

No. 8/3/2021-DGTR
Ministry of Commerce & Industry,
Department of Commerce
Directorate General of Trade Remedies
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001

Dated: 01.06.2023

Trade Notice: 01/2023

Subject: Streamlining of the Safeguard Investigation – Issuance of New Application Proforma and Checklist relating to Safeguard Investigation (Original Investigation)- regarding.

Attention of the Trade and Industry is invited to Section 8B of the Customs Tariff Act, 1975 (“the Act”), Customs Tariff (Identification and Assessment of Safeguard Duties) Rules 1997 as amended from time to time which stipulates the requirements for filing of Safeguard Investigation (SG) applications for Original Investigation (OI) by the domestic industry. In this regard, find attached new application proforma and checklist for prima-facie scrutiny of applications in respect of Safeguard Investigation – Original Investigation Cases.

2. All such applications shall be submitted to the Authorized Officer at e-mail Id i.e **application-dgtr@gov.in** as per the Proforma enclosed along with soft copies of prescribed supporting documents. The application should be complete in all respects with documents as mentioned in the application proforma and checklist attached and as per the relevant trade notices/circulars issued by DGTR from time to time in this regard.

3. The Authorized Officer will do prima-facie scrutiny of the application with respect to completeness of documents as per the said checklist. Incomplete applications shall be returned for compliance of deficiencies. The Domestic Industry must rectify the deficiencies pointed out by DGTR within prescribed time from the date of receipt of such deficiency e-mail/letter from DGTR.

4. The above procedure will supersede all previous instructions or Trade Notices issued by the Directorate on the subject.

5. 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.

6. All Embassy /(ies) and Diplomatic Missions in New Delhi are requested to bring the contents of this Trade Notice to the notice of all concerned.

Encl: As above


(Anant Swarup)

Joint Secretary and Designated Authority

To:
All concerned



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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE

*Original
Safeguard
Investigations*

APPLICATION PROFORMA

DIRECTORATE GENERAL OF TRADE REMEDIES

Website: <https://www.dgtr.gov.in> Email: dgtr-india@gov.in

Address:

Directorate General of Trade Remedies (DGTR)
4th Floor, Jeevan Tara Building, 5, Parliament Street,
Patel Chowk,
New Delhi-110001 India

GENERAL

Rule 5(2) of the Customs Tariff (Identification and Assessment of Safeguard Measures) Rules, 1997 (hereinafter referred to as “Safeguard Rules”) requires an application for safeguard investigation to be in the form as specified by the Director General. Accordingly, the Director General herewith issues this application proforma in this regard prescribing the information to be provided in an application for safeguard investigation and the supporting documents required to be submitted therewith as per the annexure attached. 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 this Trade Notice.

2. Attention of the Trade and Industry is invited to Section 8B of the Customs Tariff Act of 1975 as amended from time to time and the Safeguard Rules as amended from time to time. 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 (Trade Remedies) or hereinafter referred to as “Authority”, for the purpose of the said rules.

3. In accordance with the provisions of the Safeguard Rules, safeguard measure 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 to cause serious injury to the domestic producers of like or directly competitive products, irrespective of the source of origin of the imported products.

4. The safeguard measures 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 article concerned are causing or threatening to cause

serious injury to the domestic producers of like or directly competitive articles.

5. 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 prescribed format and should include, but not limited to, the information as detailed in Annex to this Trade Notice along with all supportive evidence/data/annexes.

6. The following further requirements need to be fulfilled by all parties concerned.

- i. Information should be provided for adequately long and sufficiently recent period of four 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/applicable.
- iii. Information provided on a 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 as “Confidential” in bold letters both at the top right hand and bottom right-hand side of the page. Non-confidential version of confidential information must be provided by the supplier of the information in accordance with Trade Notice No. 10/2018 dated 07.09.2018 to the extent applicable. If the confidential information cannot be provided in a summarized or generalized form or non-confidential basis, such information may be disregarded unless it is demonstrated by the supplier of the information to the satisfaction of the investigating authority from appropriate sources that the information is correct.
- iv. Applicant(s) shall submit the application with all supportive enclosures, data and annexes through the digital mode as prescribed from time to time in searchable pdf format alongwith the relevant

MS-word and MS-excel files.

- v. If any application is found to be incomplete or deficient in any manner, it may be returned 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 and a list of interested parties shall be established by the Director General at the earliest. Accordingly, a List of Interested parties shall be notified at DGTR Website.
- ix. Information presented orally by any interested party in the oral hearing shall be considered by the Authority only when the same is submitted in writing by such party to the Director General within such period as allowed by the Director General in such oral hearing.
- x. An English translation of any information provided in a language other than English or Hindi would need to be supplied simultaneously by the submitter of the information, failing which the information may be disregarded.
- xi. 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.
- xii. The applications should be addressed to:
The Designated Authority
Directorate General of Trade Remedies (DGTR)
4th Floor, Jeevan Tara Building, 5, Parliament Street,
Patel Chowk,
New Delhi-110001 India

PART 1

Information to be provided in an Application for Safeguard Investigation

Section 1: General Information

1. Date of Application
2. Applicant(s): Provide name(s) and address(es) of the applicant(s).
3. Complete details about identity
 - i. Name & Address of the registered, marketing and head office and of PUC-Plant :
 - ii. Contact Person, their email id & tel. No. / fax no.:
 - iii. Corporate structure:
 - iv. Commodities manufactured:
 - v. Distribution and marketing system:
4. 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).
5. Information on production accounted for by the domestic producers of the like or directly competitive products- in respect of all producers whether they support the application or not.
6. Background: Mention if any application for anti-dumping or countervailing duty or quantitative restriction investigation has been filed earlier by any entity(ies) on behalf of the domestic industry.

Section 2: Product in respect of which increase in imports alleged

7. Name of the product and description: Provide full description of the Product Under Consideration (PUC) including chemical

formula, grades/varieties, constituent materials/Components, Description of the product, including sizes, models or type etc.

8. Uses of the product: Whether different grades/off-specs can be used interchangeably. Details of industrial users/consumers of imported product.
9. Qualities and the characteristics of the product: Substitutability of the product giving details of perception of the consumer and the manufacturer and commercial channels.
10. Raw materials, utilities and other inputs used for the production of the PUC.
11. Process of production / manufacture: process of manufacture in brief, Complete flow chart with description to be given.
12. 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.
13. Import Duty: Provide information relating to rates of import duty (basic customs duty) presently applicable on the import of the PUC. If the product enjoys any concessional or preferential treatment, provide details including the concessional rates applicable.
14. Country(ies) of Origin: Provide name(s) of country(ies) where the product has originated (where the country of origin is different than the country of export, the name of the country of origin should also be provided).
15. Provide a list of all known foreign producers, exporters, importers & users of the imported product, country-wise, together with names and addresses of concerned trade associations and user associations etc.
16. Information on major industrial users, organization of industrial users and representative consumer organisations (in case the product is commonly sold at retail level).

17. 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).
18. Details of cost of production showing variable and fixed costs separately. The variable costs to include Raw Material, Chemicals and Consumables (Stores), Water, Power & Fuel charges, Direct labour etc. and the Fixed cost to include Salaries & indirect labour, Finance cost (Interest), Depreciation, Repairs & Maintenance, Administrative overheads etc.

Section 3: Increased Imports

19. Provide full and detailed information regarding the country wise imports of the said product in terms of quantity and value year wise for the last four years (or longer). in absolute terms as well as percentage of the total imports of the said product.
20. 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 four years (or longer) both in terms of quantity and value.
21. Provide information on factors that may be attributing to increased imports.

Section 4: Domestic Production

22. Details of the like product and directly competitive products produced by the domestic producers i.e. Name, Description, Tariff classification both under the Central Excise Tariff as well as under the Customs Tariff and the relevant Details of domestic producers.
23. Names and addresses of all known domestic producers and concerned trade associations.

24. Details of total domestic production and details of production accounted for by each of the domestic producers.
25. Installed capacity and capacity utilization of each of the applicant(s), preferably with that of the other domestic producers.

Section 5: Injury or Threat of Injury

26. Impact of increased imports on Domestic Industry: Detailed information on how the increased imports are causing serious injury or threatening to cause serious injury to the domestic industry. This should, *inter alia*, include information on
 - a. Sales Volume, total domestic consumption and how the market share of domestic Production affected:
 - i. Details of production, sales and stocks for the last four years (month wise) both in terms of quantity and value for each product. (Please do not include imports, if any, made by you here).
 - ii. Production line-wise details of plant and machinery installed. Expenses incurred in installing the same. Additions made during the last four years. Further investments committed with relevant documentary evidences.
 - iii. Details of sales in the domestic market, both in terms of quantity and value. (Please do not include sale of imported material here). Give separately any quantities used captively for the last four years (month wise).
 - iv. Information regarding sales prices. (For the last four years). Realizations from bulk and packed form of PUC separately.
 - v. Information of rebates/discounts offered on domestic sales during the last four years month wise.

- b. Installed capacity and capacity utilization for the last four years, variety wise, for each product variety.
- c. Details of country wise export both in terms of quantity and value. (Please do not include any imported material, if re-exported, here), to whom exported and at what price. Please explain difference in export price vis-a-vis domestic price. Details of deemed exports, if any, may also be furnished.
- d. Major raw materials used and their prices for the last four years. Also indicate their consumptions to the finished product. Effect of changes in prices of raw materials on cost of production and selling prices for the last four years.
- e. Information on fair market price which you expect to receive and basis thereof i.e. cost of production, giving details of cost of raw materials, labor, overheads, etc. for the last four years. (Give details separately for fixed and variable costs at different capacity utilization).
- f. Please give details of any subsidy including freight subsidy received by you - nature and amount - who gives the subsidy and why.
- g. Price undercutting, price depression/suppression, prevention of rise in prices and price underselling. Information on costs of production and how the increased imports have affected the prices of domestic production needs to be provided.
- h. Any significant idling of production facilities in the industry including data indicating plant closure or fall in normal production capacity utilization.
- i. Loss of Employment: Details of persons employed and loss of employment, if any, during last four years.
- j. 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. Information on profit and loss on sales for the last four years separately for each product variety wise. Copies of Balance Sheets, profit & loss account or other statements of accounts alongwith the relevant schedule/annexes for the last four years.

- k. Please provide information in respect of circumstances that have helped the exporters in the international market in sending increased quantities to India.
 - l. Please provide details of the impact of reduction in import duties/ removal of import restrictions on the product for which protection is sought.
 - m. Please provide details of other circumstances that have contributed to the increase in imports.
27. Other Factors of Injury: Provide details of any other factors that may be attributing the injury caused 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).

Section 6: Causal Link:

28. 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 the Safeguard Rules.

Section 7: Information on Adjustment Plan

- i. How do you think that the injury can be removed?

- ii. Please specify the quantum and duration of safeguard measure that can help you in adjusting to the new situations of competition offered by increased imports.
- iii. Please specify the safeguard measure sought including its progressive liberalization.
- iv. Please specify the restructuring plan of your unit to adjust to the new situation of competition offered by the increased imports. What steps have been taken so far or planned for remedying the situation?
- v. How can the further proposed restructuring plan be implemented?
- vi. Please provide an estimate of year wise reduction in cost of Production (or quantum of other benefits - separately) that may be achieved as a result of readjustment.
- vii. A non-confidential summary of your restructuring plan may be furnished. Unless the same is provided, the information provided on confidential basis may not be taken on record.
- viii. Information on further plans of Capital Investment.

Section 6: Miscellaneous Information

29. Details of normal and abnormal shutdowns and reasons therefore during the last four years along with stock position during such shutdowns.
30. Details of orders placed by consumers which could not be executed or were considerably delayed during the last four years along with reasons thereof.

Section 7: Submission

31. A statement describing the measure requested including:
 - i. Nature and quantum of safeguard measure requested.
 - ii. Purpose of seeking the relief and how such objective will be

achieved.

- iii. Duration for which imposition of safeguard measure is requested and the reasons therefore.
- iv. If a request is made for provisional safeguard measures, full and detailed information regarding existence of critical circumstances and how delay would cause damage including its estimated extent which would be difficult to repair.
- v. 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 an adjustment to import competition with details of progressive liberalization adequate to facilitate adjustment of the industry.

Section 8: Annexes

- 32. 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 along with the detailed index in the main application).

CHECKLIST FOR GLOBAL SAFEGAURD - ORIGINAL INVESTIGATION

Check list of information / documents /claims to be provided at the time of filing of Application / Petition by the Domestic Industry (DI) in respect of Original Investigation of Global Safeguard as per the Application proforma attached with this checklist:

S. No.	Particulars	Whether Provided (Yes / No / N.A.) If yes provide page No.	If No, Provide Reasons
1.	<u>Like Article or Directly Competitive Product</u>		
a)	Whether full description of the product under consideration, including chemical formula, grade constituents material/components, process of manufacture, uses and interchangeability of various grades, tariff classification, any import duty thereon, list of known foreign producer/importer's/exporter's, information on major industrial user and its export price etc. have been provided.		
b)	Details background of the Applicant and the domestic like article manufactured. Details of past AD/CVD/Safeguard investigation on subject goods by DGTR and other WTO member countries, if any		
c)	Details (Volume, Value, Import Price, Re-sale Price and % of total imports) of purchase from Indian producers / self-imports of PUC, if any, made by each applicant		
2.	<u>Product Control Number (PCN)</u>		
a)	Whether PCNs required. If yes, whether the application has proposed PCNs with justifications & write-up on differences in their respective costs, prices, physical/technical characteristics, uses, etc.		
3.	<u>Period of Investigation (POI) and Injury Period</u>		
a)	Whether the proposed POI is recent i.e. not older than four months from the date of application		
b)	Whether the POI is a twelve-months' period and injury period covers three previous years. If POI is not 12 months, reason thereof.		
4.	<u>DI Standing</u>		
a)	The details of the production by the Applicant and information on the Total Indian Production of the PUC for the POI and Injury Investigation Period (IIP) along with the 'source data and/or calculation methodology'		
b)	If applicant is an association, then the requisite details of such association as per the instructions circulated vide F.No. 14/44/2016-DGAD dated Nil		
c)	Whether support letter has been filed.		
5.	<u>Transaction-wise import data</u>		
a)	Note on Unforeseen events which have led to sudden increase in imports		
b)	Transaction-wise import data in MS-excel from DGCI&S and the country-wise summary (Volume, Value, Rate) of such import data.		
c)	Methodology adopted for segregating import data into PUC & NPUC		
6.	<u>Injury Information and Causal Link</u>		
a)	Injury Information as relevant for Section 5 of the Application Proforma. The applicant may additionally use and provide IVA and IVB proforma applicable in ADD Cases, to the extent applicable for safeguard applications.		
b)	Landed Value of the PUC (PCN-wise, if applicable)		
c)	Information relating to Causal Link as contained in Part-V of the Application Proforma		
7.	<u>Information on Adjustment Plan</u>		

S. No.	Particulars	Whether Provided (Yes / No / N.A.) If yes provide page No.	If No, Provide Reasons
a)	Detail plan for removal of injury to the industry, specify the quantum and duration of safeguard duty that can help the industry in adjusting to the new situations of competition offered by increased imports.		
b)	Specify the restructuring plan of unit to adjust to the new situation of competition offered by the increased imports. What steps have been taken so far for enhancing the capacities and how can the further proposed restricting plan be implemented.		
c)	An estimate of year wise reduction in cost of production (or quantum of other benefit-separately) that may be achieved as a result of readjustment, if any		
8. <u>Supporting Documents/ information</u>			
a)	Details/calculation of Total Demand in India of the PUC for the Injury Investigation Period (IIP)		
b)	Total Indian Production of applicant and basis for the estimation and standing of DI.		
c)	Installed Capacity of PUC with supporting documents like Pollution Control Board Certificate.		
d)	Statement of Total sales (separately for domestic /captive/exports) of the applicant and other Indian producer(s) along with total year wise demand in the country.		
e)	Statement of Economic parameters of DI and workings of Cost of production along with Excel files		
f)	Submissions and Workings in support of claimed injury/threat of injury.		
g)	Evidence in support of causal link		
h)	Statement of adjustment and period thereof		
i)	Evidence regarding unforeseen developments		
j)	Confirmation from the DI/consultants that the complete cost data for all the units of the domestic industry manufacturing or selling PUC has been furnished in the petition.		
k)	Audited financial Statements and Cost audit reports		
l)	Detailed Project Report (DPR) or Capex Report, if applicable		
m)	List of interested parties including Indian importers, foreign exporters and users		
n)	Statement of critical circumstances if provisional measures are requested		
9. <u>Non-Confidential Version of the Application</u>			
a)	Whether Non-Confidential Version (NCV) of the application in soft copy in searchable PDF (including all formats as prescribed in the Application Proforma) has been provided.		

Notes (for clarifications):

1. If DGCI&S import data has not been attached/ relied upon by the applicant, the reasons for the same may be given. Further, the source of the transaction-wise import data used for the petition may be provided along with the following information which may be relevant for causal link as well:
 - a. Import data summary of the countries which individually account for less than 3% of the imports of the like product, but which collectively account for more than 7% of the import of the like product.
 - b. Import data summary of countries having import more than 3%, but not alleged to be subject country(ies) with reasons
2. If the authority to file the safeguard investigation petition or its related ancillary filings has been delegated by the Board/ Management of the applicant entity, then such Authorized Representative of the Company/Firm/entity may submit such certificate in Format-X, along with the submission of the document delegating such authority in the name of such authorized representative.
3. The Audited accounts must be furnished along with the application for initiation. In case the audited accounts are not available for the latest period then the Profit & Loss Account figures duly signed by the senior company officials should be submitted.
4. The Certificate for Installed Capacity from Government department like Pollution Control Board or Directorate of Industry, Ministry of Commerce and Industry is to be provided. However, if the company has not registered/submitted their capacity with any of the government agency as indicated above, a self-declaration from management may be provided for the same with an undertaking that "if at any later stage it is found that capacity evidence had been submitted to any government agencies before the submission of this application and if that capacity differs with the capacity claimed in the petition, the petition will be liable for rejection/ termination by the Designated Authority.
5. In case of new units, not having completed four years since the commencement of commercial production, the Detailed Project Report (DPR), Capex Report submitted to the management for approval of the new unit/plant or any other similar document submitted to any Government agency/ Financial Institution shall be provided. In case of such new units, the copy of the contract with the technology/ capital equipment supplier shall also be provided. In case such documents have not been executed by the company, a self-declaration to this effect may be made in Format-X.
6. The NCV petition must be prepared in accordance with Trade Notice No. 10/2018 dated 07.09.2018. Wherever any direction in the said trade notice is not followed, sufficient reasoning shall be provided in the NCV petition for claiming confidentiality as against the said trade notice. It may be noted that, as per Rule 7(3) of the Safeguard Rules if the designated authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in a generalized or summary form, it may disregard such information.
7. All PDF files submitted including the CV and NCV of the petition must be in searchable format.
8. The communication of the Allocation Order from DGTR to the applicant or its legal representative may be treated as deemed acknowledgment of the acceptance of the filed petition.
