

Sayı: 17812098-TİM.AKİB.GSK.SAN.2023/387-3357
Konu: Hindistan Düşük Küllü Metalurjik Kok Soruşturması

Mersin, 18/07/2023

Sayın Üyemiz,

Ticaret Bakanlığı İthalat Genel Müdürlüğünden alınan bir yazıda, Hindistan tarafından "Düşük Küllü Metalurjik Kok" ithalatına karşı bir korunma önlemi soruşturması başlatıldı bildirilmektedir. Dünya Ticaret Örgütü (DTÖ) Korunma Önlemleri Komitesine yapılan 12 Temmuz 2023 tarihli bildirim (Ek-1) ile Hindistan Ticaret ve Sanayi Bakanlığı'nın ilgili web sitesinden ulaşılabilen resmi açılış bildirim (Ek-2) ile eki (Ek-3) ekte iletilmektedir.

Söz konusu bildirimlerinde; soruşturmanın, Hindistan gümrük tarife cetveline göre 2704.00.10, 2704.00.20, 2704.00.30 ve 2704.00.90 gümrük tarife istatistik pozisyonları altında yer alan ürünleri kapsayacağı; bilinen ilgili taraflar ile iletişime geçildiği, öte yandan soruşturmaya taraf olarak soru formu yanıtlamak, görüş ve/veya kanıt sunmak isteyen tüm ilgili taraflara, soruşturma açılış kararının yayımlanma tarihi olan 30 Haziran 2023 tarihinden itibaren 30 günlük bir süre verildiği belirtilmektedir.

Devamla, korunma önlemi soruşturmalarının, DTÖ'ye üye ülkelerin GATT 1994'ün XIX. Maddesi ve DTÖ Korunma Önlemleri Anlaşması'nın ilgili hükümlerinden kaynaklanan hakları doğrultusunda; öngörülme yen gelişmelerden kaynaklanan mutlak ya da yerli üretime kıyasla nisbi ithalat artışının, yerli endüstriye zarar verdiği veya zarar tehdidi oluşturduğu iddiası ile açılmakta olduğu soruşturma sonucunda menşe ülkesi ayırımı yapılmaksızın tüm ithalata karşı bir korunma önlemi uygulanabildiği ifade edilmektedir.

Bununla birlikte, Bakanlığımızın "Ticaret Politikası Savunma Araçları" internet adresinde (www.tpsa.gov.tr) "Türk İhraç Ürünlerine Yönelik Uygulanan Ticaret Politikası Savunma Önlemleri" başlığı altında yer alan "TPSA Önlemlerine İlişkin Faydalı Bilgiler" kısmındaki belgelerin ve Türkiye İhracatçılar Meclisi (TİM) tarafından düzenlenen "Ticaret Politikası Önlemleri Soruşturmaları ve Genelleştirilmiş Tercihler Sistemi Uygulamaları Kapsamında Firmalarca Alınacak Avukatlık ve/veya Danışmanlık Hizmeti Harcamalarının Desteklenmesine İlişkin Uygulama Usul ve Esasları'nın (Usul Esaslar) incelenmesinde fayda görülmektedir.

Bilgilerini rica ederim.

Dr. Osman ERŞAHAN
Genel Sekreter Yrd.

Ekler:

- 1- DTÖ Açılış Bildirimi
- 2- Soruşturma Açılış Duyurusu
- 3- Corrigendum notification

12 July 2023

(23-4693)

Page: 1/2

Committee on Safeguards

Original: English

**NOTIFICATION UNDER ARTICLE 12.1(A) OF THE AGREEMENT ON
SAFEGUARDS ON INITIATION OF AN INVESTIGATION AND
THE REASONS FOR IT**

INDIA

The following communication, dated and received on 11 July 2023, is being circulated at the request of the delegation of India.

Pursuant to Article 12.1(a) of the WTO Agreement on Safeguards (Safeguards Agreement), India notifies that a safeguard investigation has been initiated as follows:

1. Specify the date when the investigation was initiated

India initiated the investigation on 30th June, 2023. A copy of Notice of Initiation of the investigation, as published in Part-I Section I of the Gazette of India Extraordinary is attached.¹

2. Period of Investigation

The Period of investigation (POI) considered for the purpose of present investigation is from April 2019-March 2023. The Investigating Authority has considered April 2022-March 2023 as the most recent period for the purpose of the present investigation.

3. Product under Consideration

The product under consideration (PUC) is Low Ash Metallurgical Coke, that is, Metallurgical Coke having ash content below 18%. It is commonly known as Met Coke or Coke in the market parlance. Metallurgical Coke with high ash content, that is, ash content above 18% is outside the scope of the product under consideration. For more details, kindly see the copy of the attached Notice of Initiation of investigation.

Met Coke is used as a primary fuel in industries where a high and uniform temperature is required in furnaces or kilns. It is used majorly in steel plants, chemical plants, ferro alloy plants, foundries and pig iron plants.

The product is classified under Chapter 27 of Schedule I to the Customs Tariff Act under the HS Code 2704 0030. The product under consideration is also being imported under various other HS Codes including 2704 0010, 2704 0020, 2704 0030 and 2704 0090. The customs classification is only indicative and not binding on the scope of the product under consideration.

¹ See <https://egazette.gov.in/WriteReadData/2023/246939.pdf> . In addition, a PDF version of the gazette and its corrigendum have been submitted electronically. To consult them, please contact Ms Anne Richards of the Rules Division (anne.richards@wto.org).

4. Reasons for initiation of investigation

- There is a sudden, sharp and recent significant increase in the imports of the product under consideration in April 2022-December 2022 both in absolute terms as well as relative to domestic production.
- The imports have increased primarily due to a number of unforeseen factors, including the (i) global increase of prices of raw material due to Russia-Ukraine conflict (ii) Increase in prices of coal due to sanctions imposed by various countries on imports from Russia (iii) Increase in freight rates post COVID-19 lockdowns.
- The significant increase in the import of the product under consideration in substantial quantity in recent times has started causing serious injury to the domestic industry. The increased imports also pose a further threat of serious injury.

Hence, it has been decided to initiate the safeguard investigation under Rule 5 of the Safeguard Measures (Quantitative Restrictions) Rules, 2012.

5. Point of contact for the investigation

All interested parties have been requested to make their views known within a period of 30 days from the date of the notice issued (i.e. 30th June, 2023) to the Investigating Authority on email addresses adg16-dgtr@gov.in, adv13-dgtr@gov.in, jd15-dgtr@gov.in and jd16-dgtr@gov.in.

All known interested parties have been addressed separately. It may be noted that in terms of explanation of the said Rule, the notice calling for information and other documents shall be deemed to have been received within one week from the date on which it was sent by the Investigating Authority or transmitted to the appropriate diplomatic representative of the exporting country.

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

To be published in Part-I Section I of the Gazette of India Extraordinary

**F. No. 22/4/2023-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building,
Parliament Street, New Delhi – 110001**

INITIATION NOTIFICATION

Case No - SG (QR) – 04/2023

[Under Rule 5 of the Safeguard Measures (Quantitative Restrictions) Rules, 2012]

Dated: 30th June, 2023

Subject: - Initiation of Safeguard (Quantitative Restrictions) investigation concerning imports of Low Ash Metallurgical Coke into India.

1. Having regards to the Section 9 A of Foreign Trade (Development and Regulation) Act, 1992, as amended from time to time (hereinafter also referred to as the “Act”) and the Safeguard Measures (Quantitative Restrictions) Rules, 2012 thereof, as amended from time to time (hereinafter also referred to as the “Rules), BLA Private Limited, Jindal Coke Limited, Saurashtra Fuels Private Limited, Vedanta Malco Energy Limited and Visa Coke Limited (hereinafter also referred to as the “applicants”) have filed an application for initiation of a safeguard investigation and imposition of safeguard measures in the form of quantitative restrictions concerning imports of Low Ash Metallurgical Coke (hereinafter also referred to as the “product under consideration”) into India.
2. The applicants have alleged that there has been sudden, sharp, significant and recent increase in the volume of imports of the product under consideration, i.e., Low Ash Metallurgical Coke, in India which has started causing serious injury to the domestic industry and is posing threat of further aggravated injury. Accordingly, the applicants have requested for imposition of Safeguard Measures in the form of quantitative restrictions on the imports of the product under consideration into India for one year only.

A. Product Under Consideration

3. The product under consideration defined in the application is Low Ash Metallurgical Coke, that is, Metallurgical Coke having ash content below 18%. It is commonly known as Met Coke or Coke in the market parlance. Metallurgical Coke with high ash content, that is, ash content above 18% is outside the scope of the product under consideration.

4. Met Coke is used as a primary fuel in industries where a high and uniform temperature is required in furnaces or kilns. It is used majorly in steel plants, chemical plants, ferro alloy plants, foundries and pig iron plants.
5. The product is classified under Chapter 27 of Schedule I to the Customs Tariff Act under the HS Code 2704 0030. The product under consideration is also being imported under various other HS Codes including 2704 0010, 2704 0020, 2704 0030 and 2704 0090. The customs classification is only indicative and not binding on the scope of the product under consideration.
6. The applicants have adopted the import data of the product under consideration from the secondary source as well as the technical information of the product under consideration of the foreign producers available in public domain.

B. Like Article

7. The applicants have stated that the goods produced by the domestic industry are like article to the product under consideration being imported into India. It has been stated that there are no significant differences in the product produced by the domestic industry and the product under consideration being imported into India. The applicants claim that the two are technically and commercially substitutable. For the purpose of the present investigation, the goods produced by the domestic industry are being treated as 'like article' to the subject goods being imported into India.
8. Section 9A(4)(b) of Foreign Trade (Development And Regulation) Act, 1992 provides as follows
"domestic industry" means the producers of goods (including producers of agricultural goods)
 - (i) *as a whole of the like goods or directly competitive goods in India; or*
 - (ii) *whose collective output of the like goods or directly competitive goods in India constitutes a major share of the total production of the said goods in India;*
9. Rule 2(e) of the Safeguard Measures (Quantitative Restriction) Rules, 2012 defines like goods as:
"(e) "like goods" means goods which is identical or alike in all respects to the goods under investigation, or in the absence of such goods, other goods which has characteristics closely resembling those of the goods under investigation"

C. Domestic Industry and Standing

10. The application has been filed by BLA Coke Private Limited, Jindal Coke Limited, Saurashtra Fuels Private Limited, Vedanta Malco Energy Limited and Visa Coke Limited. The applicants are engaged in the production of the like article in India.
11. The petitioners account for a major proportion of the total domestic production, constituting domestic industry under Section 9A(4)(b) of the Act read with Rule 2(e) of the Rules.

D. Period of investigation

12. The applicants have proposed period of investigation in the present investigation from April 2022-December 2022. The petitioners have submitted that there has been a sudden, sharp, significant and recent surge in imports of the product under consideration in India. However, the Authority has considered April 2022-March 2023 as the most recent period for the purpose of the present investigation.

E. Increase in imports as a result of unforeseen developments

13. The petitioners have claimed that there is a sudden, sharp and recent significant increase in the imports of the product under consideration in April 2022-December 2022 both in absolute terms as well as relative to domestic production. It is noted that the imports in April 2022-December 2022 on annualized basis (POI) have increased by 10.03 lakh metric ton, which is 40% increase as compared to the imports in 2021-22. The market shares of imports relative to total demand has also increased from 42% in 2021-2022 to 52% of total demand in April 2022 to December 2022 on annualized basis.
14. The petitioners have claimed that the imports have increased primarily due to a number of unforeseen factors, including the following:
 - a. Due to Russia-Ukraine conflict, the prices of coal increased globally due to increase in the prices of raw material that is, coking coal, leading to an increase in the cost of production of Met Coke for the domestic producers.
 - b. The applicants have claimed that prices of coal increased due to sanctions imposed by various countries on imports from Russia. Russia being the major exporter of coal, these sanctions led to increase in coal prices due to supply constraints and China benefitted due to proximity to Russia by gaining the freight advantages.
 - c. There was significant increase in freight rates post COVID-19 related lockdowns globally. The producers in Met Coke in Australia, China and Indonesia did not face an increase in the cost of procurement due to the domestic availability of coal. Thus, the freight rates did not impact the producers in such countries.

F. Serious injury and threat of serious injury to the domestic industry and causal link

between imports and serious injury and threat of serious injury

15. The petitioners have claimed that sudden, sharp and significant increase in the import of the product under consideration in substantial quantity in recent times has started causing serious injury to the domestic industry. The petitioners have also contended that the increased imports also pose a further threat of serious injury.
16. After examining the application filed by the petitioners, the Authority, *prime facie*, finds that imports of the subject goods have increased during the most recent period as a result of unforeseen development and the same have started causing serious injury to the domestic industry in the most recent period. Further, the imports pose a threat of serious injury.

G. Initiation of Safeguard Measures (Quantitative Restrictions) Investigation

17. On the basis of the duly substantiated application filed by the petitioners, and having satisfied itself on the basis of the *prima facie* evidence submitted by the domestic industry, the Authority considers that there is sufficient evidence to justify initiation of safeguard investigation under Rule 5 of the Safeguard Rules to determine whether imports have increased suddenly and sharply in the recent period as a result of unforeseen developments, and whether such increased imports have caused or pose a threat of serious injury to the domestic industry. The applicants have claimed to impose safeguard measures for one year only.

H. Submission of Information

18. In view of the special circumstances arising out of COVID-19 pandemic, any information relating to the present investigation should be sent to the Authority via email at the email addresses adg16-dgtr@gov.in, adv13-dgtr@gov.in, jd15-dgtr@gov.in, jd16-dgtr@gov.in, within 30 days from the date of receipt of the notice. It may, however, be noted that in terms of explanation of the said Rule, the notice calling for information and other documents shall be deemed to have been received within one week from the date on which it was sent by the Authority or transmitted to the appropriate diplomatic representative of the exporting country. If no information is received within the prescribed time limit or the information received is incomplete, the Authority may record its finding on the basis of the facts available on record in accordance with the Rules.
19. Parties interested in the investigation are hereby advised to intimate their interest, (including the nature of interest) in the instant investigation and file their questionnaire response/submissions within the time limit specified above.
20. All known interested parties are being informed separately to enable them to file the relevant information in the form and manner prescribed within the time limit specified

above.

21. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time limit specified above.
22. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other interested parties.
23. Any party making any confidential submission or providing information on confidential basis before the Authority, is required to simultaneously submit a non-confidential version of the same. Failure to adhere to the above may lead to rejection of the response / submissions.
24. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file confidential and non-confidential versions separately.
25. The “confidential” or “non-confidential” submissions must be clearly marked as “confidential” or “non-confidential” at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority, and the Authority shall be at liberty to allow the other interested parties to inspect such submissions.
26. The confidential version shall contain all information which is 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.
27. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably 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, the party submitting the confidential information may indicate that such information is not susceptible to summary, and a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority. In case any interested party is not satisfied on the claim of confidentiality the party can raise an objection on the claim within seven (7) days of

receiving the non-confidential version of the documents.

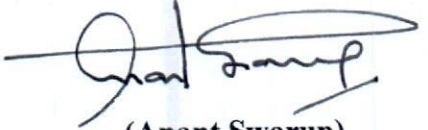
28. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied, the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or in summary form, it may disregard such information.
29. Any submission made without a meaningful non-confidential version thereof or without good cause statement on the confidentiality claim shall not be taken on record by the Authority.
30. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorization of the party providing such information.

I. Sharing of responses / submissions amongst interested parties

31. A list of registered interested parties will be uploaded on DGTR's website along with the request therein to email the non-confidential version of the submissions made to all other interested parties. The public file will not be accessible physically due to the ongoing pandemic.

J. Non-cooperation

32. In case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as deemed fit.



(Anant Swarup)

Joint Secretary and Designated Authority

To be published in Part-I Section I of the Gazette of India Extraordinary

F. No. 22/4/2023-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building,
Parliament Street, New Delhi – 110001

Corrigendum Notification
Case No - SG (QR) – 04/2023

Dated: 5th July, 2023

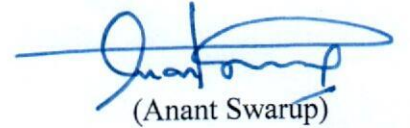
Subject: - Corrigendum to initiation of Safeguard (Quantitative Restrictions) investigation concerning imports of Low Ash Metallurgical Coke into India.

Having regard to the Section 9A of Foreign Trade (Development and Regulation) Act, 1992 as amended from time to time and the Safeguard Measures (Quantitative Restrictions) Rules, 2012 thereof, as amended from time to time, the Joint Secretary and Designated Authority has issued the initiation notification No. 22/4/2023 dated 30.06.2023 in respect of the Safeguard (Quantitative Restrictions) investigation concerning imports of Low Ash Metallurgical Coke into India.

Para 12 of the initiation notification to be read as under:

“The applicants have proposed period of investigation in the present investigation from April 2022-December 2022. The petitioners have submitted that there has been a sudden, sharp, significant and recent surge in imports of the product under consideration in India. However, the Authority has considered April 2022-March 2023 as the most recent period for the purpose of the present investigation. The period of investigation for the purpose of present investigation is from April 2019- March 2023”.

Subject to the above, all other aspects of the initiation notification No. 22/4/2023 dated 30.06.2023 issued by the Joint Secretary and Designated Authority in respect of the subject Safeguard (Quantitative Restrictions) investigation remain unchanged.



(Anant Swarup)

Joint Secretary and Designated Authority