



**NOTIFICATION UNDER ARTICLE 12.1(B) OF THE AGREEMENT  
ON SAFEGUARDS ON FINDING A SERIOUS INJURY OR THREAT  
THEREOF CAUSED BY INCREASED IMPORTS**

**NOTIFICATION OF THE EXTENSION OF THE EXISTING MEASURE**

**NOTIFICATION PURSUANT TO ARTICLE 9, FOOTNOTE 2  
OF THE AGREEMENT ON SAFEGUARDS**

INDIA

*Solar Cells whether or not assembled in modules or panels*

*Supplement*

The following communication, dated 31 July 2020, is being circulated at the request of the delegation of India.

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Pursuant to Article 12.1(b) of the WTO Agreement on Safeguards (Safeguards Agreement), India is notifying its findings of a serious injury or threat of serious injury caused by increased imports of "*solar cells whether or not assembled in modules or panels*".

The safeguard duty was initially imposed on *Solar Cells whether or not assembled in modules or panels* (PUC) for 2 years, i.e. from 30 July 2018 to 29 July 2020. Thereafter, based on the *prima facie* evidence submitted by the domestic industry regarding serious injury to domestic industry and the Director General of Trade Remedies (DGTR) having satisfied itself that the domestic industry was adjusting positively to the increased imports, a review investigation for further continuance of safeguard duty was initiated on 3 March 2020. Based on the (a) information presented in the petition by the domestic industry, additional information presented by various interested parties, various submissions made by the interested parties and other primary and secondary records available, and (b) verification of information and evidence presented by the interested parties to the extent considered necessary, DGTR examined the same and came out with the final conclusions and recommendations thereof. Amongst others, the gist of final findings are:

- i. While the imports of PUC were 6,375 MW in 2016-17, these increased to 9,790 MW in 2017-18. The duties were put in place with effect from 30 July 2018. As a consequence of imposition of duties, import volume came down to 8,010 MW during 2018-19. But this decline in imports was short-lived as the import volume for the most recent period, i.e. 2019-20, (Annualized- Actual data till September 2019) was 8,754 MW.
- ii. There has been a significant increase in imports of the PUC in absolute terms as well as in relation to total domestic production over the entire Period of Investigation (POI).
- iii. The domestic industry is continuing to suffer serious injury which is evidenced from an overall consideration of its performance, particularly on the basis of its capacity utilization which is sub-par considering the demand of the PUC, increasing levels of inventory and negative profitability. Though the Domestic Industry has improved its

production and sales and reduced its losses, its position continues to be fragile and would relapse into further serious injury if the safeguard duty is discontinued.

- iv. Import prices have continued to decline over the injury period, i.e. 2016-2017 to 2019-2020.
- v. Without safeguard duty, import prices are below the selling price of the Domestic Industry and would undercut the prices of the Domestic Industry.
- vi. If safeguard duty is discontinued, there is every likelihood that the severe price suppression and depression being suffered by the Domestic Industry before the imposition of safeguard duty would recur and the profitability of the Domestic Industry will get further adversely impacted.
- vii. The continuance of safeguard duty will prevent complete erosion of manufacturing base of solar industry in the country which has made substantial investments.
- viii. The Domestic Industry has though not fully adhered to the adjustment plan but has made serious efforts to implement its adjustment plan which has improved their performance and will further lead to its increased competitiveness vis-a-vis imports and also lower cost of the PUC to the domestic consumer in the long run.

The DGTR concluded that the imports of PUC into India, have not only continued to cause serious injury to the Domestic Industry but also threaten to cause serious injury to the domestic producers of PUC. The DGTR has thus concluded that it will be in the public interest to continue the imposition of safeguard duty on imports of the PUC into India in terms of Rule 18 read with Rule 12 of the Customs Tariff (Identification And Assessment of Safeguard Duty) Rules'97. It further noted that the Domestic Industry has sought extension of the Safeguard duty further for a period of four years with progressive liberation of Safeguard duty to 14.95 %, 14.90 %, 14.85% and 14.80% in the four years respectively.

Keeping in view that 2 years of protection has already been provided and DI has improved its position but needs some more time to adjust, DGTR recommended that extension of Safeguard duty for a period of another one year would be adequate. It also concluded that during this period, the existing quantum of duty would continue to be liberalized at a pace so as to ensure that adjustment by DI is attained within the span of one year only.

#### **PRECISE DESCRIPTION OF THE PROPOSED MEASURE**

Accordingly, the DGTR, the competent authority, had recommended the following safeguard duty imports of PUC with effect from 30 July 2020, which was considered to be appropriate to continue protection to the domestic industry to facilitate further positive adjustment:

- First six months-14.90% *ad valorem*;
- Next 6 months-14.50% *ad valorem*.

As the imports from developing nations, as listed in Notification No. 19/2016-Customs(NT) dated 5 February 2016 of Ministry of Finance, Government of India, except China PR, Thailand and Vietnam do not exceed 3% individually and 9% collectively, the import of product under consideration originating from developing nations except China PR, Thailand and Vietnam will not attract safeguard duty in terms of proviso to Section 8B (1) of the Customs Tariff Act, 1975.

Details of the findings of the Director General of Trade Remedies can be accessed from the DGTR website at [http://www.dgtr.gov.in/sites/default/files/Solar-Final\\_Finding-English\\_0.pdf](http://www.dgtr.gov.in/sites/default/files/Solar-Final_Finding-English_0.pdf). and the corrigendum to this finding at:

<http://www.dgtr.gov.in/sites/default/files/Corrigendum%C2%A0Review.pdf>.

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