

➤ **Q: What is anti-subsidy duty?**

A: Subsidy refers to the financial support, income and price support provide by the government or public agency of the exporting country (region) that may bring benefits to the recipient of the support.

According to the regulations of the people's republic of China on anti-dumping promulgated by the state council on November 26, 2001 and effective as of January 1, 2002, any natural person, legal entity or relevant organization of domestic industry or representing domestic industry or representing domestic industry may apply to the MOFTEC by law for anti-subsidy investigation. Based on the results of the investigation, the MOFTEC and the state economic and trade commission may make primary judgment respectively on subsidy, damage and the tenability of causality of them.

Where the primary judgment confirms that the subsidy is tenable and the subsidy is tenable and the subsidy brings damages to the domestic industry, the provisional anti-subsidy measures may be taken.

The anti-subsidy measures shall take the form of levying anti-subsidy duty by collecting cash guarantee or by guaranty document.

The levying of the interim anti-subsidy duty shall be suggested by MOFTEC, determined by the tariff and classification committee of the state council and announced by MOFTEC. The customs shall execute it from the date of its announcement.

The time period of the provisional anti-subsidy measures shall be normally 4 months starting from the date of implementation as announced.

Within 60 days after the announcement of the anti-subsidy investigation, no provisional anti-subsidy measures should be taken.

During the anti-subsidy measures should be taken.

During the anti-subsidy investigation, the government of the exporting country proposes the promise of canceling, restricting the subsidy or other relevant measures, or the exporters propose the promise of price change, the MOFTEC should give sufficient consideration.

Where the MOFTEC believes that the price promise may be acceptable, it may suspend or terminate the anti-subsidy investigation and will not take the provisional anti-subsidy measures or levy anti-subsidy duty after discussion with the state economic and trade

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commission.

For breaking the promise, the MOFTEC may, after discussion with the state economic and trade commission, immediately resume the anti-subsidy investigation. Based on the best information available, the MOFTEC may decide to take the anti-subsidy measures and may retroactively pursue the anti-subsidy duty on the products imported within 90 days prior to the taking of the provisional anti-subsidy measure, except for the products imported before breaking the prices promise.

Where the decision of the primary judgment justifies the subsidy, damage and tenability of causality of them, the MOFTEC and the state economic and trade commission should continue the investigation on the subsidy and its level, damage and the level of the damage and make the final decision of judgment on basis of the results of the investigation.

Where the final decision of judgment justifies that the subsidy is tenable and that it damages the domestic industry, anti-subsidy duty may be levied.

The levying of the anti-subsidy duty shall be suggested by MOFTEC, determined by the tariff and classification committee of the state council upon the suggestion of MOFTEC and then announce by MOFTEC. The customs shall execute it from the date as announced.

The anti-subsidy duty is applicable to the products imported after the date of the announcement of the final decision of judgment except otherwise ruled.

The payers of the anti-subsidy duty shall be the importers of the subsidized products.

The anti-subsidy duty should be determined in line with the subsidy level of the exporters. In case of need to levy anti-subsidy duty on the subsidy importation products of exporters beyond the investigation, quick investigation should be taken and the anti-subsidy duty should be determined in line with fair form.

The level of the anti-subsidy duty should not exceed the subsidy level determined in final judgment.

Where the final judgment justifies the existence of the material damage and where the provisional anti-subsidy measures have been taken before that, the anti-subsidy duty may be pursued retroactively to the period of provisional anti-subsidy measures.

Where the final judgment justifies the existence of threat of material damage and where the provisional anti-subsidy measure have been taken for the reason that later judgment of

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material damages would be made if not taking the provisional anti-subsidy measures, the anti-subsidy duty may be pursued retroactively to the period of the provisional anti-subsidy measures.

Where the anti-subsidy duty finally judged is higher than the cash guarantee or the value guaranteed by the guaranty document, the part of duty over-collected should be rebated.

Where necessary, the anti-subsidy duty may be retroactively pursued to the subsidy products imported within 90 days prior to the implementation of the provisional anti-subsidy measures if the following three circumstances coexist:

- a. The subsidized products importation has increased in large quantity in very short period.
- b. The increase may bring un-remedial damage to the domestic industries
- c. This kind of products are benefiting from the subsidy

Where the final judgment determines no anti-subsidy duty to be levied or where the final judgment does not justify the retroactive pursue of anti subsidy duty, the cash guarantee payment collected during the provisional anti-subsidy should be rebated and the guaranty document should be cancelled.

The time period for levying the anti-subsidy duty is 5 years at maximum. However, the levying period of the anti-subsidy duty may be extended properly if the termination of the levying might lead to continuity or recurrence of the subsidy and damage as justified by review judgment.

After the effectiveness of the anti-subsidy duty, the MOFTEC may, after consultation with the state economic and trade commission and under the condition of fair argument, decide to review the necessity of continuing to levy anti-subsidy duty, or may, after fair length of time, decide to review the necessity of continuing to levying the anti-subsidy duty at the request of the interest party and after examination of the evidence provided by the interest party.

Based on the review result, the MOFTEC shall put forward the suggestions as to maintain, revise or abolish the anti-subsidy duty. The tariff and classification committee of the state council shall make decision upon the suggestions of the MOFTEC and then the decision shall be announced by the MOFTEC.

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