

## Anti-dumping Duty, Anti-subsidy Duty and Guaranty duty

### 1) Anti-dumping duty

Dumping refers to that the imported products come into Chinese market at an export price lower than their normal value in normal trade.

According to the regulations on anti-dumping promulgated by the State Council, any natural person, legal entity or relevant organization of domestic industry or representing domestic industry may apply to the Ministry of Commerce by law for anti-dumping investigation.

Within 60 days after receiving the written application and the relevant evidence provided by the applicants, the Ministry of Commerce should examine whether the application should be put forward by the domestic industry or representing domestic industry, the contents of the application and the evidence attached and make decision to investigate or not.

Under special circumstances, the Ministry of Commerce may decide to register the case for investigation when it has sufficient evidence to prove there exists dumping and damage that has cause and result relation although the Ministry of Commerce has not received any written application for anti-dumping investigation.

Based on the results of the investigation, the Ministry of Commerce should make primary judgment respectively on dumping, damage and the tenability of causality of them and make announcement on that.

Where the decision of the primary judgment confirms the dumping, damage and the reability of causality of them, the Ministry of Commerce should continue to investigate the dumping and its range, the damage and its extent and make final judgment based on the results of the investigation and make announcement for that.

Where the primary judgment confirms that the dumping is tenable and the dumping brings damages to the domestic industry, the provisional anti-dumping measures including levying interim anti-dumping duty may be taken.

The level of the interim anti-dumping duty should be matching with the dumping level primarily verified true by the primary judgment.

The levying of the interim anti-dumping duty shall be suggested by ministry of Commerce, determined by the Tariff and Classification Committee of the State Council and then announced by Ministry of Commerce. The customs shall execute it from the date of its announcement.

The time period of the provisional anti-dumping measures shall be normally 4 months starting from the date of decision announcement. In case of special circumstances, the time period may be  
The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

prolonged to 9 months.

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

During the anti-dumping investigation, the exporters dumping the imported products may promise to the Ministry of Commerce of price change or stopping exportation at dumping price.

Where the Ministry of Commerce believes that the price promise of the exporters may be acceptable and meet the public interest, it may suspend or terminate the anti-dumping investigation and will not take the provisional anti-dumping measures or levy anti-dumping duty.

Where the exporters break their price promise, the Ministry of Commerce may immediately resume the anti-dumping investigation. Based on the best information available, the Ministry of Commerce may decide to take the provisional anti-dumping measures and may retroactively pursue the anti-dumping duty on the products imported within 90 days prior to the taking of the provisional anti-dumping measure, except for the products imported before breaking the price promise.

Where the final decision of judgment justifies that the dumping is tenable and that it damages the domestic industry, anti-dumping duty may be levied. The levying of the anti-dumping duty should meet the public interest.

The levying of the anti-dumping duty shall be suggested by the ministry of Commerce, determined by the Tariff and Classification Committee of the State Council upon the suggestion of Ministry and then announced by Ministry. The Customs shall execute it from the date as announced.

The anti-dumping 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-dumping duty shall be the importing businessmen of the dumping products. The anti-dumping duty should be determined in line with the dumping level of the exporters.

In case of need to levy anti-dumping duty on the dumping importation products of exporters beyond the investigation, the anti-dumping duty should be determined in line with fair form

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

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

Where the final judgment justifies the existence of threat of material m=damage and where the The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

provisional anti-dumping measure have been taken for the reason that later judgment of material damages would be made if not taking the provisional anti-dumping measures, the anti-dumping duty may be pursued retroactively to the period of the provisional anti-dumping measures.

Where the anti-dumping duty finally judged is higher than the interim anti-dumping duty paid or payable or than the value estimated for guaranty purpose, the part under-collected shall be given up. Where the anti-dumping duty is lower than the interim anti-dumping duty paid or payable or than the value estimated for guaranty purpose, the part of duty over-collected should be rebated based on the practical circumstance or the duty should be re-computed.

The anti-dumping duty may be retroactively pursued to the dumping products imported within 90 days prior to the provisional anti-dumping measures if the following two circumstances co-exist except for the products imported before the case is put on investigation:

- a. The dumping products have a dumping history of damaging the domestic industries, or the importing businessmen of the dumping products know or should know that the exporters are dumping the products and this dumping shall bring damage to the domestic industries;
- b. Large quantity of the dumping products are imported in very short period and may serious damage the remedial effect of the anti-dumping duty.

Where the final judgment determines no anti-dumping duty to be levied or where the final judgment does not justify the retroactive pursue for anti-dumping duty, the interim anti-dumping duty already collected should be rebated.

Where the importers of the dumping import products have evidence proving that the anti-dumping duty paid is over the dumping level, they may apply to the ministry of Commerce for rebate the duty. Upon examination, checking up and suggestion of the Ministry of Commerce, the Tariff and Classification Committee of the State Council may decide to rebate the duty based on the suggestion of the Ministry. The rebate shall be executed by the Customs.

After levying anti-dumping duty on imported products, if the new exporters who do not export to China those products during the investigation can prove that they have nothing to do with the exporters subject to anti-dumping duty, they may apply to the Ministry of Commerce for separate determination of the dumping level. The Ministry of Commerce should quickly examine that and make final decision of judgment. During the examination, no anti-dumping duty should be levied on those products.

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

After the effectiveness of the anti-dumping duty, the Ministry of Commerce may decide to review the necessity of continuing to levy anti-dumping duty for reasonable argument, or may, after fair length of The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

time, decide to review the necessity of continuing to levying the anti-dumping 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 Ministry of Commerce shall put forward the suggestions as to maintain, revise or abolish the anti-dumping duty. The Tariff and Classification Committee of the State Council shall make decision upon the suggestions of the Ministry of Commerce and then the decision shall be announced by the Ministry of Commerce

The review period should not be longer than 12 months starting from the date of deciding to conduct the review, the review procedures shall not impede the execution of the anti-dumping measures.

In case that any country (region) takes discriminated anti-dumping measures against the products exported from China, China may take the corresponding measures against that country (region) on basis of the practical conditions.

## 2) Anti-subsidy duty

Subsidy refers to the financial support, income and price support provided 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 on anti-dumping promulgated by the State Council, any natural person, legal entity or relevant organization of domestic industry or representing domestic industry may apply to the Ministry of Commerce by law for anti-subsidy investigation.

Within 60 days after receiving the written application and the relevant evidence provided by the applicants, the Ministry of Commerce should examine whether the application should be put forward by the domestic industry or representing domestic industry, the contents of the application and the evidence attached and make decision to investigate or not.

Under special circumstances, the ministry of Commerce may decide to register the case for investigation when it has sufficient evidence to prove there exists subsidy and damage that has cause and result relation although the Ministry of Commerce has not received any written application for anti-subsidy investigation.

Based on the results of the investigation, the Ministry of Commerce shall make primary judgment respectively on subsidy, damage and the tenability of causality of them.

Where the decision of the primary judgment confirms the subsidy, damage and the renability of causality of them, the Ministry of Commerce should continue to investigate the subsidy and its range, the damage and its extent and make final judgment based on the results of the investigation and make announcement for that.

Where the primary judgment confirms that the subsidy is tenable and the subsidy brings damages to The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

the domestic industry, the interim anti-subsidy measures may be taken.

The interim 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 ministry of Commerce, determined by the Tariff and Classification Committee of the State Council and then announced by Ministry of Commerce. The customs shall execute it from the date of its announcement.

The time period of the interim 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 interim 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 proposes the promise of price change, the Ministry of Commerce should give sufficient consideration.

Where the Ministry of Commerce believes that the price promise may be acceptable and meets the public interest, it may suspend or terminate the anti-subsidy investigation and will not take the interim anti-subsidy measures or levy anti-subsidy duty.

For breaking the promise, the ministry of Commerce may immediately resume the anti-subsidy investigation. Based on the best information available, the Ministry of Commerce 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 interim anti-subsidy measure, except for the products imported before breaking the price promise.

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 should meet the public interest.

The levying of the anti-subsidy duty shall be suggested by Ministry of Commerce, determined by the Tariff and Classification Committee of the State Council upon the suggestion of ministry of Commerce and then announced by Ministry of Commerce. 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 The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

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 interim anti-subsidy measures have been taken before that, the anti-subsidy duty may be pursued retroactively to the period of interim anti-subsidy measures.

Where the final judgment justifies the existence of threat of material damage and where the interim anti-subsidy measure have been taken for the reason that later judgment of material damages would be made if not taking the interim 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 guaranty document, the part under-collected shall be given up. Where the anti-subsidy duty is lower than the cash guarantee or the value guaranteed by 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 interim anti-subsidy measures if the following three circumstances co-exist:

- a. The subsidized product 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 product is 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 purse 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 ministry of Commerce may, 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. The Tariff and Classification Committee of the State Council shall make decision upon the suggestions of the Ministry of Commerce and then the decision shall be announced by the Ministry of Commerce.

The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

The review period should not be longer than 12 months starting from the date of deciding to conduct the review. During the review, the review procedures shall not impede the execution of the anti-subsidy duty measures.

In case that any country(region) takes discriminated anti-subsidy measures against the products exported from China, China may take the corresponding measures against that country (region) on basis of the practical conditions.

### 3) Guaranty measure duty

Under the fair trade conditions, the existence of the promise of duty reduction may lead to the increase of the importation of some product from one WTO member which may result in serious damage or threat of serious damage to the domestic industry of producing the same type of product or the directly competitive product in the member. Under this situation, the member may take the measure of restriction the importation quantity of the product and raise the tariff rate so that the relevant domestic industry may adjust to adapt to the competition. This type of measures is the guaranty measures.

According to the regulations on guaranty measures promulgated by the State Council, the investigation may be conducted and the guaranty measures may be taken if the increase of the imported products that may result in serious damage or threat of serious damage (hereinafter referred to as damaged except otherwise indicated specially) to the domestic industry of producing the same type of products or the directly competitive products.

Any natural person, legal entity or organization (hereinafter referred to as the applicants) relevant to the domestic industry may apply to the Ministry of Commerce for taking guaranty measures in accordance with the regulations of the guaranty measures. The Ministry of Commerce should timely examine the application of the applicants and make decision to register for investigation or not to register for investigation.

The Ministry of Commerce may decide to register the case for investigation when it has sufficient evidence to prove the damages to the domestic industry due to the increased of the importation of the products although The Ministry of Commerce has not received any written application for guaranty measures.

Based on the results of the investigation, The Ministry of Commerce shall make primary judgment or may directly make final judgment and announce that.

Where explicit evidence shows that the increase of the imported products will result in un-remedial damages to the domestic industry without taking the interim guaranty measures under the emergency cases, the primary judgment may take the form of raising the tariff rates.

The taking of the interim guaranty measure shall be suggested by The Ministry of Commerce, The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

determined by the Tariff and Classification Committee of the State Council and then announced by Ministry of Commerce. The Customs shall execute it from the date of its announcement.

The time period of the interim guaranty measures shall be normally 200 days at maximum starting from the date of announcing the implementation of the interim guaranty measures.

Where the decision of the primary judgment confirms the subsidy, damage and the tenability of causality of them, the Ministry of Commerce should continue to investigate the subsidy and its rage, the damage and its extent and make final judgment based on the results of the investigation and make announcement for that.

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

The interim anti-subsidy measures shall take the form of levying anti-subsidy duty by collecting cash guarantee or by guaranty measures may be taken in form of raising the tariff rates, quantity restriction. The execution of the guaranty measures should meet the public interest.

The form of raising the tariff rates shall be suggested by the Ministry of Commerce and decided by the Tariff and Classification Committee of the State Council upon the suggestion of the Ministry of Commerce and then announced by the Ministry of Commerce. The customs shall execute it from the date as announced.

Where the final judgment decides not to take the guaranty measures, the interim duty collected should be rebated.

The time period for executing the guaranty measures is 4 years at maximum. However, the period may be extended properly under the following conditions:

- a. The guaranty measures determined in line with the procedures of the guaranty measure regulations are necessary for preventing or remedying the serious damages.
- b. There is evidence proving the relevant domestic industry is adjusting.
- c. The obligation of outward notice, negotiation has been performed.
- d. The measures after the extension are not stricter than those after.

The execution period and the extension period of one guaranty measure should not be over 10 years.

In case of exciting the guaranty measures for more than one year, the measures should be gradually loosen by fixed intervals during the execution period.

In case of executing the guaranty measures for moor than 3 years, the Ministry of Commerce should review the measures in middle of the execution period. The review shall cover the impact of the measures on the domestic industry, the adjustment of the domestic industry.

The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

Where the guaranty measures take the form of raising the tariff rates, the Ministry of Commerce shall put forward the suggestions as to maintain, cancel or speed up loosening the measures according to the regulations based on the review result. The Tariff and Classification Committee of the State Council shall make decision upon the suggestions of the Ministry of Commerce and then the decision is to be announced by the Ministry of Commerce.

In case of taking the guaranty measures against the same imported products again, the time interval with the last execution of the measures should not be shorter than the execution period of the last execution of the measures should not be shorter than the execution period of the last guaranty measures and at least 2 years. Under one of the following conditions, the guaranty measures executed on one product with the period less than 180 days shall not be subject to the restriction above:

- a. One year has pasted since the date of executing the guaranty measures against the imported products.
- b. The guaranty measures are not taken twice or more on the same products within 5 years from the date of executing the guaranty measures.

In case that any country (region) takes discriminated guaranty measures against the products exported from China, China may take the corresponding measures against that country (region) on basis of the practical conditions.

The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.