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Committee on Safeguards

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**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 A PROPOSAL TO IMPOSE A MEASURE**

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

*(Single Mode Optical Fibre)*

INDIA

*Supplement*

The following communication, dated 14 September 2020, is being circulated at the request of the delegation of India.\*

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This document is the notification of final finding of serious injury or threat thereof caused by increased imports of 'Single Mode Optical Fibre' (hereafter also referred as 'product under consideration' or 'PUC').

The Domestic Industry (DI) had requested imposition of Safeguard Duty on imports of 'PUC' into India to safeguard it from like or, directly competitive products from serious injury or threat of serious injury caused by increased imports.

An examination of the application and the evidence/details/documents submitted therewith led to the conclusion by the Investigating Authority that the application satisfied the requirements of Rule 5 the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 (for brevity, "the Rules"). Therefore, a Safeguard investigation against imports of the PUC into India was initiated vide notification published in the Gazette of India, Extraordinary dated 23 September 2019 vide GSR No.293 (E). The initiation of investigation was notified vide WTO document G/SG/N/6/IND/46 and the provisional findings vide WTO document G/SG/N/8/IND/32 - G/SG/N/10/IND/23 - G/SG/N/11/IND/18. However, no provisional measures were imposed.

Now the Investigating Authority has issued its final findings. The effect of unforeseen developments and the obligation incurred under GATT 1994, as required under Article XIX of the GATT 1994 have been clearly established in the findings. Further, the Investigating Authority has concluded in the final findings that during the period of investigation (POI), there was an overall deterioration in the functioning of the DI, which is indicative of the serious injury and threat of serious injury in future. The finding of the serious injury suffered by the DI on account of enhanced imports of the PUC are summarized as under:

- a) The volume of imports of the PUC had increased significantly during POI mainly in 2018-19 and Q1 of 2019-20;

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\* A copy of the final finding has been submitted electronically. To consult this document please contact Ms. Richards (anne.richards@wto.org) or Ms. Naville (delphine.naville@wto.org) of the Rules Division.

- b) The imports in Q2 and Q3 of 2019-20 are at comparable level of 2016-17 and 2017-18 in terms relative to production;
- c) The DI's market share has declined, whereas the market share of imports has increased. The increased imports of the PUC have substituted for the market share of DI;
- d) The capacity utilization of DI has decreased significantly in POI despite increase in demand. The inventories of the PUC have also increased significantly;
- e) The Domestic sales of the DI has declined significantly during the most recent period with their lost market been taken over by the imports;
- f) The DI profit earning in 2017-18 shifted to significant losses during 2018-19 and Post POI;
- g) There is significant price underselling and price suppression due to imports of PUC;
- h) On an overall basis, DI has suffered serious injury during POI due to increased imports.

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

Safeguard Duty of 10% for one year is proposed to be imposed *ad valorem* on CIF prices on the imports of the PUC, from all countries with the exception of the developing countries as mentioned below.

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, do not exceed 3% individually and 9% collectively, the import of product under consideration originating from developing nations except China PR will not attract safeguard duty in terms of proviso to Section 8B(1) of the Customs Tariff Act, 1975.

The Safeguard Duty on the import of the PUC, is proposed to be levied for a period of one year. Since the safeguard duty is proposed to be for one year only, no progressive liberalisation has been recommended by the investigating authority.

## **2 PROPOSED DATE OF IMPOSITION OF SAFEGUARD MEASURE**

The safeguard measure will be applicable from the date of issue of notification in this regard by the Department of Revenue, Ministry of Finance, Government of India.

## **3 FURTHER INFORMATION**

An appeal against the order of the Central Government arising out of these findings shall lie before the Customs, Excise and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act, 1975.

Copy of the final finding is attached. It is also available in the public domain and can be accessed from the DGTR website at:

[file:///C:/Users/doc/Downloads/Final%20Findings\\_21%20Aug%202020\\_Single%20Mode%20Optical%20Fibre.pdf](file:///C:/Users/doc/Downloads/Final%20Findings_21%20Aug%202020_Single%20Mode%20Optical%20Fibre.pdf)

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