
EU, US and Mexico move to WTO against Chinese limits on mineral exports

Friday, 13 Nov, 2009

It is reported that EU, US and Mexico have brought complaints to the WTO regarding China export restrictions and or export taxes on bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus and zinc.

The three argue that these measures unfairly aid Chinese producers of downstream products that use these inputs. A WTO dispute settlement panel will hear the case and issue a decision. If China is found in violation, it will have to comply or face trade retaliation.

On November 4th the EU, US and Mexico each requested the World Trade Organization to convene a dispute settlement panel to judge their complaints about China export restrictions on raw materials. All three complaints focus on the same products, bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus and zinc. The three complainants focus on quantitative restrictions on exports of bauxite, coke, fluorspar, silicon carbide and zinc; export tariffs imposed on bauxite, coke, fluorspar, magnesium, manganese, silicon metal and zinc; and a long list of additional requirements and procedures allegedly imposed in connection with the export of these materials including restricting the right to export based on prior export experience discriminating against foreign invested enterprises in respect of the right to export, requiring exporters to pay fees, and requiring review and approval of export contracts and export prices.

The US and EU announcements on the case argued that the export restrictions and taxes give Chinese companies that use these inputs an unfair advantage compared to their global competitors in the steel, aluminum and chemical industries. An export tax or restriction often results in domestic users of the product in question being able to obtain it at a lower price than the world price. A Reuters report quoted Chinese sources as agreeing with this point. Reuters quoted Mr Fu Li vice president of manganese and silicon producer Chongqing Trust-Glory New Metals Co as stating that "The US and EU are not happy about China's policy to keep resources at home and increase the competitiveness of products with high added value. I don't think there's anything wrong with China's policy." Other reports refer to claims by China that the restrictions protect the environment.

WTO rules prohibit WTO Members from applying quantitative restrictions on their exports or imports. In addition, when China acceded to the WTO in 2001, its terms of accession committed China not to impose tariffs on most exports and to provide the right to export to all enterprises in China on a nondiscriminatory basis. However, Article XX of the GATT provides exceptions to GATT obligations for measures relating to conservation of exhaustible natural resources, and for short supply measures.

The three complaints are likely to be heard by a single WTO dispute settlement panel, which will be authorized by the end of 2009 or before. The three panelists will be chosen by agreement between the parties, or by the WTO Director General in the event of deadlock. Assuming that the panel starts its work by February 2010, the panel report would likely be circulated to the WTO by mid to late 2011; the case will involve many facts regarding the Chinese laws and regulations at issue. The panel decision can then be appealed to the WTO Appellate Body, which would complete its work by six months after the panel report. If the final result is that China measures are inconsistent with its WTO obligations, then the parties would then agree on a deadline for compliance, or the deadline would be set by arbitration; the average such compliance deadline is 12 months. The ultimate sanction is retaliation against Chinese exports, equal to the impact of the violation, if China is found to have failed to bring itself into compliance after the deadline. The parties to the dispute can also reach a settlement by agreement at any time.

So far, China has been both a complainant and respondent in the WTO. China now has three WTO complaints pending against import relief measures targeting Chinese products. China settled four complaints against it before they went to a panel, and complied with an adverse panel report regarding customs measures on auto parts. A complaint by the United States regarding market access for entertainment products is now on appeal.

(Sourced from www.glgroupp.com)

For more news visit at www.steelguru.com