

Dear all,

This pertains to the amendments in the Safeguard Rules to be undertaken in the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997, enacted under section 8B and 8C of the Customs Tariff Act, 1975. All stakeholders are requested to provide their comments on the proposed amendments in Safeguard Rules latest by 31.07.2019. The comments may be sent to the email ids: rajiv.arora@nic.in, skshukla.gst@gov.in, policy-dgtr@gov.in

Rajiv Arora
Addl. DGFT
DGTR

EXISTING AND PROPOSED PROVISIONS

Serial Number	Rule/Provision Number	Existing Provision	Proposed Provision
1	Title	Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997	Customs Tariff (Identification and Assessment of Safeguard <u>Measure</u>) Rules, 1997
2	1(i)-Short Title and Commencement	(i) These rules may be called the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997	(i) These rules may be called the Customs Tariff (Identification and Assessment of Safeguard Duty <u>Measure</u>) Rules, 1997
3	2b- Definitions	(b) "Critical circumstances" means circumstances in which there is clear evidence that imports have taken place in such increased quantities and under such circumstances as to cause or threaten to cause serious injury to the domestic industry and delay in imposition of provisional safeguard duty would cause irreparable damage to the domestic industry	(b) "Critical circumstances" means circumstances in which there is clear evidence that imports have taken place in such increased quantities and under such circumstances as to cause or threaten to cause serious injury to the domestic industry and delay in imposition of provisional safeguard duty <u>measure</u> would cause irreparable damage to the domestic industry <u>which would be difficult to repair;</u>
4	2(d)(1)	(i) any exporter or foreign producer or the importer of an article subjected to investigation for purposes of imposition of safeguard duty or a trade or business association, majority of the members of which are producers, exporter or importers of such an article;	(i) any exporter or foreign producer or the importer of an article subjected to investigation for purposes of imposition of safeguard duty <u>measure</u> or a trade or business association, majority of the members of which are producers, exporter or importers of such an article;
5	2(f)	(f) "Provisional Duty means a safeguard duty imposed under sub-section (2) of section 8B of the Act	(f) "Provisional- Duty <u>Measure</u> " means a safeguard duty <u>measure</u> imposed under sub-section (2) of section 8B of the Act
6	2(g) (Newly Added)		<u>(g) Safeguard Measure means a safeguard duty or a duty in the nature of Tariff Rate Quota (TRQ) imposed under sub-section (1) of section 8B of the Act.</u>

7	2(g) Numbering Change 2(h)	(g) "Specified Country" means a country or territory which is a member of the World Trade Organisation and includes the country or territory with which the Government of India has an agreement for giving it the most favoured nation treatment;	(h) "Specified Country" means a country or territory which is a member of the World Trade Organisation and includes the country or territory with which the Government of India has an agreement for giving it the most favoured nation treatment;
8	2(h)(i)	(h) all words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act	(i) all words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act
9	3	3. Appointment of Director General Safeguard Remedies)	3. Appointment of Director General (Safeguard Trade Remedies)
10	3(1)	(1) The Central Government may, by notification in the official Gazette appoint an officer not below the rank of a Joint Secretary to the Government of India or such other officer as it may think fit as the Director General (Safeguard) hereinafter referred to as the Director General for the purposes of these rules.	(1) The Central Government may, by notification in the official Gazette appoint an officer not below the rank of a Joint Secretary to the Government of India or such other officer as it may think fit as the Director General (Safeguard Trade Remedies) Thereinafter referred to as the Director General for the purposes of these rules.
11	4(1)	1) to investigate the existence of "serious injury" or "threat of serious injury" to domestic industry as a consequence of increased import of an article into India;	(1) to investigate the existence of "serious injury" or "threat of serious injury" to domestic industry as a consequence of increased import of an article into India <u>determine whether the article under investigation is being imported into India's territory 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 industry that produces like article or directly competitive products;</u>
12	4(2)	(2) to identify the article liable for safeguard duty;	(2) to identify the article <u>under investigation</u> liable for safeguard duty <u>measure</u> ;
13	4(3)	(3) to submit his findings, provisional or otherwise to the Central Government as to the "serious injury" or "threat of serious injury" to domestic industry consequent upon increased import of an article from the specified country;	(3) to submit <u>reasoned and adequate</u> his findings, <u>whether</u> provisional or otherwise, to the Central Government as to the "serious injury" or "threat of serious injury" to domestic industry consequent upon increased import of an article from the specified country <u>pursuant to the determination referred to in Rule 4(1) above;</u>

14	4(4) (i)	(i) the amount of duty which if levied would be adequate to remove the injury or threat of injury to the domestic industry;	(i) the amount of duty, <u>a duty or a duty in the nature of a Tariff Rate Quota</u> which if levied would be adequate to remove the injury or threat of injury to the domestic industry.
15	4(4)(ii)	(ii) the duration of levy of safeguard duty and where the period so recommended is more than a year, to recommend progressive liberalisation adequate to facilitate positive adjustment.	(ii) the duration of levy of safeguard duty <u>measure</u> and where the period so recommended is more than a year, to recommend progressive liberalisation adequate to facilitate positive adjustment.
16	4(5)	(5) to review the need for continuance of safeguard duty.	(5) to review the need for continuance of safeguard duty <u>measure</u> .
17	4(6)(Newly added)		<u>(6) If the duration of the safeguard measure referred to in Rule 4(ii) above exceeds three years, the Director General shall review the situation no later than the mid-term of the safeguard measure and, if appropriate, withdraw it or increase the pace of liberalisation.</u>
18	5(2)(a)(i)	(i) increased imports;	(i) increased imports <u>as a result of unforeseen development;</u>
19	6(1)(i)	(i) the name of the exporting countries and the article involved;	(i) the name of the exporting countries and the article involved <u>and volume of imports.</u>
20	6(5)	(5) The Director General shall also provide opportunity to the industrial user of the article under investigation, and to representative consumer organisations in cases where the article is commonly sold at retail level to furnish information which is relevant to the investigation.	(5) The Director General shall also provide opportunity to the industrial user of the article under investigation, and to representative consumer organisations in cases where the article is commonly sold at retail level to furnish information which is relevant to the investigation <u>including inter-alia, their views if imposition of safeguard measures is in public interest or not.</u>

21	8- New Subsection Added (i)	The Director General shall determine serious injury or threat of serious injury to the domestic industry taking into account, inter alia, the principles laid down in Annex to these rules.	The Director General shall determine serious injury or threat of serious injury to the domestic industry taking into account, inter alia, the principles laid down as under- <u>(1) In the investigation to determine whether increased imports have caused or are threatening to cause serious injury to a domestic industry, the Director General shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular, the rate and amount of the increase in imports of the article concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.</u>
22	8- New Subsection (2) Added	.	<u>(2) The determination referred to in paragraph (1) shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between increased imports of the article concerned and serious injury or threat thereof. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports. In such cases, the Director General may refer the complaint to the authority for anti-dumping or countervailing duty investigations, as appropriate</u>
23	10	10. Levy of Provisional Duty. -	10. Levy of Provisional Duty- <u>Measure</u>

24	10	<p>The Central Government may in accordance with the provisions of sub-section (2) of section 8B of the Act, impose a provisional duty on the basis of the preliminary findings of the Director General.</p> <p>Provided that such duty shall remain in force only for a period not exceeding two hundred days from the date on which it was imposed</p>	<p>The Central Government may in accordance with the provisions of sub-section (2) of section 8B of the Act, impose a provisional duty <u>duty measure</u> on the basis of the preliminary findings of the Director General.</p> <p>Provided that such <u>duty measure</u> shall remain in force only for a period not exceeding two hundred days from the date on which it was imposed.</p>
25	11(1)(a)	<p>(a)the increased imports of the article under investigation has caused or threatened to cause serious injury to the domestic industry, and</p>	<p>(a) <u>as a result of unforeseen developments the</u> increased imports of the article under investigation has caused or threatened to cause serious injury to the domestic industry, and</p>
26	11(2)(a)-Newly Added	<p>(2) The Director General shall also give its recommendation regarding, amount of duty which if levied, would be adequate to prevent or remedy 'serious injury' and to facilitate positive adjustment.</p>	<p>(2) The Director General shall also give its recommendation regarding <u>(a) amount of duty measure</u> which, if levied, would be adequate to prevent or remedy serious injury and to facilitate positive adjustment .</p>
27	11(2)(b)-Newly Added		<p><u>(b) the extent of- tariff rate Quota, Tariff Rate Quota if imposed as a measure, shall not reduce the Quantity of imports below the level of the recent period which shall be the average of imports in the last three representative years for which statistics are available, unless the clear justification is given that a different level is necessary to prevent or remedy serious injury.</u></p>
28	11(2)©		<p><u>(c) the quota to be allocated among the supplying countries, and the allocation of shares in the quota for such specified countries which have a substantial interest in supplying the goods.</u></p>

29	11(3)	(3) The Director General shall also make his recommendations regarding the duration of levy of duty : Provided that where the period recommended is more than one year, the Director General shall also recommend progressive liberalisation adequate to facilitate positive adjustment.	(3) The Director General shall also make his recommendations regarding the duration of levy of duty measure : Provided that where the period recommended is more than one year, the Director General shall also recommend progressive liberalisation adequate to facilitate positive adjustment.
30	11(4)	(4) The final findings if affirmative, shall contain all information on the matter of facts and law and reasons which have led to the conclusion.	(4) The final findings shall be adequate and reasoned if affirmative, the final findings shall contain all information on the matter of facts and law and reasons which have led to the conclusion.
31	12	12. Levy of Duty	12. Levy of Duty-Imposition of Measure
32	12(1)	(1) The Central Government may, impose by a notification in the Official Gazette, upon importation into India of the product covered under the final finding, a safeguard duty not exceeding the amount which has been found adequate to prevent or remedy serious injury and to facilitate positive adjustment.	(1) The Central Government may, impose by a notification in the Official Gazette under sub-section (1) of Section 8B of the Act , upon importation into India of the product covered under the final finding, a safeguard duty measure not exceeding the amount which has been found adequate to prevent or remedy serious injury and to facilitate positive adjustment.
33	12(2)	(2) If the final finding of the Director General is negative, that is contrary to the prima facie evidence on whose basis the investigation was initiated, the Central Government shall within thirty days of the publication of final findings by the Director General under rule 11, withdraw the provisional duty imposed, if any.	(2) If the final finding of the Director General is negative, that is contrary to the <i>prima facie</i> evidence on whose basis the investigation was initiated preliminary finding was made , the Central Government shall within thirty days of the publication of final findings by the Director General under rule 11, withdraw the provisional duty measure imposed, if any and refund the duties in accordance with Rule 15 below.

34	13	<p>13. Imposition of duty on non-discriminatory basis. - Any safeguard duty imposed under rule 10 or rule 12 shall be on a non-discriminatory basis and applicable to all imports of such article, irrespective of its source.</p>	<p>13. Imposition of <u>Duty Measure</u> on Non-discriminatory Basis. -. Any safeguard duty <u>measure</u> imposed under rule 10 or rule 12 shall be on a non-discriminatory basis and applicable to all imports of such article, irrespective of its source.</p>
35	14	<p>14. Date of Commencement of Duty -</p>	<p>14. Date of Commencement of <u>Duty Measure</u>. -</p>
36	14(1)	<p>(1) The Safeguard duty levied under rule 10 or rule 12 shall take effect from the date of publication of the notification, in the Official Gazette imposing such duty.</p>	<p>(1) The Safeguard duty <u>measure</u> levied under rule 10 or rule 12 shall take effect from the date of publication of the notification, in the Official Gazette imposing such duty <u>safeguard measure</u>.</p>
37	14(2)	<p>(2) Notwithstanding anything contained in sub-rule (1), where a provisional duty has been levied and where the Director General has recorded a finding that increased imports have caused or threaten to cause serious injury to domestic industry, it shall be specified in the notification under sub-rule (1) that such safeguard duty shall take effect from the date of levy of provisional duty.</p>	<p>(2) Notwithstanding anything contained in sub-rule (1), where a provisional duty <u>measure</u> has been levied and where the Director General has recorded a finding that increased imports have caused or threaten to cause serious injury to domestic industry, it shall be specified in the notification under sub-rule (1) that such safeguard duty <u>measure</u> shall take effect from the date of levy of provisional duty <u>measure</u>.</p>
38	15	<p>If the safeguard duty imposed after the conclusions of the investigation is lower than the provisional duty already imposed and collected, the differential shall be refunded to the importer.</p>	<p>If the safeguard duty <u>measure</u> imposed as a duty after the conclusions of the investigation is lower than the provisional duty <u>measure</u> already imposed and collected, the differential shall be refunded to the importer.</p>
39	16(1)	<p>(1) The duty levied under rule 12 shall be only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate positive adjustment.</p>	<p>(1) The duty <u>safeguard measure</u> levied under rule 12 shall be only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate positive adjustment.</p>

40	16(2)	<p>(2) Notwithstanding anything contained in sub-rule (1) of this rule duty levied under rule 12 shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of its imposition : Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty should continue to be imposed, it may extend the period of such imposition : Provided further that in no case the safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.</p>	<p>(2) Notwithstanding anything contained in sub-rule (1) of this rule duty <u>the safeguard measure</u> levied under rule 12 shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of its imposition : Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty measure should continue to be imposed, it may extend the period of such imposition: Provided further that in no case the safeguard duty measure shall continue to be imposed beyond a period of ten years from the date on which such duty measure was first imposed. <u>event shall the total period of application of a safeguard measure including the period of application of any provisional measure, the period of initial application and any extension thereof exceed ten years.</u></p>
41	17	17. Liberalization of Duty.	17. Liberalization of Duty <u>Duty Measure</u>
42	17	If the duration of the duty levied under rule 12 exceeds one year, the duty shall be progressively liberalized at regular intervals during the period of its imposition	If the duration of the duty <u>measure</u> levied under rule 12 exceeds one year, the duty <u>measure</u> shall be progressively liberalized at regular intervals during the period of its imposition.
43	18(1)	(1) The Director General shall, from time to time, review the need for continued imposition of the safeguard duty and shall, if he is satisfied on the basis of information received to him that, -	(1) The Director General shall, from time to time, review the need for continued imposition of the safeguard duty <u>measure</u> and shall, if he is satisfied on the basis of information received to him that, -

44	18(1)(i)	(i) safeguard duty is necessary to prevent or remedy serious injury and there is evidence that the industry is adjusting positively, it may recommend to the Central Government for the continued imposition of duty;	(i) safeguard duty <u>measure</u> is necessary to prevent or remedy serious injury and there is evidence that the industry is adjusting positively, it may recommend to the Central Government for the continued imposition of duty <u>measure</u> ;
45	18(1)(ii)	(ii) there is no justification for the continued imposition of such duty, recommend to the Central Government for its withdrawal :	(ii) there is no justification for the continued imposition of such duty <u>measure</u> , recommend to the Central Government for its withdrawal :
46		Provided that where the period of imposition of safeguard duty exceeds three years the Director General shall review the situation not later than the mid-term of such imposition, and, if appropriate, recommend for withdrawal of such safeguard duty or for the increase of the liberalisation of duty.	Provided that where the period of imposition of safeguard duty <u>measure</u> exceeds three years the Director General shall review the situation not later than the mid-term of such imposition, and, if appropriate, recommend for withdrawal of such safeguard duty <u>measure</u> or for the increase of the liberalisation of measure
47	ANNEXTURE(See Rule 8)		ANNEXURE
48	ANNEXTURE(1) (See Rule 8)		(1) — In the investigation to determine whether increased imports have caused or are threatening to cause serious injury to a domestic industry, the Director General shall evaluate all relevant factors of an objective and quantifiable nature having a bearing on the situation of that industry, in particular, the rate and amount of the increase in imports of the article concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilization, profits and losses, and employment.

49	ANNEXTURE(2) See Rule 8		<p>(2) —The determination referred to in paragraph (1) shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of the causal link between increased imports of the article concerned and serious injury or threat thereof. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports. In such a cases, the Director General may refer the complaint to the authority for anti-dumping or countervailing duty investigations, as appropriate.</p>
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