

DIRECTORATE GENERAL OF SAFEGUARDS
CUSTOMS AND CENTRAL EXCISE
2ND FLOOR, BHAI VIR SINGH SAHITYA SADAN,
BHAI VIR SING MARG, GOLE MARKET
NEW DELHI – 110001
Telefax : 2374152, 23741537
e-mail : dgsafeguards@nic.in

F. No. D-22011/10/2009

Dated : 9th April 2009


NOTICE OF INITIATION OF SAFEGUARD INVESTIGATION

[Under Rule 6 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997]

Sub: Initiation of safeguard investigation concerning imports of Hot Rolled Coils / sheets / strips into India

G.S.R. An application has been filed before me under Rule 5 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 by M/s. Ispat Industries Limited and Essar Steel Ltd. for imposition of Safeguard Duty on imports of Hot Rolled Coils/Sheet/Strips into India to protect the domestic producers against serious injury caused by the increased imports of Hot Rolled Coils/Sheet/Strips into India.

2. **Domestic Industry**: The application has been filed by M/s Ispat Industries Limited and Essar Steel Ltd. for imposition of Safeguard Duty on imports of Hot Rolled Coils/Sheet/Strips. **The application is supported by Steel Authority of India Limited (SAIL) and JSW Steel Limited.** The applicant alongwith supporting companies account for 79.50% of the total production in the most recent period of April 08 - Feb, 2009.
3. **Product Involved**: The product under consideration in the present investigation is Hot Rolled Coils/Sheet/Strips upto 20 MM thickness and 2000 MM width and is classified under sub-heading No. 7208 of Schedule I of the Customs Tariff Act 1975 (hereinafter referred to as "said product" in this notification). The product under consideration is produced and sold in a large number of grades.
4. **Increased Imports**: Based on information compiled from DGCI&S for the period upto June 2008 and International Business Information Services (IBIS) for the subsequent period, applicants have shown that imports of



the "said product" have increased in absolute terms as also in relation to production & consumption in India, as shown in the table below ;

	Imports volume in Lac MT	Imports per month in Lac MT	Indian production in Lac MT	Indian production per month in Lac MT	Imports as share to production in %
2005-06	20.040	1.670	153.248	12.771	13.08%
2006-07	19.670	1.639	166.650	13.888	11.80%
2007-08	27.680	2.307	177.810	14.818	15.57%
April08-June08	6.770	2.257	38.080	12.693	17.78%
July08-Sept08	2.405	0.802	48.481	16.160	4.96%
Oct-Dec 08	4.436	1.479	32.010	10.670	13.86%
Jan09-Feb09	4.612	2.306	27.260	13.630	16.92%

The information provided by the applicants shows imports of "said product" being reported from Australia, Belgium, Canada, China, France, Germany, Japan, Kazakhstan, Korea RP, Malaysia, Netherlands, Romania, Russia, South Africa, Saudi Arabia, Sweden, Taiwan, Thailand, Turkey, UAE, UK, USA, Ukraine, Vietnam. There is sufficient prima facie evidence of surge in imports justifying initiation of investigations.

5. **Serious Injury:** Applicants have claimed that the increased imports of "said product" have caused and are threatening to cause serious injury to the domestic producers of Hot Rolled Coils as would be seen from the following factors relating to the performance of the applicant companies.
- a) **Production:** Production of said product by the applicants increased from 47.20 Lac MT in 2005-06 to 56.32 Lac MT in 2006-07 and further to 61.13 Lac in 2007-08 and 32.94 Lac MT in April-Sept., 2008. The production has however drastically fallen to 8.34 Lac MT in Oct.-Dec., 2008. Even though the production marginally improved to 7.40 Lac MT in Jan., - Feb 2009, yet the same is significantly lower than previous levels – as is evident from the following table.

Period	Production of applicants in Lac MT	
	For the period	Monthly
2005-06	47.20	3.93
2006-07	56.32	4.69
2007-08	61.13	5.09
April 08 – Sept 08	32.94	5.49
Oct 08 – Dec 08	8.34	2.78
Jan 09 – Feb 09	7.40	3.70

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- b) **Capacity Utilization:** The capacity utilization of the applicants was improving till Sept., 2008, but has declined thereafter steeply in Oct.-Dec., 2008. Even though there is some improvement in capacity utilization in Jan., - Feb 2009, the improvement is far lower than the levels achieved earlier.

Period	Capacity Utilization
2005-06	83%
2006-07	85%
2007-08	93%
April 08 – Sept 08	96%
Oct 08 – Feb 09	55%

- c) **Share of applicants in domestic consumption:** Market share of applicants has fallen significantly. Applicants had a market share of 21.79% during 2005-06 and 26.17% in 2006-07. Market share remained at 25.56% in 2007-08 and increased to 31.27% in April-Sept 2008. Market share, however, declined steeply to 24.50% in Oct-Dec 08 and 20.77% in Jan09 - Feb09 – as is evident from the following table.

Period	Share of Applicants in Domestic demand
2005-06	21.79%
2006-07	26.17%
2007-08	25.56%
April 08 – Sept 08	31.27%
Oct 08 – Dec 08	24.50%
Jan 09 – Feb 09	20.79%

- d) **Profit/loss** – Applicants were earning profits till Sept., 2008. However, the applicant companies suffered financial losses in Oct.-Dec., 2008, which continued in Jan., Feb 2009. Whereas the applicants made a profit of Rs. 94 crores [2007-08] and Rs. 371 crores [April-Sept. 2008], they suffered financial losses of Rs. 235 crores in Oct-Dec 08 and Rs. 369 crores Jan., 2009 Feb 2009.

Period	Profit/Loss Rs. Carors
2005-06	(544)
2006-07	222
2007-08	94
April 08 – Sept 08	371
Oct 08 – Dec 08	(235)
Jan 09 – Feb 09	(369)

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- e) **Employment and Productivity** – Productivity has shown the same trend as that of production. Applicants have claimed that due to stringent rules & regulations of company, permanent employment in the companies could not be reduced in a short time frame.
6. Applicants have filed an application for imposition of anti dumping duty. The Designated Authority has initiated investigations vide notification no 14/23/2008 dated 28th November 2008. The scope of the product under consideration in that investigation is as follows.

“Product under consideration Hot Rolled Coils, Hot Rolled Sheets, Hot Rolled Plates, Hot Rolled Strips or any other hot rolled flat products of iron or non alloy steel of a thickness not exceeding 20 mm and of a width of 600mm or more.”

It has been contended by the applicants that the domestic industry is facing serious injury and threat of serious injury on account of increased imports. Further, it has been contended that dumping duties would not address the current injury being suffered by the domestic industry, as it may be limited to dumping margin and injury margin prevailing in that period, whereas the current injury is much higher.

7. The issue, especially whether safeguard duty can be imposed when anti dumping duty may also be imposed was examined. The section 9C deals with imposition of anti dumping duty and provides that the same may not exceed the margin of dumping. The dumping margin and injury margin are determined for the “investigation period” chosen for such investigations. The Section 8B deals with imposition of safeguard duty. The circumstances under which the two duties could be imposed are different. Further, sub section 3 of Section 8B contemplates imposition of safeguard duty in addition to any other duty imposed under Customs Tariff Act or under any other law for the time being in force.
8. The applicants have requested for imposition of Safeguard Duty on imports of Hot Rolled Coils/strip for a period of two years. They have also requested for an immediate imposition of provisional Safeguard Duty in the light of critical circumstances, leading to irreparable damage. Applicants have claimed critical circumstances on the grounds of significant drop in sales and consequent production & capacity utilization, steep decline in the prices (leading to severe financial losses) in view of drop in international prices and loss of market share.
9. The application has been examined and it is found that prima facie increased imports of Hot Rolled Coils/Sheet/Strips and have caused and are threatening to cause serious injury to the domestic producers of Hot




Rolled Coils/Sheet/Strips and accordingly it has been decided to initiate an investigation through this notice.

10. Submission of information – All interested parties may make their views known within a period of 30 days from the date of this notice at the address given below so as to consider them in the final determination that may be made by the Director General.

The Director General (Safeguards),
Bhai Vir Singh Sahitya Sadan: 2nd Floor,
Bhai Vir Singh Marg,
Gole Market,
New Delhi-110 001 India.
Telefax: 011-23741542/ 23741537
E-mail: dgsafeguards@nic.in

If no information is received within the prescribed time limit or the information received is incomplete, the Director General may record their findings on the basis of the facts available on record in accordance with the Rules.

11. All known interested parties are also being addressed separately. Any other party to the investigation who wishes to be considered as an interested party may submit its request so as to reach the Director General (Safeguards) within 21 days from the date of this notice.
12. Submission of Information on Non-Confidential basis - In terms of Rule 7, the interested parties are required to submit non-confidential summary of any confidential information provided. If in the opinion of the party providing such information, the information is not susceptible to summarization, a statement of reason thereof is required to be provided.
13. Inspection of Public File - any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.


(S. S. RANA)
Director General (Safeguards)