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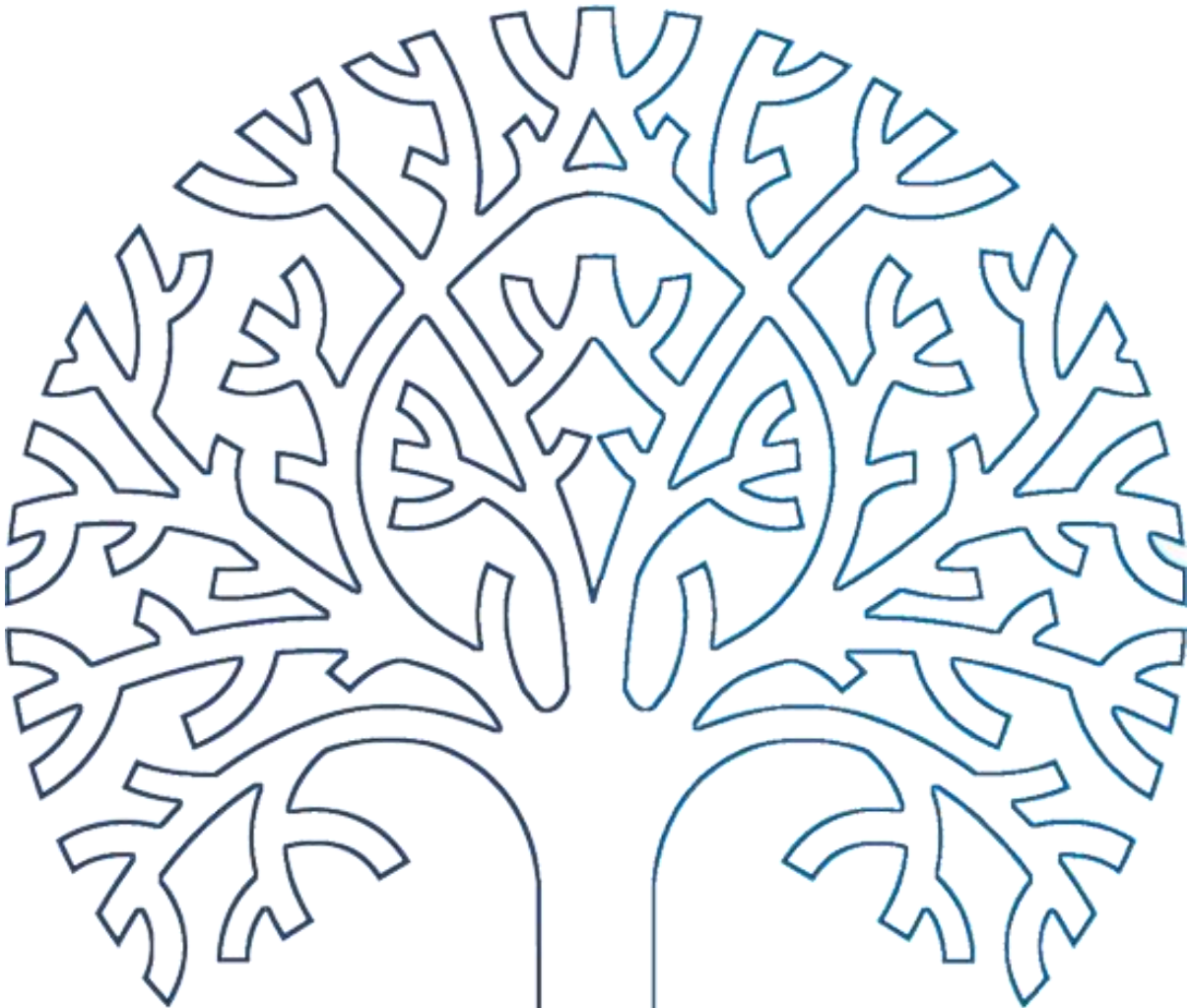
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Article

India imposes Quantitative Restrictions on imports of Metallurgical Coke

By Ankur Sharma

The article in this issue of International Trade Amicus discusses at length the recent decision of the Ministry of Commerce to impose quantitative restrictions on imports of Low Ash Metallurgical Coke which is a crucial raw material for the steel industry that follows production through the blast furnace route. Analysing the notification and the subsequent DGFT Trade Notice, the author discusses various hardships which will be faced by the steel industry, including interpretation of the phrase 'residual quantity' and different issues arising therefrom. The author believes that the manner of quantity allocations to different countries could have been examined in more detail. He also points out that the parties have until 12 January 2025 to apply for an import authorization on the DGFT website.

India imposes Quantitative Restrictions on imports of Metallurgical Coke

By Ankur Sharma

The year 2024 ended with a notification from India's Ministry of Commerce & Industry ('MOC') that left many surprised. On 26 December 2024, the MOC implemented quantitative restrictions on imports of Low Ash Metallurgical Coke having ash content below 18%, which falls under HS codes 2704 0020, 2704 0030, 2704 0040, 2704 0090.¹ This is a crucial raw material for the steel industry that follows production through the blast furnace route. The quantitative restrictions shall be effective from 1 January 2025 to 30 June 2025. The quantitative restrictions, however, do not apply to imports of certain types of Metallurgical Coke, which are as follows:

- i. Coke fines/coke breeze, and
- ii. Ultra-low phosphorous metallurgical coke with phosphorous content up to 0.030% with size up to 30 mm with 5% size tolerance for use in ferroalloy manufacturing.

The implication of the quantitative restrictions is that traders and users cannot import Low Ash Metallurgical Coke into India

that exceeds the quantities allocated to different countries. For example, imports from Australia from 1st January to 30th June cannot exceed 51,276 MT. Half of this quantity can be imported in the January-March quarter, and the remaining half can be imported in the April-June quarter. See the table below for the quantities allocated to different countries.

Country ↓	Quantitative Restrictions (in MT)		
Quarter →	Jan-March 2025	Apr-June 2025	Total
Australia	25,638	25,638	51,276
China PR	39,323	39,323	78,646
Colombia	1,24,886	1,24,886	2,49,771
Indonesia	33,182	33,182	66,364
Japan	1,04,990	1,04,990	2,09,980
Poland	2,53,168	2,53,168	5,06,336

¹ See Notification No. 44/2024-25 dated 26 December 2024 issued by the Ministry of Commerce & Industry [available here](#), last visited on 6 January 2025.

Country ↓	Quantitative Restrictions (in MT)		
Quarter →	Jan-March 2025	Apr-June 2025	Total
Qatar	810	810	1620
Russia	44,591	44,591	89,182
Singapore	23,239	23,239	46,478
Switzerland	40,887	40,887	81,774
UK	38	38	76
Others	22,831	22,831	45,662
Total	713,583	713,583	1,427,166

User industry in India is validly concerned by this development. At a time when the Indian steel industry is already experiencing tough competition from steel imports in India, uncertainty in demand, and worried about the escalation in US-China trade war and its spillover effects on India, such move by the Government of India was not anticipated. This is especially when the recommendation to impose the quantitative

restrictions was placed by the Directorate General of Trade Remedies ('DGTR') before the MOC on 29 April 2024.² Perhaps the MOC's non-action on the DGTR's recommendation for several months led to an impression that the quantitative restrictions shall not be implemented.

Having said that, here we are with quantitative restrictions in effect from 26 December 2024. The user industry in India is in a race against time to plan their procurements for the next six months and some would have to redraw their plans, which would impact already concluded contracts.

A trade notice dated 30 December 2024 prescribes the procedure to apply for import authorization to import Low Ash Metallurgical Coke.³ Parties intending to import between 1 January to 30 June 2025 need to apply on the DGFT website.⁴ It is generally understood in the trade that Low Ash Metallurgical Coke is imported in vessels that accommodate about 30,000-32,000 MT quantity. Thus, where Indonesia is allocated a total quantity of 66,364 MT for the duration of the quantitative restrictions, it means that slightly more than two vessels of Low Ash Metallurgical Coke only can be imported from Indonesia

² Final Findings dated 29 April 2024 issued by the Directorate General of Trade Remedies in Case No. – SG (QR)-04/2023 available at [https://egazette.gov.in/\(S\(mwqjb2tphg3xodh0fcmpwtqy\)\)/ViewPDF.aspx](https://egazette.gov.in/(S(mwqjb2tphg3xodh0fcmpwtqy))/ViewPDF.aspx), last visited on 6 January 2025.

³ Trade Notice No. 25/2024-25 dated 30 December 2024 available at <https://www.dgft.gov.in/CP/?opt=trade-notice>, last visited on 6 January 2025.

⁴ Visit link <https://www.dgft.gov.in/CP/?opt=import-management-system>.

between 1 June to 30 January 2025. An applicant must keep such aspects in mind while applying for the import authorization because for each country, an applicant needs individual import authorization as explained in the procedure. Where a part of the quantity allocated to a country remains unutilized, that portion shall be added to that country's specific quantity for the next month. Where a country exhausts its allocated quantity, it can use the available residual quantity. The question here is, what is this 'residual quantity'; is it the quantity mentioned against 'Others' or is it the quantity left unutilized by another country? This question gains more importance in the light of the fact that perhaps Singapore does not have any manufacturing facility for Low Ash Metallurgical Coke; at least this was the argument raised during the proceeding before the DGTR.⁵ Therefore, if there is no manufacturing of Low Ash Metallurgical Coke in Singapore, no user would seek an import authorization for importing Singapore origin Low Ash Metallurgical Coke. Because, even if such import authorization is granted, how would the importer demonstrate that the origin of such Low Ash Metallurgical Coke is Singapore when it was not manufactured or sufficient value addition did not take place in Singapore? So, what happens to the unutilized quantities of Singapore; will

such quantities be treated as residual quantity that is available to be utilized; will such unutilized quantities be added to the 'Others' category and then it shall be made available for utilization? How would applicants come to know that quantities of certain countries such as Singapore are unutilized so that they could clear their consignments against such unutilised quantities?

MOC took almost eight months to decide that quantitative restrictions should apply on Low Ash Metallurgical Coke. This is after the DGTR had already taken ten months to investigate and then made a recommendation on quantitative restrictions to the MOC. The manner of quantity allocations to different countries could have been examined in more detail including whether some countries even have manufacturing facility for Low Ash Metallurgical Coke, and thus should they be allocated a quantity in the first place. At this point though, parties have until 12 January 2025 to apply for an import authorization on the DGFT website and they must act at the earliest.

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⁵ During the investigation before the DGTR, arguments were raised that there are no manufacturing facilities for Low Ash Metallurgical Coke in Singapore,

Switzerland and UAE. Refer paragraph 70c of the Final Findings dated 29 April 2024, *supra* note 2.

Trade Remedy News.



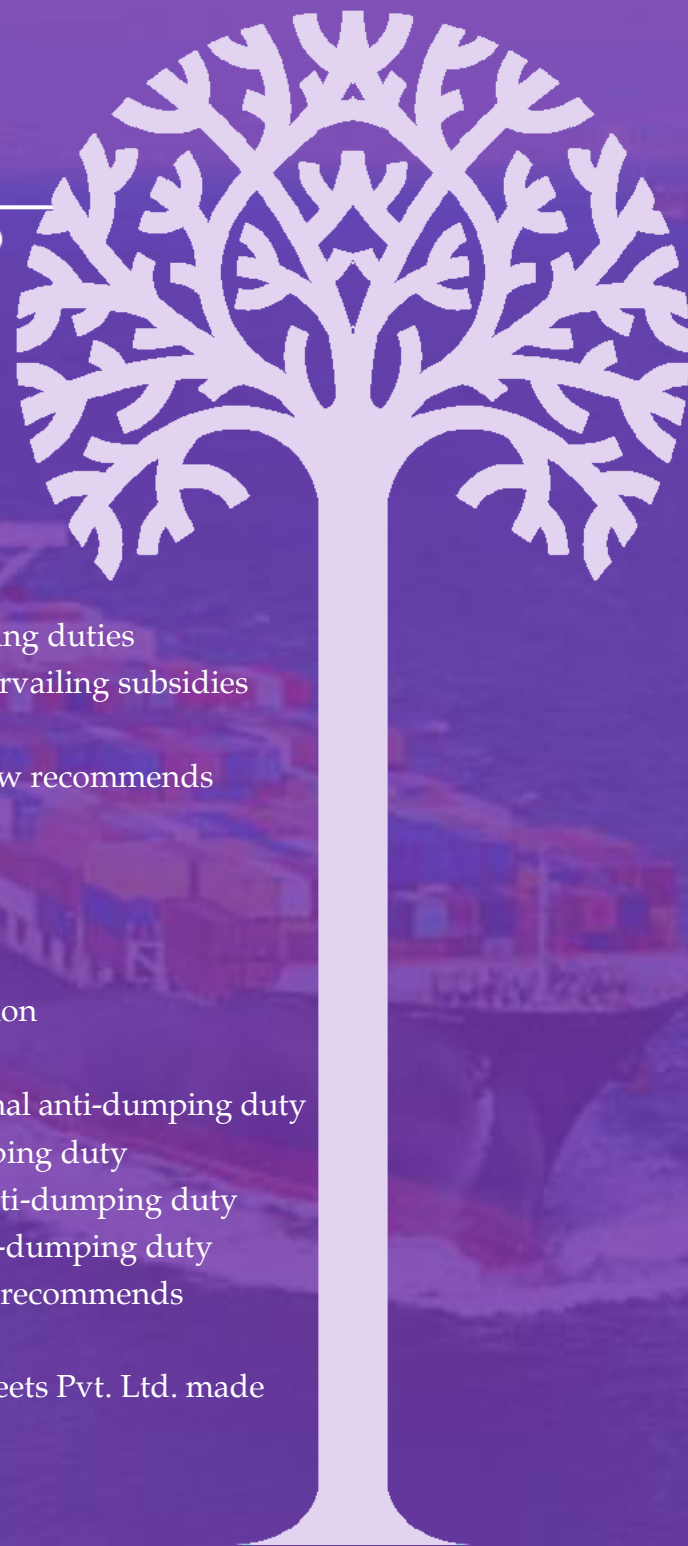
- 2,2,4-trimethyl-1,2-dihydroquinoline (TDQ) from China PR – India initiates anti-dumping investigation
- 4,4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA) from China PR – India initiates anti-dumping investigation
- Barium carbonate from India – EU initiates anti-dumping investigation
- Calcium carbonate filler masterbatch from Vietnam – India initiates countervailing duty investigation
- Ceramic tiles from India – USA issues preliminary negative determination of sales at less than fair value
- Digital offset printing plates from China PR, Japan, Korea RP, Vietnam, and Taiwan – India continues with anti-dumping duty after sunset review
- Frozen warmwater shrimp from India – USA issues affirmative finding of material injury in countervailing investigation
- Glycine from India – USA issues determination that countervailing subsidies were provided to Kumar Industries between 1 January 2022 to 31 December 2022
- Halobutyl-Rubber from Japan, Russia, Singapore, the UK and USA – India's DGTR recommends imposition of anti-dumping duty
- Hard empty capsules from India – USA issues affirmative finding of material injury in anti-dumping and countervailing investigations
- High chrome cast iron grinding media from India – USA issues preliminary affirmative determination of sales at less than fair value, and extends provisional measures
- Liquified natural gas fuel tank (LFT) from China PR – India initiates anti-dumping investigation
- Low ash metallurgical coke – India imposes country-wise quantitative restrictions for six months
- Manganese and silicon-based alloying elements – European Union initiates safeguard investigation
- Monoisopropylamine from China PR – India initiates anti-dumping investigation
- Non-alloy and alloy steel flat products – India initiates safeguard investigation



Trade Remedy News.



- Nylon filament yarn from China PR and Vietnam – India initiates anti-dumping investigation
- Organic soybean meal from India – USA issues determination that countervailable subsidies were provided to certain companies from 3 September 2021 till 31 December 2022
- Overhead door counterbalance torsion springs from India – USA issues affirmative finding of material injury in anti-dumping and countervailing investigations
- Poly vinyl chloride paste resin from China PR, Korea RP, Malaysia, Norway, Taiwan and Thailand – India's DGTR recommends imposition of anti-dumping duty
- Polyester textured yarn from India – USA initiates sunset reviews of anti-dumping and countervailing duties
- Polyethylene terephthalate film, sheet, and strip from India – USA issues determination that countervailing subsidies were provided to certain companies between 1 January and 31 December 2022
- Saccharin from China PR – India terminates anti-dumping investigation while DGTR's sunset review recommends continuation of countervailing duty
- Silicomanganese from India – USA continues anti-dumping duty after sunset review
- Soft ferrite cores from China PR – India's DGTR recommends imposition of anti-dumping duty
- Steel products – European Union initiates functioning review of safeguard measures
- Sulphenamides Accelerators from China PR, EU and USA – India initiates anti-dumping investigation
- Telescopic channel drawer slider from China PR – India imposes anti-dumping duty
- Textured tempered coated and uncoated glass from China PR and Vietnam – India imposes provisional anti-dumping duty
- Toluene Di-Isocyanate (TDI) from EU and Saudi Arabia – India initiates sunset review of anti-dumping duty
- Trichloro Isocyanuric Acid from China PR and Japan – India's DGTR recommends imposition of anti-dumping duty
- Untreated Fumed Silica from China PR – India initiates anti-absorption review investigation of anti-dumping duty
- Vacuum insulated flask and other vacuum vessels, of stainless steel from China PR – India's DGTR recommends imposition of anti-dumping duty
- Welded Stainless Pressure Pipe from India – USA issues preliminary determination that Suncity Sheets Pvt. Ltd. made sales at less than normal value between 1 November 2022 and 31 October 2023



Trade remedy measures by India

Product	Country	Notification No.	Date of notification	Remarks
2,2,4-trimethyl-1,2-dihydroquinoline (TDQ)	China PR	F. No. 6/51/2024-DGTR	27 December 2024	Anti-dumping investigation initiated
4,4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA)	China PR	F. No. 6/44/2024-DGTR	27 December 2024	Anti-dumping investigation initiated
Calcium carbonate filler masterbatch	Vietnam	F. No. 6/39/2024-DGTR	27 December 2024	Countervailing duty investigation initiated
Digital offset printing plates	China PR, Japan, Korea RP, Vietnam, and Taiwan	28/2024-Cus. (ADD)	26 December 2024	Anti-dumping duty continued after sunset review
Halobutyl-Rubber	Japan, Russia, Singapore, the UK and USA	F. No. 6/19/2023-DGTR	28 December 2024	Anti-dumping duty recommended to be imposed
Liquified natural gas fuel tank (LFT)	China PR	F. No. 6/43/2024-DGTR	24 December 2024	Anti-dumping investigation initiated
Low ash metallurgical coke		DGFT Notification No. 44/2024-25	26 December 2024	Country-wise quantitative restrictions imposed for six months. See Trade Notice No. 25 for import authorisation
Monoisopropylamine	China PR	F. No. 6/46/2024-DGTR	30 December 2024	Anti-dumping investigation initiated
Non-alloy and alloy steel flat products		F. No. 22/01/2024-DGTR	19 December 2024	Safeguard investigation initiated

Product	Country	Notification No.	Date of notification	Remarks
Nylon filament yarn	China PR and Vietnam	F. No. 6/48/2024-DGTR	26 December 2024	Anti-dumping investigation initiated
Poly vinyl chloride paste resin	China PR, Korea RP, Malaysia, Norway, Taiwan and Thailand	F. No. 6/17/2023-DGTR	24 December 2024	Anti-dumping duty recommended to be imposed
Saccharin	China PR	F. No. 6/02/2024-DGTR	17 December 2024	Anti-dumping investigation terminated
Saccharin	China PR	F. No. 7/34/2023-DGTR	27 November 2024	Sunset review recommends continuation of countervailing duty
Soft ferrite cores	China PR	F. No. 6/22/2023-DGTR	23 December 2024	Anti-dumping duty recommended to be imposed
Sulphenamides Accelerators	China PR, EU and USA	F. No. 6/52/2024-DGTR	31 December 2024	Anti-dumping investigation initiated
Telescopic channel drawer slider	China PR	27/2024-Cus. (ADD)	18 December 2024	Anti-dumping duty imposed
Textured tempered coated and uncoated glass	China PR and Vietnam	26/2024-Cus. (ADD)	4 December 2024	Provisional anti-dumping duty imposed
Toluene Di-Isocyanate (TDI)	EU and Saudi Arabia	F. No. 7/14/2024 - DGTR	30 December 2024	Sunset review of anti-dumping duty initiated
Trichloro Isocyanuric Acid	China PR and Japan	F. No. 6/20/2023-DGTR	10 December 2024	Anti-dumping duty recommended to be imposed

Product	Country	Notification No.	Date of notification	Remarks
Untreated Fumed Silica	China PR	F. No. 7/25/2023-DGTR	31 December 2024	Anti-absorption review investigation of anti-dumping duty initiated
Vacuum insulated flask and other vacuum vessels, of stainless steel	China PR	F. No. 6/10/2023-DGTR	19 December 2024	Anti-dumping duty recommended to be imposed

Trade remedy measures against India

Product	Investigating Country	Document No.	Date of Document	Remarks
Barium carbonate	EU	C/2024/7461	20 December 2024	Anti-dumping investigation initiated
Ceramic tiles	USA	FR Doc No: 2024-28158	2 December 2024	ADD - Preliminary negative determination of sales at less than fair value
Frozen warmwater shrimp	USA	FR Doc No: 2024-29730	17 December 2024	CVD – Affirmative finding of material injury
Glycine	USA	FR Doc No: 2024-28150	2 December 2024	CVD - Determination that countervailing subsidies were provided to Kumar Industries between 1 January 2022 to 31 December 2022

Product	Investigating Country	Document No.	Date of Document	Remarks
Hard empty capsules	USA	FR Doc No: 2024-29332	13 December 2024	ADD and CVD – Affirmative finding of material injury
High chrome cast iron grinding media	USA	FR Doc No: 2024-28694	6 December 2024	ADD – Preliminary affirmative determination of sales at less than fair value, and provisional measures extended
Manganese and silicon-based alloying elements	EU	C/2024/7541	19 December 2024	Safeguard investigation initiated
Organic soybean meal	USA	FR Doc No: 2024-28991	10 December 2024	Determination that countervailable subsidies were provided to certain companies from 3 September 2021 till 31 December 2022
Overhead door counterbalance torsion springs	USA	FR Doc No: 2024-30086	19 December 2024	ADD and CVD – Affirmative finding of material injury
Polyester textured yarn	USA	FR Doc No: 2024-28262	2 December 2024	ADD and CVD – Sunset reviews initiated
Polyethylene terephthalate film, sheet, and strip	USA	FR Doc No: 2024-31083	30 December 2024	CVD – Determination that countervailing subsidies were

Product	Investigating Country	Document No.	Date of Document	Remarks
				provided to certain companies between 1 January and 31 December 2022
Silicomanganese	USA	FR Doc No: 2024-29604	17 December 2024	Anti-dumping duty continued after sunset review
Steel products	EU	C/2024/7515	17 December 2024	Safeguard measures – Functioning review initiated
Welded Stainless Pressure Pipe	USA	FR Doc No: 2024-29327	13 December 2024	Preliminary determination that Suncity Sheets Pvt. Ltd. made sales at less than normal value between 1 November 2022 and 31 October 2023



WTO News

- EU's anti-dumping duty on fatty acid imports from Indonesia – DSB establishes Panel
- Agricultural import measures by Panama held to be inconsistent with WTO provisions
- Jordan initiates safeguard investigation on imports of safety and protective footwear
- High seas fishing – India seeks strong WTO subsidy rules

EU's anti-dumping duty on fatty acid imports from Indonesia – DSB establishes Panel

The WTO's Dispute Settlement Body has agreed for the establishment of a Panel in a dispute involving anti-dumping measures imposed by the European Union on import of fatty acids from Indonesia. Indonesia has claimed that EU's definitive anti-dumping measures on imports of fatty acid from Indonesia, the investigation leading to their imposition and the methodology applied by EU, appear to be inconsistent with Articles 1, 2.2, 2.2.2, 2.4.1, 3.1, 3.4, 5.3, 5.4, 5.6, 5.8, 9.2, and 9.3 of the Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement) and Articles X:3(a) and VI of the GATT 1994.

Agricultural import measures by Panama held to be inconsistent with WTO provisions

The WTO's DSB has on 5 December circulated the panel report in the case brought by Costa Rica in '*Panama — Measures Concerning the Importation of Certain Products from Costa Rica*' (DS599). The dispute involved certain measures put in place by Panama against imports of strawberries, dairy and meat products, pineapples, plantains and bananas. The Panel has

found that the measures are inconsistent with various provisions of the Sanitary and Phytosanitary Measures Agreement.

Jordan initiates safeguard investigation on imports of safety and protective footwear

Jordan has on 1 December 2024 initiated safeguard investigation on imports of safety and protective footwear covered under customs codes 6402, 6403, 6404 and 6405. The safety and protective footwear is fitted with toe caps designed to give protection against impact and compression of heavy objects and incorporates safety features to protect the wearer from injuries that could arise through accidents in the work place. Further, as per document G/SG/N/6/JOR/20, dated 6 December 2024, the footwear comes in different kinds, protection requirements, specification and protection groups, and in different shapes; ankle footwear, low cut footwear and high leg footwear and clog footwear. All entries of safety footwear under the specified codes are covered in the investigation, regardless of the materials used for the sole, uppers, or toe cap, or the design shape.

High seas fishing – India seeks strong WTO subsidy rules

India has pitched at the WTO for stricter regulations on subsidies granted by countries that are engaged in high seas fishing

activities. It has also been suggested that historical subsidisers should seek permission of the Committee on Fisheries Subsidies for a grant of subsidies in future. As per news report dated 15 December 2024 by the Economic Times, as available [here](#), India

has pitched for strong disciplines for historical fisheries subsidisers which are engaged in distant water fishing (200 nautical miles from sea shore) and has asked for a moratorium on subsidies at the present level for 25 years.

India Customs & Trade Policy Update



- India-Australia FTA – Fourth tranche of concessions notified
- IT Hardware imports – Procedure for implementation of Import Management System for 2025 notified
- Electronic integrated circuits – Compulsory registration under Chip Imports Monitoring System discontinued
- Yellow peas – Exemption from BCD and AIDC extended for B/L issued till 28 February 2025
- Honey – Minimum Export Price for natural honey extended till 31 December 2025
- Soda Ash (Disodium carbonate) – Minimum Import Price imposed till 30 June 2025
- Revamped Preferential Certificate of Origin (eCoO) 2.0 System to be relaunched on 17 January 2025

India-Australia FTA – Fourth tranche of concessions notified

The Ministry of Finance has notified the fourth tranche of concessions under the India-Australia Economic Cooperation and Trade Agreement. Accordingly, the Basic Customs Duty (BCD) rates have been further reduced for imports from Australia, if the importer proves that the goods are of the origin of Australia in terms of Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020. The concessions as notified by Notification No. 50/2024-Cus., dated 30 December have come into effect from 1 January 2025. The Tables I and II in Notification No. 62/2022-Cus. have been substituted for this purpose.

IT Hardware imports – Procedure for implementation of Import Management System for 2025 notified

The DGFT has notified the procedure for the implementation of Import Management System for import of specified IT hardware viz. laptops, tablets, all-in-one personal computers, ultra small form factor computers and servers, for the calendar year 2025. Accordingly, the application portal for importers to apply for import authorization will be open from 13 December 2024 till 12

December 2025 and any authorization under the system would be valid till 31 December 2025. The importers are also allowed to submit multiple applications in the year. Further, any request for amendment is required to be submitted on the DGFT website during the validity of the authorization.

Electronic integrated circuits – Compulsory registration under Chip Imports Monitoring System discontinued

The Ministry of Commerce has revised its import policy for specified electronic integrated circuits imported under Heading 8542 of the ITC(HS), 2022. Accordingly, electronic integrated circuits, imported under ITC(HS) codes 85423100, 85423200, 85423300, 85423900, and 85429000, no longer require compulsory registration under Chip Imports Monitoring System (CHIMS) in terms of Policy Condition No. 08 of Chapter 85 of ITC (HS), 2022, Schedule-I (Import Policy). Notification No. 41/2024-25, dated 29 November 2024 has been issued for this purpose.

Yellow peas – Exemption from BCD and AIDC extended for B/L issued till 28 February 2025

Exemption from Basic Customs Duty (BCD) and Agriculture Infrastructure and Development Cess (AIDC) on import of

Yellow Peas falling under TI 0713 10 10 will now be available in respect of Bills of Lading issued on or before 28 February 2025.

Further, the current Import Policy conditions for import of Yellow Peas have also been extended. Accordingly, imports will continue to be free from Minimum Import Price and port restrictions in case the Bills of Lading are issued on or before 28 February 2025, instead of 31 December 2024, subject to compulsory registration under the online Import Monitoring System.

The Ministry of Finance has issued Notification No. 49/2024-Cus., dated 26 December 2024 which amends Notification No. 64/2023-Cus. with effect from 27 December 2024. The Ministry of Commerce has also issued Notification No. 43/2024-25, dated 24 December 2024 for this purpose.

Honey – Minimum Export Price for natural honey extended till 31 December 2025

The Ministry of Commerce has extended the Minimum Export Price (MEP) for export of natural honey falling under ITC (HS) Code 0409 00 00, till 31 December 2025. The MEP is presently USD 2000 per Metric Ton. It may be noted that Notification No. 45/2024-25, dated 30 December 2024 for this purpose amends Notification No. 75/2023, dated 14 March 2024, and also inserts

the incoterm 'F.O.B.' after the specified MEP of USD 2000. The earlier notification seems to have missed this.

Soda Ash (Disodium carbonate) – Minimum Import Price imposed till 30 June 2025

The Ministry of Commerce has imposed a Minimum Import Price of INR 20,108 per MT CIF on imports of Soda Ash (Disodium carbonate) falling under Chapter 28 of the Schedule-I of the ITC(HS) 2022. The imports will be 'free' only if the imports satisfy this condition. Otherwise, according to the revised Import Policy, the imports will be 'restricted'. It may be noted that this condition would be applicable only till 30 June 2025. All imports will again be 'free' from 1 July 2025 unless the condition is extended. Notification No. 46/2024-25, dated 30 December 2024 has been issued for this purpose.

Revamped Preferential Certificate of Origin (eCoO) 2.0 System to be relaunched on 17 January 2025

The enhanced version of the Preferential Certificate of Origin (eCoO) system - eCoO 2.0 – which was introduced by DGFT will be launched on 17 January 2025. eCoO 2.0 offers several new and user-friendly features aimed at streamlining the certification

process for exporters. Some notable features of the revamped eCoO 2.0 system include multi-user access, e-signature options, integrated dashboard, cost sheet digitization. Trade Notices Nos.

24/2024-25 dated 20 December 2024 read with 23/2024-25 dated 6 December 2024 have been issued for this purpose.



Ratio Decidendi

- Anti-dumping duty is not imposable on colour coated aluminium coil under Notification No. 23/2017-Cus. (ADD) – *CESTAT Prayagraj*
- Valuation – No enhancement solely on basis of NIDB data – Authorities need to provide cogent reasons – *Delhi High Court*
- Valuation – Importer can question enhancement even if right to seek SCN or speaking order under Customs Section 17 given up – *Delhi High Court*
- LCD monitors for use with medical equipment such as ultrasound machines, X-Ray machines and CT scan, etc., are liable to IGST @ 18% – *CESTAT Mumbai*

Anti-dumping duty is not imposable on colour coated aluminium coil under Notification No. 23/2017-Cus. (ADD)

The CESTAT Prayagraj has held that anti-dumping duty is not attracted on color coated aluminum coil under Notification No. 23/2017-Cus. (ADD) which imposes such duty on aluminium foil. The Tribunal in this regard noted that the Principal Bench of the Tribunal in its decision in the case of *G.M. Alloys Pvt. Ltd.* had noted that *'the product is not being manufactured in India. The Domestic Industry had specifically supported in the submissions before us that product under consideration can exclude color coated aluminum foil as the same is not manufactured in India'*. Allowing the appeal of the importer, the CESTAT hence found force in the contention of the importer-appellant that the purpose of imposition of anti-dumping duty is to safeguard the interest of domestic industry engaged in the manufacture of similar goods.

The Revenue department had demanded anti-dumping duty stating that since the color coated aluminum coils involved in the dispute were coated with Styrene/ Butyl Methacrylate Copolymer which was other than PE/ PVDF (as clarified by the TRU in its Circular 45/2017), the goods were liable to anti-dumping duty. The Tribunal however noted that in *G. M. Alloys*, the Tribunal had specifically directed to exclude color coated

aluminum foil from the scope of anti-dumping duty, but the TRU while issuing the circular added the words *'with either PE (Polyester) coating or PVDF (Fluorine-carbon) coating'*.

Tribunal's Principal Bench decision in *ACP Manufacture Association*, excluding the said product from imposition of anti-dumping duty though in a different Notification dated 6 December 2021, was also noted here.

[*Narayani Laminates Pvt. Ltd. v. Commissioner* – 2024 (12) TMI 15-CESTAT Allahabad]

- a) **Valuation – No enhancement solely on basis of NIDB data – Authorities need to provide cogent reasons**
- b) **Valuation – Importer can question enhancement even if right to seek SCN or speaking order under Customs Section 17 given up**

The Delhi High Court has reiterated that the National Import Database (NIDB) data cannot on a standalone basis constitute valid grounds to doubt the declared value of imported goods and that any such reassessment would have to be shored by independent and cogent evidence. The Court in this regard

noted that as per various precedents, mere reliance on external data without corroborative evidence or clear justification would fail to meet the tests and principles underlying the provisions enshrined in the Customs Valuation Rules of 1988 and that of 2007.

According to the Court, a conjoint reading of Section 17(4) of the Customs Act, 1962 alongside Rule 12 of the Customs Valuation Rules, 2007 reveals that reasons in support of the formation of opinion that the self-assessment declarations are incorrect must exist and stand duly recorded. The consent or concession of the importer cannot possibly be construed as relieving the proper officer from documenting the reasons which formed the basis for it doubting the declared value.

The High Court also set aside the impugned CESTAT orders which had held that once the importer concedes to the reassessment undertaken by the proper officer in terms of Section 17(4) and gives up its right to question the same, it would not be open for the importer thereafter to resile from the concession so made. The Court was of the view that the perceived concession made in respect of the opinion harboured by the proper officer cannot deprive the importer of the right to question the decision of the proper officer in accordance with law. Relying upon various communications of the importer to

facilitate expeditious clearance of goods to avoid the financial burden of detention and demurrages and their readiness to pay customs duty at the enhanced value 'under protest', the Court observed that the tone and tenor of the communications cannot possibly be interpreted or construed as amounting to a conscious waiver of a right to question the reassessment further. According to the Court, the same cannot possibly be viewed as amounting to an abandonment of the right to institute an appeal itself. CESTAT decisions in the cases of *Advanced Scan Support* and *Vikas Spinners* were distinguished by the Court for this purpose.

Many of the importers (appellants) were represented by Lakshmikumaran & Sridharan Attorneys here. [Niraj Silk Mills and Ors. v. Commissioner – Judgement dated 27 November 2024 in CUSAA 26/2022 and Ors., Delhi High Court]

LCD monitors for use with medical equipment such as ultrasound machines, X-Ray machines and CT scan, etc., are liable to IGST @ 18%

The CESTAT Mumbai has held that 'monitors' of various models imported by the assessee-appellants would be classifiable under Tariff Item 8528 52 00 of the Customs Tariff Act, 1975 and are appropriately leviable to Integrated Goods and Services Tax (IGST) at the rate of 18% in terms of Serial No. 384 or 383C of the

Notification No. 01/2017-IT(Rate). The Revenue department had submitted that the goods are liable to IGST @ 28% under Serial No. 154 as they were 'other' (sub-heading 8428 59) monitors designed to be used with medical equipment, X-Ray machines and not for use with the computers or Automatic Data processing machine.

Allowing the appeal, the Tribunal also relied upon classification decisions taken by HS Committee of World Customs Organization (WCO) over the years during 2001 to 2010 on

monitors, consistently holding them to be classifiable under sub-heading 8528 52. CBIC Circular dated 11 January 2005, on interpretation of the exemption available to 'general purpose machine', clarifying that such exemption benefits should be extended as long as they are capable of use in the specified industry, was also relied upon.

The assessee was represented by Lakshmikumaran & Sridharan Attorneys here. [Philips India Limited v. Commissioner – 2024 VIL 1531 CESTAT MUM CU]

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