



税务快讯

中国商务部对原产美国进口高粱实施临时反倾销措施

2018 年 4 月 17 日，商务部发布 [2018 年第 38 号公告](#)，初步认定原产于美国的进口高粱存在倾销，决定对原产于美国的进口高粱采取临时反倾销措施。自 2018 年 4 月 18 日起，进口经营者在进口原产于美国的进口高粱时，应依据裁定所确定的保证金比率（178.6%）向海关提供相应的保证金。

政策背景

- 2018 年 2 月 4 日，商务部发布 2018 年第 12 号和第 13 号公告，决定即日起对原产于美国的进口高粱进行反倾销和反补贴立案调查。倾销、补贴调查期为 2016 年 11 月 1 日至 2017 年 10 月 31 日，产业损害调查期为 2013 年 1 月 1 日至 2017 年 10 月 31 日。被调查产品归在《中华人民共和国进出口税则》1007.9000 项下。
- 根据调查结果，初步认定原产于美国的进口高粱存在倾销，决定对原产于美国的进口高粱采取临时反倾销措施。临时反倾销措施以保证金形式实施。保证金以海关审定的完税价格从价计征，计算公式为：

保证金金额 = (海关审定的完税价格 × 保证金征收比率) × (1 + 进口环节增值税税率)

各利害关系方在公告发布之日起 10 天内，可向调查机关提交书面评论意见。

- 商务部仅公布了本次对美反倾销初步裁定。本次反补贴调查通常应在 2019 年 2 月 4 日前结束调查，特殊情况下可延长至 2019 年 8 月 4 日。

- 为维护公平贸易和正常的竞争秩序，世贸组织允许成员方在进口产品倾销、补贴或过激增长等给国内产业造成损害的情况下，使用反倾销、反补贴和保障措施等手段，对国内产业进行救济的措施。反倾销和反补贴针对的是存在倾销和补贴的不公平贸易行为，纠正的是企业的价格歧视以及由于政府或公共机构的补贴而使其出口产品获得的不公平竞争优势。世贸组织成员方实施贸易救济措施均要经过立案调查，所采取的措施均包括征收特别关税，反倾销和反补贴措施还可以实施价格承诺。
- 此次对原产于美国的进口高粱调查系中国政府主管机关根据自身掌握的初步证据自主发起。根据世贸组织相关规则，发起反倾销、反补贴调查有两种情形，一是应相关产业申请发起调查；二是由调查机关依职权自主发起调查。《中华人民共和国反倾销条例》、《中华人民共和国反补贴条例》也对特殊情形下商务部决定立案调查提供了法律依据。
- 目前中国对原产美国的进口高粱以保证金形式采取临时反倾销措施。保证金属于税收担保而非实际征收税款。若根据终裁决定，不征收反倾销税的，或者终裁决定未确定追溯征收反倾销税的，已收取的保证金应当予以退还。
- 根据《中华人民共和国反倾销条例》：

临时反倾销措施实施的期限，自临时反倾销措施决定公告规定实施之日起，不超过 4 个月；在特殊情形下，可以延长至 9 个月。

若终裁决定确定倾销成立，并由此对国内产业造成损害的，可以征收反倾销税。终裁决定确定存在实质损害，并在此前已经采取临时反倾销措施的，反倾销税可以对已经实施临时反倾销措施的期间追溯征收。特殊情况下，可以对实施临时反倾销措施之日前 90 天内进口的产品追溯征收反倾销税，但立案调查前进口的产品除外。

- 据报道，中国作为美国高粱最大的进口国，2017 年自美国进口了约 9.6 亿美元的高粱。除此次反倾销、反补贴调查外，商务部 4 月 4 日发布的征收美国进口商品关税清单中就包括了该 1007.9000 税项下的高粱商品，据此中国对美国进口高粱拟加征 25% 的关税，具体实施日期目前尚未确定。反倾销保证金措施及其后可能的反倾销税与此前公布的加征关税清单使得进口美国高粱进入中国的关税成本很可能面临大幅度上升。
- 在关税成本变化刺激下，有关产业出口企业可能将面临高粱乃至其他具备替代性的大宗农产品全球库存与需求的新格局。在中国经营的高粱下游产业（如饲料、酒类酿造、能源加工等）也可能将面临流转税成本增加而出现的市场结构变化与供应链调整。相关产业进出口经营者应当尽早根据影响评估结果对当下的企业市场布局与供应链安排进行调整。
- 面对中美贸易发展中的不确定性进一步增加的可能，进出口企业应紧密关注中美双方贸易政策风向，在目前中美各针对性贸易举措下，维持进出口通关最大程度的审慎应对与合规水平。

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Tax Newsflash

China Imposes Temporary Antidumping Measures on Imports of Sorghum from U.S.

On 17 April 2018, China's Ministry of Commerce (MOFCOM) published Announcement [2018] No. 38 to impose temporary antidumping measures on imports of sorghum from U.S. According to the Announcement, China would impose a 178.6% temporary antidumping deposits on imports of sorghum from U.S. from 18 April 2018.

Background

- On 4 February 2018, the MOFCOM published Announcement [2018] No. 12 and No. 13, which initiated antidumping (AD) and countervailing duty (CVD) investigation of sorghum of U.S. origin. The product covered by this investigation is Grain Sorghum from U.S. (China HS code 1007.9000). The period of investigation is 1 November 2016 through 31 October 2017. The investigations of injury to the domestic industry is 1 January 2013 through 31 October 2017.

- On the basis of the antidumping investigations, the MOFCOM preliminarily determines that there is reasonable indication that there are dumping associated with imports of sorghum from U.S. in China, and decides that temporary antidumping actions should be imposed. The temporary antidumping measure is to impose deposit at the rate of 178.6%. The amount of deposit, which is based on the dutiable value determined by China Customs, should be calculated as: *The amount of deposit = (dutiable value * deposit rate) * (1+ import VAT rate)*.

The MOFCOM provides the opportunity for consultations within 10 days from the date of the announcement.

- The preliminary determination of countervailing duty investigation of sorghum of U.S. origin would be ended before 4 February 2019 based on normal schedule. In certain conditions, the date could be extended to 4 August 2019.

Comments

- The WTO agreements allow WTO member states to take actions against dumping, subsidies and special countervailing, and emergency measures to limit imports temporarily in order to protect domestic industries. The AD and CVD investigations are to ensure that domestic industries are not injured by unfair foreign competition, such as selling at an unfairly low price and using subsidies. WTO agreements allow governments to act against dumping and subsidies where there is genuine (“material”) injury to the competing domestic industry, such as a special offsetting import tax and price undertaking.
- The anti-dumping and countervailing duty investigation of Grain Sorghum from U.S. was self-initiated by the MOFCOM. In China, AD and CVD investigations could be initiated in response to petitions filed by an affected industry, and the MOFCOM is also entitled to self-initiate a case. These remedies are in accordance with rules and principles which are codified in the WTO Agreements.
- At present, the MOFCOM imposes deposit as temporary antidumping measures on imports of sorghum from U.S. The deposit is a kind of tax guarantee, instead of actual tax collection. It is subject to the final determination from the MOFCOM. The deposit would be returned if the MOFCOM's final determination is that no antidumping duty or countervailing duty orders will be issued.
- Under the provisions of the Anti-Dumping Regulations of P.R. China,
 - The temporary anti-dumping measures would not exceed four months after the date of imposition. In certain conditions, the timeline could be extended to nine months.
 - If the final determination of antidumping is affirmative and an industry is materially injured, the antidumping duty could be imposed. If a temporary anti-dumping measure was imposed before the final determination, the anti-dumping duty could be imposed backdated to

the period when temporary anti-dumping measures were taken. In a special circumstance, the anti-dumping duty could be imposed on the products imported no longer than 90 days before the imposition date of temporary measures, except those products imported before the anti-dumping investigation.

- As the largest buyer of sorghum from U.S., China is reported to have imported sorghum worth about \$960 million in 2017. Besides the AD and CVD investigation, sorghum, with HS code 1007.9000, would be subject to an additional 25% tariff based on the proposed list published by the MOFCOM on 4 April 2018. The effective date of the additional tariff would be released later.

The temporary anti-dumping measures, the potential AD duty, and the additional tariff may increase the cost of sorghum from U.S. in China, due to the increase of the tariff cost.

- With the increase of the tariff cost, companies in affected industries may encounter with a new scenario of the demand and supply of sorghum and other similar agricultural products. In China's downstream industries of sorghum import, such as feed, liquor brewing and energy industry, the indirect tax cost may increase significantly so that the current supply chain and market would face new challenges. Therefore, companies in those industries need to evaluate the impact of international trade issues and adjust their supply chain and market proposition accordingly.
- Considering that the trade dispute between China and U.S. may increase, it is our recommendation that importers and exporters need to pay more attention to the trend of trade policies in both China and U.S. and to maintain high compliance level in Customs clearance procedures.

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