X. Hansol Paper Co. Limited ,  
22nd floor , Hansol Bldg,  
736-1 , Yeoksam – dong  
Gangnam – gu – Seoul  
135 – 080 , South Korea

XI. Gold East Trading (HONGKONG) Co Ltd,  
Unit 501-504A,  
Empire Centre 68 Mody Road,  
T SimshaTsui East,

Hongkong

XII. Kowa Company Ltd,  
6-29 Nishiki 3- Chome Naka-Ku Nagoya,  
Japan

XIII. Vital Solutions pte Ltd,  
Singapore 069532

XIV. Daiei Paper (S.A.) Pte Ltd,  
3. Shenton way,  
# 11-08,Shenton House  
Singapore

XV. Cellmark asia Pte Ltd,  
47 Scotts road  
# 12-01 Goldbell Towers,  
Singapore

- i. A copy of the notice was also sent to Governments of exporting countries through their Embassies in New Delhi.
- ii. Questionnaires were also sent, on the same day, to all known domestic producers, exporters and importers and they were asked to submit their response within 30 days.
- iii. All non confidential versions of the application, response and additional submissions have been kept in the Public Folder.

## **2. View of the Domestic Industry**

- i. The application has been filed by (1) ITC Limited -Paperboards and Specialty Papers Division, 106, Sardar Patel Road, Secunderabad – 500003, Andhra Pradesh, (2) Ballarpur Industries Limited, First India Place, Tower C, Mehrauli Gurgaon Road, Gurgaon (Haryana) – 122001 and (3) JK Paper Limited, Nehru House, 4 Bafadur Shah Zafar Marg, New Delhi-110 002 Supported by Indian Paper Manufacturers Association, PHD House, (4th floor), 4/2 Siri Institutional Area (Opp. Asian Games Village), New Delhi-110 016 for imposition of Safeguard Duty on imports of Coated Paper and Paper Board made primarily from virgin chemical pulp into India to protect the domestic producers of Coated Paper and Paper Board against serious injury and continued threat of serious injury caused by the increased imports of Coated Paper and Paper Board made primarily from virgin chemical pulp into India. The applicants have made following major points:-
- ii. The applicants have alleged that increased imports of Coated Paper and Paper Board into India have caused serious injury to domestic industry and is continuing to threaten serious injury to domestic industry.
- iii. The domestic industries manufacture Coated Paper and Paper Board made primarily from virgin chemical pulp falling under various headings of chapter heading 4810. The domestic industry has submitted that their products are directly competing products with imported products falling under 48101310, 48101320, 48101330, 48101390, 48101410, 48101420, 48101430, 48101490, 48101910, 48101920, 48101930, 48101990, 48102900, 48103100, 48103200, 48109200 and 48109900 of HSN as well as Customs Tariff Act, 1975. The applicants have alleged serious injury caused to the domestic producer by the increased imports of Coated Paper and Paper Board made primarily from virgin chemical pulp into India and falling under above headings at eight digit level. Papers and paperboards are made using pulp obtained by chemical or mechanical process or a combination of both. Further the pulp can be obtained either using fresh plant sources or from recycled paper. The present application covers coated paper and paperboard primarily made with virgin pulp using chemical process. The coating may be either on one side or both sides. Blade coating technology is most common for coating these papers and paperboards. The domestic industry has argued that the products falling under the headings mentioned above at eight digit level are same as far

as their technical characteristics, chemical composition and other basic features are concerned. The products of all these headings find similar uses. Therefore these products are like and directly competing products. Despite possible minor superficial differences, in terms of quality, these products have the similar basic physical characteristics and similar end uses. These are sold via similar or identical sales channel. These products compete mainly on price. Imposition of safeguard duty on one heading at eight digit level in isolation will not serve any purpose as importers will start importing other directly competing products. Thus the domestic industry has argued that in view of above, for the purposes of safeguard investigation the product basket consisting of products mentioned above needs to be considered as the 'product under consideration'.

- iv. They have alleged that surge in imports are taking place at lower prices making them lose their market share.
- v. The increased imports at lower prices are on account of unforeseen developments as mentioned below:

Fall in demand in exporting countries has forced manufacturers in those countries to get rid of their surplus inventories through excessive discounts of export and this is a cause for sudden increase in imports. The major players have very small domestic demand compared to their respective production capacities. The far East paper producers created huge capacity of coated paper and paperboard. Out of this capacity major portion was meant for developed countries. On account of sudden decline in demand in developed countries, the importers of developed countries stopped buying paper from these countries which resulted into huge stock built up with the companies of Exporting Countries. The result is that these units are left with piled stock of coated paper and paperboard which they are trying to export at lower prices to India, which is still growing at a fair rate of growth. As a result they started exporting the product into Indian market at a reduced price to release working capital from the huge stock built up, which is causing serious injury and threatening to cause serious injury to domestic industry.

- vi. The Profitability and return on capital employed of domestic industry has gone down. The difference in landed price of imports and domestic



selling price has gone up during the period of investigation and has caused serious injury and posing a continued threat of serious injury.

- vii. They have requested for imposition of Safeguard duty to protect the domestic producers of coated paper and paperboard against serious injury as well as threat of continuing serious injury caused by the increased imports.
- viii. They have alleged that unforeseen development has caused increased in imports and increased in imports has caused serious injury. There is no other factor which has perceptible bearing on the serious injury /threat of serious injury faced by the domestic producer.
- ix. The applicants submit that the imposition of safeguard duty on Coated Paper and Paper Board shall not cause harm to public interest as prices of domestic Coated Paper and Paper Board are more or less stable in India. Further the applicants have submitted that apart from direct employment to their employees paper industry provides support to farmers in earning their livelihood and are instrumental in soil conservation. Therefore imposition of safeguard duty for protecting paper industry will be really in public interest.
- x. Applicants' proposes to adopt an appropriate strategy to improve upon efficiency and to bring cost effectiveness to compete with the international players.
- xi. They have also requested for imposition of provisional Safeguard duty in light of critical circumstances, leading to damage which would be difficult to repair.

### **3. Findings of D.G.**

- i. The issue to impose immediate safeguard measures is examined. It has been found that a total of 168 Safeguard Initiations have been reported to the WTO during the period between 29.03.1995 and 12.11.2008. It is observed that in several of these cases provisional safeguard measures have been recommended/ imposed immediately after initiation of the safeguard investigation. In several cases the provisional safeguard

measures have been recommended on the same day as the date of initiation of the investigation. The Rule 9 of Customs Tariff (Identification And Assessment of Safeguard Duty) Rules, 1997 notified vide Notification No. 35/97-NT-Customs dated 29.07.1997 prescribes that the Director General shall proceed expeditiously with the conduct of the investigation and in critical circumstances, he may record a preliminary finding regarding serious injury or threat of serious injury. The principles governing investigations have been provided in the Rule 6 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 which is independent to Rule 9. The Rule 15 of the Customs Tariff (Identification And Assessment of Safeguard Duty) Rules provide for refund of differential Safeguard duty in case safeguard duty imposed after conclusions of the investigations is lower than the provisional duty already imposed and collected. The harmonious reading of Rules 6, 9 and 15 of the said Rules leads to a conclusion that the Rules provide for expeditious recommendation of provisional Safeguard duty based on preliminary findings and refund of the differential duty in case it is ascertained that the duty imposed after conclusion of investigation following natural justice as enshrined in the Rule 6 is lower than the provisional Safeguard Duty. However, in critical circumstances any delay in imposition of provisional Safeguard duty may cause damage which would be difficult to repair. Accordingly, it was considered prudent to analyze circumstances to assess whether the same falls in the category of critical circumstances.

## **ii. The product under investigation**

- a. The applicants have alleged that increased imports of Coated Paper and Paper Board into India have caused serious injury to domestic industry and is continuing to threaten serious injury to domestic industry. The domestic industries manufacture Coated Paper and Paper Board made primarily from virgin chemical pulp falling under various headings of chapter heading 4810. The domestic industry has submitted that their products are directly competing products with imported products falling under 48101310, 48101320, 48101330, 48101390, 48101410, 48101420, 48101430, 48101490, 48101910, 48101920, 48101930, 48101990, 48102900, 48103100, 48103200,

48109200 and 48109900 of HSN as well as Customs Tariff Act, 1975. The applicants have alleged serious injury caused to the domestic producer by the increased imports of Coated paper and paperboard made primarily from virgin chemical pulp into India and falling under above headings at eight digit level.

- b. Papers and paperboards are made using pulp obtained by chemical or mechanical process or a combination of both. Further the pulp can be obtained either using fresh plant sources or from recycled paper. The present application covers coated paper and paperboard primarily made with virgin pulp using chemical process. The coating may be either on one side or both sides. Blade coating technology is most common for coating these papers and paperboards. The domestic industry has argued that the products falling under the headings mentioned above at eight digit level are same as far as their technical characteristics, chemical composition and other basic features are concerned. The products of all these headings find similar uses. Therefore these products are like and directly competing products. Despite possible minor superficial differences, in terms of quality, these products have the similar basic physical characteristics and similar end uses. These are sold via similar or identical sales channel. These products compete mainly on price. Imposition of safeguard duty on one heading at eight digit level in isolation will not serve any purpose as importers will start importing other directly competing products. Thus the domestic industry has argued that in view of above, for the purposes of safeguard investigation the product basket consisting of products mentioned above needs to be considered as the 'product under consideration'.
- c. The products falling under these headings at eight digit level are similar as far as their technical characteristics, chemical composition and other basic features are concerned. The products of all these headings find similar uses in printing industry. These products are technically and commercially like and directly competing products. Despite possible minor superficial differences, in terms of quality, these products have the similar basic physical characteristics and the similar end uses. These are sold via similar or identical sales channel. These products compete mainly on price. Imposition of safeguard

duty on one heading at eight digit level in isolation will not serve any purpose as importers will start importing other directly competing products. The domestic industry manufactures all the products in question. In view of above, for the purposes of safeguard investigation the product basket consisting of coated paper and paperboard consisting of the product mentioned above needs to be considered as the 'product under consideration'.

- iii. **Domestic Industry** - The application has been filed by (1) ITC Limited - Paperboards and Specialty Papers Division, (2) Ballarpur Industries Limited, and (3) JK Paper Limited – on behalf of domestic producers of Coated Paper and Paper Board made primarily from virgin chemical pulp for imposition of Safeguard Duty on imports of Coated Paper and Paper Board and supported by Indian Paper Manufacturers Association. The application has been supported by all the known domestic producers of Coated Paper and Paper Board made from virgin chemical pulp in India accounting for almost 100% of the total domestic production. Accordingly, the applicants constitute domestic industry in terms of clause (b) of subsection (6) of Section 8B of the Customs Tariff Act, 1975.
- iv. **Unforeseen Developments:** As a result of current unforeseen and unexpected economic melt down and recession, some of the countries are faced with fall in export to their normal markets, idling of production capacities in those countries. Exporters of these countries are resorting to export of their products in increased quantities at low prices to Indian market, which still continues to enjoy growth.
- v. **Increased Imports** - Coated Paper and Paper Board is imported into India from China, Indonesia, Finland and many other countries. The imports of Coated Paper and Paper Board have shown an increasing trend in absolute terms as well as compared to the domestic sales. The share of imports during the period of investigation is as under

**Table I**

Year	Imports (MT)	Import (Indexed)
2006-07	106993	100.00

<b>2007-08</b>	132684	124.01
<b>2008-09 (First nine months)</b>	151848	189.23

The imports of coated paper and paperboard have thus increased in absolute terms as well as in relative terms compared to total domestic market. Further there is a sharp and sudden increase in first nine months of 2008-09 compared to 2007-08.

vi. **Serious injury and Threat of serious injury –**

- a. **Sales:** The share of domestic sales of the product under investigation has seen sudden and sharp decline during the year 2008-09 compared to the preceding year as apparent from the Table below.

**Table: 2**

<b>Market share in total consumption</b>			
	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09 (Apr-Dec 2008)</b>
<b>% Share of imports</b>	30	33	39
<b>% Share of domestic Sales</b>	70	67	61

- b. **Market Share of domestic Industry:** Market share of domestic industry was 70% in 2006-07, which declined to 67% during 2007-08. In the first nine months of 2008-09, market share of domestic industry saw significant fall to 61% whereas there is a growth in imports in absolute terms as well as relative terms.
- c. **Production:** The share of domestic production in the total available material in domestic market has also seen a steep decline in recent period of 2008-09(April-Dec 2008) compared to 2007-08. The share of domestic production in total available material has gone down to 61 % compared to 67% of previous year.

**Table: 3**

<b>Share in total available material</b>			
	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09 (Apr-Dec 2008)</b>
<b>% Share of imports</b>	30	33	39
<b>% Share of domestic production</b>	70	67	61

- d. **Trend of Import Prices:** The Export price to India has shown a steep decline during the period of investigation.

**Table: 4**

	<b>Weighted Average CIF USD/MT</b>
September 2008	940
October 2008	932
November 2008	913
December 2008	867
January 2009	740
February 2009	700
March 2009	680

- e. **Profitability and return on capital employed:** The Profitability and return on capital employed of domestic industry has gone down. The difference in landed price of imports and domestic selling price has gone up during the period of investigation.

**Table: 5**

<b>Coated Paper and Paperboard</b>	<b>Weighted average</b>		
<b>Year</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09 (up to Dec)</b>
<b>PBT per MT</b>	4187.26	1378.28	317.69
<b>ROCE % (EBIT/Capital Employed)</b>	14.06 %	7.34 %	4.27 %

- f. **Productivity:** The preliminary investigation shows no indication to suggest that the injury is on account of loss of productivity.
- vii. **Causal link between increased import and serious injury or threat of serious injury:** A comprehensive evaluation of parameters as above for the period from 2006-07 up to the first nine months of the financial year 2008-09 demonstrates serious injury and significant impairment of the Indian producers of coated paper and paperboard. The figures above show that in Apr-Dec 2008, Imports in absolute terms as well as Share of Imports has gone up when compared to 2007-08. In the same period when imports have gone up, domestic industry is injured as Share of domestic Industry and Return on Capital employed has gone down. Therefore in the recent period there is a surge in import and as a result of which there is a serious injury to domestic industry during the same period. The huge loss of profitability during the current financial year compared to the previous years profit also coincides with significant increase in share of imports. This clearly depicts a direct correlation between the increase in imports at lower prices and serious injury suffered by the domestic industry and the increase in imports has had injurious effects in terms of pressure on prices and a reduction in share of the domestic industry in sales.
- viii. **Adjustment plan** – The domestic producer has submitted detailed adjustment plan to cut cost, which includes social forestry measures to cut raw material costs, Power saving by modernizing electrical equipments, Use of better manufacturing practices, Improvement in management practices, enhanced use of Information Technology (IT) and IT enabled services in every day management at all the levels, Reduction of administrative expenses, Effective Inventory Management, increasing power generation, vendor development and R&D efforts apart from capacity expansion.
- ix. **Public Interest:** The industry generates employment to lakhs of people directly and indirectly. The industry is backward linked to the farmers' community in rural India. The main raw material is pulpwood and most of the leading industry players have developed sustainable farm and social forestry in their respective States. High yielding clones developed by R&D over several years are distributed to the small and medium

farmers encouraging them to plant them in their waste and dry lands, which generates rural employment to the rural farming community and also sustainable income to the farmers. Apart from the obvious benefits of increasing the green cover, this effort also directly contributes to in-situ moisture conservation, ground water recharge and significant reduction in top soil losses due to wind and water erosion. As a result of the leaf litter from multi-species plantations and the promotion of leguminous intercrops, depleted soils are constantly enriched. Therefore it is in the larger public interest that paper industry must not be closed.

- x. **Critical Circumstances:** The market share of domestic industries has fallen from 70% in 2006-07 to 61% in 2008-09. The trend of imports in the recent period of first nine months of 2008-09, if continues will cause irreparable damage to domestic industry. The capacity utilization of domestic producers is likely to go down substantially further if safeguard measures are not taken immediately. The profitability of domestic industry is already all time low incapacitating them to regain market share, if immediate safeguard measures are not taken. The return on capital employed is also all-time low. Accordingly, the preliminary determination shows that critical circumstances exist in which delay in imposing provisional safeguard duty cause would damage which it would be difficult to repair.
- xi. **Other Issues:** The provisional examination of the interests of the domestic producers, users, importers and other economic operators indicate that the domestic producers have technologically competitive plants, trained manpower and enjoyed high level of productivity and are able to meet quality and service concern of their customers. Any delay in imposition of provisional safeguard duty would seriously jeopardize their viability. It is prudent to have a healthy and competitive industry in the interest of all. It is apparent that if no safeguard measures are taken, both the prices and the market share of the domestic producers will further deteriorate resulting in increased inventories reduced production, increased losses and loss of employment.
- xii. **Developing Nations:** There have been imports from China and Indonesia, which are more than 3% as shown below. Imports of the product from all other developing countries taken together



do not contribute more than 9% of imports to India. Accordingly, imports of coated paper and paperboard from all developing nations as notified vide Notification No. 103/98-Cus dated 14.12.1998 (as amended) except China PR and Indonesia may not attract safeguard duty.

**Table 6**

	<b>% share in</b>
	<b>total imports in 2008-09 (Apr-Dec)</b>
CHINA P RP	40%
INDONESIA	12%

- xiii. **Conclusion and Recommendation:** On the basis of the above preliminary findings it is seen that increased imports of coated paper and paperboard have caused serious injury to domestic producers of coated paper and paperboard. There exist critical circumstances, where any delay in application for safeguard measures would cause damage which it would be difficult to repair, necessitating immediate application of provisional safeguard duty for a period of 200 days, pending a final determination of serious injury and threat of serious injury. Considering the average cost of production of coated paper and paperboard by the domestic producers (confidential), a reasonable return on capital employed, the interest of end users, the present level of import duties and the average import prices of Coated Paper and Paper Board, **safeguard duty at the rate of 20% (twenty percent) ad-valorem** is considered to be the minimum required safeguard duty to

protect the interest of domestic industry and is recommended to be imposed on imports of "coated paper and paperboard made primarily from virgin chemical pulp and classified under sub-heading Nos. 48101310, 48101320, 48101330, 48101390, 48101410, 48101420, 48101430, 48101490, 48101910, 48101920, 48101930, 48101990, 48102900, 48103100, 48103200, 48109200 and 48109900 of Schedule I of the Customs Tariff Act 1975" into India.

- xiv. **Further Process:**

- (a) The information provided by various parties may be subject to verification wherever necessary for which they will be informed separately.
- (b) A public hearing will be held in due course before making a final determination, for which the date will be informed separately.
- (c) Interested parties may make their views known to the DG on this preliminary findings on or before 25.05.2009

Sd/  
**(S. S. RANA)**  
**Director General**  
**(Safeguards)**