

To be published in Part-I Section I of the Gazette of India Extraordinary
Government of India
Department of Commerce
Ministry of Commerce & Industry
(Directorate General of Anti-Dumping & Allied Duties)
4th Floor, Jeewan Tara Building, 5, Parliament Street, New Delhi

Dated the 30th December, 2015

INITIATION NOTIFICATION

Sub: - Initiation of anti-dumping investigation concerning imports of “Low Ash Metallurgical Coke” originating in or exported from Australia and China PR.

No.14/9/2015-DGAD: M/s Indian Metallurgical Coke Manufacturers Association (IMCOM), on behalf of the domestic producers in India, namely, M/s Saurashtra Fuels Pvt. Ltd., M/s Gujarat NRE Coke Ltd., M/s Carbon Edge Industries Ltd., M/s Bhatia Coke and Energy Ltd. and M/s Basudha Udyog Pvt. Ltd. (hereinafter referred to as ‘petitioner companies’ or “the applicants”) in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of injury) Rules, 1995 as amended from time to time (hereinafter also referred to as the Rules) has submitted an application for initiation of anti-dumping investigation and imposition of anti dumping duty on the imports of alleged dumping of Low Ash Metallurgical Coke (hereinafter referred to as the subject goods or Met Coke or the Product Under Consideration), originating in or exported from Australia and China PR (hereinafter also referred to as the subject countries).

2. And whereas, the Authority prima facie finds that sufficient evidence of dumping of the subject goods, originating in or exported from the subject countries; injury to the domestic industry and causal link between the alleged dumping and injury exist to justify initiation of an anti-dumping investigation, the Authority hereby initiates an investigation into the alleged dumping, and consequent injury to the domestic industry in terms of Rule 5 of the Rules, to determine the existence, degree and effect of alleged dumping and to recommend the amount of antidumping duty, which if levied, would be adequate to remove the ‘injury’ to the domestic industry.

Product under consideration

3. The product under consideration in the present investigation is Low Ash Metallurgical Coke (Met Coke). The product under consideration does not include other Metallurgical Coke with high ash content which is in excess of 18%. Low Ash Met Coke is produced by destructive distillation of coking coal in the absence/regulated presence of oxygen at high temperatures (ranging between 1100 to 1350 degree centigrade) causing the coal to soften, liquefy and then re-solidify into hard but porous lumps. Met Coke is a form of carbon along with some mineral and residual volatile material. Met Coke is used as a primary fuel in industries where a uniform and high temperature is required in kilns or furnaces. Met Coke is used in various industries including pig iron, foundries, ferro alloys, chemical, integrated

steel plants and others. Met Coke is normally produced and sold in terms of weight expressed in KG or MT. The subject goods are classified under Custom Headings 27040030. Although, the subject goods classified under the Chapter Heading 27040030, the subject goods are also being imported in other Customs Headings i.e. 27040090, 27040010, 27040020 etc. The Customs classification is indicative only and is in no way binding on the scope of the present investigation.

Like Article

4. The applicant has claimed that the subject goods being produced by the domestic industry are similar to the subject goods being dumped into India. The applicant has claimed that Met Coke produced by the applicants and imported from the subject countries are having comparable characteristics in terms of parameters such as physical & chemical characteristics, manufacturing process & technology, functions & uses, product specifications, pricing, distribution & marketing and tariff classification of the goods. The two are technically and commercially substitutable and hence should be treated as 'like article' under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicants in India are being treated as 'Like Article' to the subject goods being imported from the subject countries.

Domestic Industry

5. The Application has been filed by Indian Metallurgical Coke Manufacturers Association (IMCOM) on behalf of the domestic producers of Low Ash Metallurgical Coke in India, namely, Saurashtra Fuels Pvt. Ltd., Gujarat NRE Coke Ltd., Carbon Edge Industries Ltd., Bhatia Coke and Energy Ltd. and Basudha Udyog Pvt. Ltd. Further, the Applicant has stated the present application is filed by or on behalf of the manufacturers who are marketing / selling their production of Met Coke. It is stated that there are two different categories of producers of Met Coke in India, i.e., manufacture of Met Coke for captive use and manufacture of Met Coke for marketing / sales. The manufacturers who are producing Met Coke for their captive use are being excluded from the purview of the current investigation as their production is not in competition with the imported goods. Further, the economics of producers for captive consumption and of producers for sale are very different. The former saves on the costs of marketing sales, inventory etc. The applicant has stated that there are some steel manufacturers who produce Met Coke for their captive consumption. The Applicant has provided the details of the names of the steel producers as available having production of Met Coke for captive consumption, namely, Steel Authority of India Limited, Tata Steel Ltd., JSW Steel Ltd., Jindal Steel & Power Ltd., Bhushan Steel Ltd., Jayaswal Neco Industries Ltd., Rashtriya Ispat Nigam Ltd., Bhushan Power and Steel Ltd., Jai Balaji Industries Ltd. and Usha Martin Ltd. The Applicant has also provided the details from their respective annual reports for the above companies that there are either no sales of Met Coke by the major captive producers or the sales are negligible by some of the producers as compared to their total production of captive Coke. In this regard, the Authority has seen from the evidence on record that prima facie these companies are primarily using Met Coke for their captive consumption and in some cases, their domestic sales are negligible as compared to their total production of captive Coke. Therefore, the captive producers are being treated as a separate category of producers and have been excluded from the purview of the current investigation while determining the domestic industry.

6. As per the information available on record, the production of the aforesaid five producers, i.e., Saurashtra Fuels Pvt. Ltd., Gujarat NRE Coke Ltd., Carbon Edge Industries Ltd., Bhatia Coke and Energy Ltd. and Basudha Udyog Pvt. Ltd accounts for a major proportion of the total domestic production and is more than 50% of Indian production. The Application has also been supported by three domestic producers, namely, Jindal Stainless Ltd., Shree Arihant Trade Links India Pvt. Ltd. and Ennore Coke Ltd.

7. The application, thus, satisfies the requirements of Rule 2(b) and Rule 5(3) of the Anti-dumping Rules with regard to standing of the aforesaid five domestic producers and that they are treated as “domestic industry” within the meaning of Rule 2(b) supra.

Countries involved

8. The countries involved in the present investigation are Australia and China PR.

Normal Value

9. The applicant has claimed that China PR should be treated as a non-market economy country and has determined the normal value in accordance with Para 7 and 8 of Annexure I of the Rules. In terms of Para 8 in Annexure 1 to the Rules, it is presumed that the producers of the subject goods in China PR are operating under non-market economy conditions. In view of the non-market economy presumption and subject to rebuttal of the same by the responding exporters, the normal value of the subject goods in China PR has been estimated in terms of Para 7 of Annexure 1 to the Rules. The applicant has determined the normal value based on cost of production in India, duly adjusted with selling, general and administrative expenses and reasonable profit.

10. As regards the normal value for Australia, the Applicant has submitted that efforts were made to get the information/evidence of the price of the subject goods in the domestic market of the subject country. However, the Applicant was not able to get such information. The Authority has, therefore, constructed the normal value for Australia on the basis of cost of production in India, duly adjusted.

Export Price

11. The applicant has claimed export price for the product under consideration for both the subject countries based on the transaction wise import data available from IBIS in India. Price adjustments have been made on account of customs handling & clearance charges in India, inland freight, ocean freight, custom handling & clearance charges and non-refundable portion of VAT (only for China PR).

Dumping Margin

12. The normal value and the export price have been compared at ex-factory level, which show significant dumping margin in respect of the subject countries. There is sufficient prima facie evidence that the normal values of the subject goods in the subject countries are significantly higher than the ex-factory export price, indicating, prima facie, that the subject goods are being dumped into the Indian market by the exporters from the subject countries.

There is sufficient evidence of the significant dumping margins to justify initiation of antidumping investigation.

Injury and Causal Link

13. The applicant has claimed that it has suffered material injury and has furnished evidence regarding the injury having taken place as a result of the alleged dumping from the subject countries in terms of increase in imports in absolute terms and in relation to domestic production and domestic demand. The dumping from the subject countries has resulted into deterioration in sales, production, capacity utilisation, market share, inventories, number of employees, wages, profits, return on capital employed, cash profit etc. of the domestic industry.

14. The applicant has also claimed adverse price effects as evidenced by price suppression and price undercutting. The Authority considers that there is sufficient evidence of 'injury' being suffered by the applicants caused by dumped imports of the subject goods from the subject countries to justify initiation of an antidumping investigation.

Period of Investigation

15. The period of investigation (POI) is from April, 2014 to June, 2015 for the purpose of the present investigation. The injury investigation period will, however, cover the periods April 2011 - March 2012, April 2012-March 2013, April 2013-March 2014 and the POI.

Submission of information

16. The known exporters in the subject countries and their Governments through their Embassies in India, importers and users in India known to be concerned with the subject goods and the domestic industry are being informed separately to enable them to file all the relevant information in the form and manner prescribed within the time limit set out below. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time limit set out below. The information/submissions may be submitted to:

The Designated Authority,
Directorate General of Anti-Dumping & Allied Duties,
Ministry of Commerce & Industry,
Department of Commerce
Government of India
4th Floor, Jeevan Tara Building, 5, Parliament Street, New Delhi-110001

17. Any other interested party may also make its submissions relevant to the investigation in the prescribed form and manner within the time limit set out below. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.

Time Limit

18. Any information relating to the present investigation should be sent in writing so as to reach the Authority at the address mentioned above not later than forty days (40 days) from

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

19. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses and offer their comments to the domestic industry's application within forty days (40 days) from the date of the publication of initiation notification. The information must be submitted in hard copies as well as in soft copies.

Submission of information on confidential basis

20. The parties making any submission (including Appendices/Annexure attached thereto), before the authority including questionnaire response, are required to file the same in two separate sets, in case "confidentiality" is claimed on any part thereof:-

- (a) one set marked as Confidential (with title, number of pages, index, etc.), and
- (b) the other set marked as Non-Confidential (with title, number of pages, index, etc.).

21. 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. Soft copies of both the versions will also be required to be submitted, along with the hard copies, in five (5) sets of each.

22. 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.

23. 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, 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.

24. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that 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 summary form, it may disregard such information.

25. Any submission made without a meaningful non-confidential version thereof or without a good cause statement on the confidentiality claim shall not be taken on record by the Authority.

26. 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.

Inspection of Public File

27. In terms of Rule 6(7) of the AD Rules, any interested party may inspect the public file containing non-confidential version of the evidence submitted by other interested parties.

Non-cooperation

28. 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.

(A. K Bhalla)

Designated Authority