

No. 4/27/2007-DGAD
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping and Allied Duties

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Dated: 9th December, 2013.

TRADE NOTICE NO. 1/2013

Attention of the Trade and Industry is invited to Section 9A of the Customs Tariff Act, 1975 as amended in 1995 and to Rule 7 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 framed thereafter.

2. In pursuance to the provision of Rule 7 of the above Rules, all interested parties to anti-dumping investigations are advised to comply with the following requirements while submitting "confidential information" before the Designated Authority in an anti-dumping investigation :

i. The parties making any **submission (including Appendixes/Annexures attached thereto)** before the authority including questionnaire response, are required to file the same in two separate sets, in case 'confidentiality' is claimed on any part thereof:-

(a) one set marked as **Confidential** (with title, number of pages, index, etc.)
and

(b) the other set marked as **Non-Confidential** (with title, number of pages, index, etc.).

Any submission made without such marking shall be deemed as non-confidential. Soft copy of both the versions will also be required to be submitted, along with the hard copies, to the authority.

ii. The Confidential version shall contain all information which are by nature confidential and/or other information which the supplier of such information claims as confidential. For information which are claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed.

iii. The non-confidential version is required to be a replica of the confidential version with the confidential information indexed or blanked out (in case indexation is not feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on confidential basis. However, in exceptional circumstances, party submitting the confidential information may indicate that such information is not susceptible of summary, a statement of reasons why summarization is not possible, must be provided to the satisfaction of the Designated Authority.

iv. After the above requirements are met, the Designated Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted by the interested party.

v. If the Designated Authority is satisfied that the request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.

vi. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the authority.

vii. The Designated Authority on being satisfied and accepting the need for confidentiality of the information given, shall not disclose it to any party without specific authorization of the party providing such information.

viii. During the course of public hearing if any interested party intends to circulate any document/paper, copy of the same must be provided to all participants at least one working day prior to the date of hearing by way of hard copy or e-mail or both.

ix. In case an interested party intends to submit/present some information on confidential basis during the public hearing, the same along with NCV thereof must be submitted to the Designated Authority at least three days prior to such hearing. It should be ensured that the NCV of such information gives a meaningful summary of the CV, In case no such NCV is provided before the stipulated period, the interested party may not be allowed to present such papers in the public hearing.

3. The above procedure will supersede all previous instructions or Trade Notices issued by the Directorate with regard to confidentiality and in the publications of this Directorate.


(A. K. Jha)

Deputy Secretary
For Designated Authority

To

All concerned (as per list)

Guidelines on confidentiality of information/data contained in the Petition, response to the Questionnaire or other Submissions

The NCV should be replica of the confidential version (having same Para No. and Page No.) except the information or data claimed to be confidential for which non-confidential summary should be provided under the heading "Non-Confidential Summary" at places where confidential information were provided in the confidential version. In case any data is claimed as confidential, NCV of the same should be submitted in the indexed form. In case, summarization/indexation of the information/data is not possible, specific reason for the same should be provided on the forwarding letter.

2. The claim of confidentiality on any information/data should be submitted in the following format as a forwarding letter of the NCV :-

S. N.	Issue/data on which confidentiality is claimed	Reason/justification for claiming confidentiality	Page No. of the NCV at which non-confidential summary is provided	Whether information is available in the Public domain or with any Govt. Authority from whom the same can be obtained by the public with or without payment of fee
1	2	3	4	5

3. The reason/justification should be on the basis of criteria laid down in Article 6.5 of the Anti-Dumping Agreement. The reason/justification should be specific clearly demonstrating/establishing that disadvantage would occur by disclosure of information.

4. The confidentiality claims and decision thereon are case-specific. Therefore, precedence of any previous cases would not be considered as justification for claiming confidentiality. In this regard attention is invited to the following :-

- (i) The following are examples of information which may be treated as confidential :
 - a) Information of significant competitive advantage to a competitor, production costs, distribution costs, upstream and downstream pricing data, profit and loss margins, certain conditions of sale, research/invention data, technical designs, business or trade secrets concerning the nature of a product or production process, specification of components, performance/profitability data, details of margin of dumping and adjustments claimed by the party etc. are some examples of such type of information. List is not exhaustive.
 - b) Information, the disclosure of which would have a significant adverse effect upon the party who submitted the information or the party from

whom the information was acquired by the party who submitted the information. Some examples are -customer and supplier lists, letters from buyers on price negotiations, details of technical collaboration.

(ii) The information claimed to be confidential shall be examined by the authority on a case to case basis. Reporting obligation of the Designated Authority under Article 12 of the Anti-Dumping Agreement shall be kept in view while granting confidentiality. For example, address of the domestic industry/exporter, location of plant, etc. cannot be treated as confidential. The balancing interest on disclosure shall be kept in view while examining the information on a case to case basis.

(iii) In case, an interested party submits information on confidential basis and claims that the summary thereof is NCV is not possible, the same claim shall be accepted by the authority only after due consideration and examination. Examples of cases where such claims may be accepted are, technical details of manufacturing process, consumption norms of raw materials/utilities, invention/research data, technical designs, trade secrets concerning nature of production process, technical specifications of the components, etc.

(iv) A claim of confidentiality shall not be accepted by the authority on the grounds of commercial restrictions, for example, in case, the information is available in public domain and can be obtained by any party after payment of fee, etc. information/data procured from a private source as IBIS shall not be treated as confidential and the party submitting the same should submit a letter of permission for its disclosure from the party supplying the same before being accepted.

(v) All the interested parties participating in an Anti Dumping Investigation are, inter-alia, required to submit a copy of its Annual Accounts along with the B/Sheet, duly certified by a practicing Accountant for the POI and preceding two years. Generally, the Annual Accounts, B/Sheet & P&L Account of a Company, duly certified by a practicing Accountant, shall be treated by the Authority as non-confidential and a copy of the same shall also be kept in the public file.

(vi) In case an interested party claims confidentiality in respect of Annual Accounts and the Balance Sheet for the POI and the previous two years, the interested party shall be required to give a detailed justification for claiming the confidentiality. The justification/grounds for claiming confidentiality, in such cases shall be marked non-confidential and a copy of the same shall be kept in the public file.

(vii) In case the entire Annual Accounts and the Balance Sheet for the POI and the previous two years is claimed to be confidential, a non-confidential version, duly indexed giving meaningful summary of the confidential version, shall also be submitted by the interested party for reference by the other interested parties.

(viii) In case the Annual Accounts and the Balance Sheet of a participating interested party is in the public domain, in accordance with the relevant law/rules of the subject country or can be obtained by the public from the prescribed authorities, the same shall not be allowed by the authority to be treated as confidential under any circumstances.
