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Article

Imposition, collection and review of countervailing and anti-dumping duty – India and US Practice

反补贴税和反倾销税的缴纳、征收和复审-印度和美国的做法

By **Bhargav Mansatta**

India follows a prospective method of Anti-dumping Duty (AD) and Countervailing Duty (CVD) imposition whereas the United States has adopted a retrospective method. In prospective method, based on the actual data relating to a selected period known as ‘period of investigation’ the margin of dumping and / or subsidization is determined and the rate of duty is also determined. The rate of duty so determined based on the past period is applied for all shipments that take place on and from the date of levy. For instance, in an investigation initiated on 1st April 2012, the investigating authority may specify the period of investigation as Jan-Dec 2011. Based on the data for the period Jan-Dec 2011, investigating authority may determine a duty rate of say 7% and upon completion of the investigation on 31 March 2013, anti-dumping duty of 7% is levied. This duty will be applied for all shipments cleared on and from 31st March 2013 (i.e. the date of levy) and will continue to be in force till the duty rate is amended pursuant to a changed circumstances review.

In the retrospective method, the duty rate is determined taking into account the actual data for the period of investigation and applied upon completion of investigation. However, the duty is collected provisionally or as a deposit. At the end of

every year, the investigating authority will conduct a review of all the transactions that took place during the immediately preceding year and based on the actual data for the said period, the duty rate will be amended. All the clearances made during the past year will be ‘finally’ assessed for the specified period. The new rate determined at the end of such a review is applied as the ‘deposit rate’ for the future period.

Under both the systems, during the original investigation, provisional measures can be imposed before a final determination is arrived at. The only difference between both the systems is that in case of prospective levy, rate of provisional duty is re-determined at the time of final determination, whereas in retrospective method, the rate of provisional measure is not only re-determined at the time of final determination but it is also subsequently re-assessed ‘finally’ at the time of administrative review in the next year. For e.g. *In Certain Hot-Rolled Carbon Steel Flat Products from India*, C-533-821, Essar Steel Ltd., was subject to 9.08% provisional duty at the time of preliminary determination for the period of four months from April 20, 2001 to August 17, 2001 in the original investigation,¹ the rate was revised to 8.28% at the time of final determination² and it was finally assessed at the rate of 1.69% during

¹ Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determinations: *Certain Hot-Rolled Carbon Steel Flat Products from India*., 66 FR 20240-01, April 20, 2001

² Final Affirmative Countervailing Duty Determination: *Certain Hot-Rolled Carbon Steel Flat Products from India and Indonesia*, 66 FR 60198, December 3, 2001

the subsequent administrative review.³ In other words, the provisional CVD rate for the period of four months starting from April 20, 2001 was revised thrice. It was finally confirmed at 1.69%.

Irrespective of the method of levy, during the original investigation, the CVD or AD assessed at the time of final determination can be levied retroactively for the period for which provisional measures were applied.⁴ Also, under both the methods, it is required that in case the amount of AD or CVD determined at the time of final determination is less than the preliminarily determined rate, then the difference in the amount is refunded but if the amount is higher, then the difference is not collected.⁵ It is also required that the application of provisional measure shall not exceed the four months period. In case of anti-dumping duties, the period may extend to six months, if the country employs a lesser duty rule.⁶

In India, definitive anti-dumping duty is applied retroactively from the date of imposition of provisional duties, in terms of Rule 20(2)(a). However, the Anti-dumping Agreement is markedly different. It does not use the phrase 'from the date of imposition of provisional duties' but states that the definitive duties may be levied 'for the period for which provisional measures have been applied'⁷.

Thus, irrespective of whether the definitive duties are imposed when the provisional measures are in force or after the expiry of the provisional measures, the definitive duty is imposed only from the date of its levy under the Anti-dumping Agreement. It may be levied under certain circumstances for the period for which the provisional measures have been applied. Despite such retroactive application, the definitive duty shall commence from the date of levy of definitive duty and not from the date of imposition of provisional duty. The Indian practice is quite the contrary. India levies definitive duty from the date of imposition of the provisional duty irrespective of whether the definitive duty is levied during the currency of the provisional measure or after its expiry. In other words, duty is charged for the interregnum i.e. period between the expiry of provisional measure and the levy of definitive duty.⁸ The United States does not charge duty during such interregnum period.⁹ The duty for such period is zero. The duty resumes from the date of imposition of definitive measures pursuant to the final determination.

In light of the provision under the Agreement and the WTO jurisprudence, India's practice would be difficult to defend if it is met with a

³ Final Results of Countervailing Duty Administrative Review: Certain Hot Rolled Carbon Steel Flat Products from India, 69 FR 26549, May 13, 2004

⁴ Article 20.2, SCM Agreement; Article 10.3, AD Agreement

⁵ Article 20.3, SCM Agreement; Article 10.3, AD Agreement

⁶ Article 17.4, SCM Agreement; Article 7.4, AD Agreement

⁷ Article 10.2 of AD Agreement

⁸ See *Acetone from Japan and Thailand*, Customs Notification dated April 9, 2010 imposing preliminary duty r/w Customs Notification dated April 18, 2011. *Circular Weaving Machine from China* Customs Notification dated April 12, 2010 imposing provisional Anti-dumping Duty r/w Customs Notification dated February 16, 2011

⁹ Liquidation Instructions For Certain Hot-Rolled Carbon Steel Flat, Products From India for Essar Steel, Ltd. (C-533-821-002), Message No: 4167205, Date: 6/15/2004

challenge before the DSB.¹⁰ In addition, Article 10.6 of the Anti-dumping Agreement specifies the conditions under which the definitive duty may be retroactively applied. The conditions are: (a) where there is a history of dumping or where the importer should have been aware that the exporter practices dumping and that such dumping could cause injury; and (b) the injury is caused by massive dumped imports of a product in a relatively short time which in light of the timing and the volume of dumped imports and other circumstances is likely to seriously undermine the remedial effects of the definitive anti-dumping duty to be applied, provided that the importers concerned have been given an opportunity to comment. India applies definitive duty retroactively from the date of levy of provisional duty even if the conditions specified in Article 10.6 are not met. In fact, levy of definitive duty for the interregnum period without even examining the factors specified in Article 10.6 is a clear violation of the Anti-dumping Agreement.

One related issue in this regard is how to calculate the five year period upon completion of which the definitive duty shall expire. With regard to initiation of sunset review investigation, the practice of the United States and India varies. Article 21.3 of the SCM Agreement and Article 11.3 of the AD Agreement provide for the sunset review provision. SCM and AD Agreement in relevant part provide

as below:

Antidumping Agreement Article 11.3: Notwithstanding the provisions of paragraphs 1 and 2, any definitive antidumping duty *shall be terminated on a date not later than five years from its imposition* (or from the date of the most recent review under paragraph 2 if that review has covered both dumping and injury, or under this paragraph), unless the authorities determine, in a *review initiated before that date* on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date.....

SCM Agreement Article 21.3: Notwithstanding the provisions of paragraphs 1 and 2, any definitive countervailing *duty shall be terminated on a date not later than five years from its imposition* (or from the date of the most recent review under paragraph 2 if that review has covered both subsidization and injury, or under this paragraph), unless the authorities determine, in a *review initiated before that date* on their own initiative or upon a duly substantiated request made by or on behalf of the domestic industry within a reasonable period of time prior to that date...

The above provisions require that that the definitive duty shall be terminated after *five years from its imposition* unless extended by review initiated *before such date*. It is clear from the plain language of the article that five years will be counted from the date of the imposition of definitive duty. Appellate Body has already stated that duty imposed after the *final determination* is considered as definitive duty in both the systems of investigation.¹¹

¹⁰ Panel Report, *Mexico – Anti-dumping measures on imports of HFCS from USA*, para. 7.182. See Atul Gupta, *Levy of provisional anti-dumping measures in India*, available at <http://www.lakshmisri.com/News-and-Publications/Archives/Publication/Levy-of-provisional-anti-dumping-measures-in-India>

¹¹ Appellate Body Report, *Mexico - Definitive Anti Dumping Measures on Beef and Rice*, para. 344-346

However, as a matter of practice, India calculates period of five years from the date of the imposition of the provisional measure.¹² This is despite the fact that Rule 23 (1B) of the Indian AD Rules is similar to Article 11.3 of the AD Agreement in providing that five years is to be calculated from the date of imposition of definitive duty. The United States, on the other hand, as a matter of law and practice, calculates five years from the date of imposition of the definitive measure. Date of initiation of sunset review is indicative of this practice as it is issued just before the end of such five year period.¹³

The Indian practice of counting the five year

period from the date of levy of provisional measures (wherever the definitive duty has been imposed from the date of imposition of provisional measure) may be in line with the requirements of Article 11.3 of the Anti-dumping Agreement. However, it may reduce the period for which the duty may have been in force otherwise. The Indian practice brings down the period of levy compared to other countries which may not be in the best interests of the domestic industry.

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¹² Illustratively, Initiation of Sunset Review, February 24, 2012, Flat Based Steel Wheels from China. See Preliminary Duty, Customs Notification 51/2007, March 29, 2007. Final Definitive Duty, Customs Notification 124/2007, December 31, 2007. Customs Notification No. 16 /2012 dated 20th March 2012 extending the time period for imposition of duty for one year until March 27th 2013 pursuant to initiation of sunset review.

¹³ Illustratively, Initiation of Five-Year ("Sunset") Reviews, 71 FR 43443 (August 1, 2006), Certain Hot Rolled Carbon Steel Flat Products from India. Provisional Measure was imposed on 20 April, 2001. See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determinations: Certain hot-Rolled Carbon Steel Flat Products from India.; 66 FR 20240-01, April 20, 2001. Final determination of Definitive duty was made in December 3, 2001; See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India and Indonesia, 66 FR 60198, December 3, 2001. European Communities also follows the same practice for calculation of five year period.

Trade Remedy News 贸易救济新闻

Trade remedy actions against China

对中国采取的贸易救济行动

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知文号及日期
Agglomerated stone 人造石	EU 欧盟	ADD investigation initiated 发起反倾销调查	EU 2013/C 183/12, dated 28-6-2013 2013年6月28日, 欧盟2013/C 183/12
Aluminum Extrusions 铝型材	Canada 加拿大	Expiry review initiated in ADD and subsidization investigation 发起反倾销和反补贴日落复审调查	Canadian International Trade Tribunal Press Release dated 5-6-2013 2013年6月5日, 加拿大国际贸 易法庭发布公告
Aluminium Extrusions 铝挤压件	Australia 澳大利亚	Initiation of an Accelerated Review of ADD 发起快速复审	Anti-dumping Notice No. 2013/57, dated 2-7-2013 2013年7月2日, 反倾销通知第2013/57
Aluminium Foils 铝箔	EU 欧盟	ADD anti-circumvention investiga- tion terminated 终止反规避调查	Commission Regulation (EU) No. 638/2013, dated 2-7-2013 2013年7月2日, 欧盟委员会第 638/2013号规定
Bicycles 自行车	EU 欧盟	ADD imposed on goods from China extended to imports from Indonesia, Malaysia, Sri Lanka and Tunisia 对原产于中国的自行车的反倾销 税延展至自印尼、马来西亚、斯 里兰卡、突尼斯的进口产品征收 反倾销税	Council Implementing Regulation (EU) No. 501/2013, dated 29-5-2013 2013年5月29日, 欧盟委员会第 501/2013号执行规定
Bicycles 自行车	EU 欧盟	Definitive ADD imposed 征收最终反倾销税	Council Regulation (EU) No. 502/2013, dated 29-5-2013 2013年5月29日, 欧盟委员会第 502/2013号执行规定
Canned fruits 水果罐头	Australia 澳大利亚	Safeguard investigation initiated 发起保障措施调查	Dated 21-6-2013 2013年6月21日, 澳大利亚生产力委员会
Canned tomato 罐装西红柿	Australia 澳大利亚	Safeguard investigation initiated 发起保障措施调查	Dated 21-6-2013 2013年6月21日, 澳大利亚生产力委员会

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知文号及日期
Combine harvesters 收割机	Customs Union of Russia, Belorussia and Kazakhstan 欧亚经济委员会	Safeguard duty imposed 征收保障措施税	Euroasian Economic Committee Public Notice dated 26-6-2013 2013年6月26日，欧亚经济委员会发布通知
Composite floor 复合木地板	US 美国	New shipper review preliminary finding of ADD 新出口商复审初裁	US DOC, dated 30-5-2013 2013年5月30日，美国商务部发布公告
Crystalline silicon photovoltaic modules and key components 晶硅光伏组件及关键零部件	EU 欧盟	Provisional ADD imposed 征收临时反倾销税	Commission Regulation (EU) No. 513/2013, dated 4-6-2013 2013年6月4日，欧盟委员会第513/2013号规定
Diamond saw blade 金刚石锯片	US 美国	Preliminary finding on changes in circumstances review 情势变迁复审初裁	US DOC, dated 19-6-2013 2013年6月19日，美国商务部发布公告
Formulated glyphosate 草甘膦制剂	Australia 澳大利亚	ADD investigation terminated 终止反倾销调查	Australian Customs Dumping Notice No. 2013/51, dated 24-6-2013 2013年6月24日，澳大利亚海关倾销通知第2013/51号
Freshwater crayfish tail meat 淡水小龙虾尾肉	US 美国	New shipper review terminated 取消新出口商复审	US DOC, dated 20-6-2013 2013年6月20日，美国商务部发布公告
Frozen pork 冷冻猪肉	Chile 智利	Safeguard investigation initiated 发起保障措施调查	Dated 31-5-2013 2013年5月31日
Galvanized carbon steel net 碳钢镀锌丝网	Mexico 墨西哥	ADD investigation initiated 发起反倾销调查	Dated 6-6-2013 2013年6月6日，墨西哥经济部国际贸易惯例总局
Hexagon galvanized wire rope net 镀锌六边形钢缆网	Mexico 墨西哥	Sunset review recommends continuation of ADD 日落复审简易继续征收反倾销税	Dated 27-6-2013 2013年6月27日，墨西哥经济部国际贸易惯例总局

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知文号及日期
Methyl Acetoacetate 乙酰乙酸甲酯	India 印度	Safeguard duty investigation initiated 发起保障措施调查	Notification No. D-22011/ 08/2013, dated 6-6-2013 2013年6月6日, 通知第 D-22011/08/2013
New inflated off-the- road tyre 新充气工程机械 轮胎	US 美国	New shipper review final finding of ADD 新出口商复审终裁	US DOC, dated 4-6-2013 2013年6月4日, 美国商务部发布公告
Persulfates 过硫酸盐	USA 美国	ADD sunset review initiated 发起反倾销日落复审	US ITC News Release 13-049, dated 4-6-2013 2013年6月4日, 美国国际贸易 委员会发布第13-049号新闻
Phthalic Anhydride 邻苯二甲酸酐	India 印度	Review finding recommends non- continuation of Safeguard duty 复审裁决终止保障措施税	Notification No. D-22011/ 14/2012, dated 7-6-2013 2013年6月7日, 通知第 D-22011/14/2012
Plywood 胶合板	Argentina 阿根廷	Issued preliminary finding 发布临时裁决	Dated 3-6-2013 2013年6月3日, 阿根廷经济和公共财政部
Prestressed concrete steel rail tie wire 预应力钢轨用钢丝	USA 美国	Affirmative determination of material injury 肯定性实质损害裁定	US ITC News Release 13-051, dated 7-6-2013 2013年6月7日, 美国国际贸易委员会发布公告
Seamless tube 无缝钢管	Mexico 墨西哥	Definitive ADD imposed in midterm review 期中复审征收最终反倾销税	Dated 20-6-2013 2013年6月20日, 墨西哥经济部国际贸易惯例总局
Seamless tube 无缝钢管	Mexico 墨西哥	Preliminary ADD imposed 征收临时反倾销税	Dated 25-6-2013 2013年6月25日, 墨西哥经济部国际贸易惯例总局
Silica bricks and shapes 特异型硅砖	USA 美国	Affirmative preliminary determination of dumping 肯定性倾销初裁	US ITA Fact sheet dated 14-6-2013 2013年6月14日, 美国国际贸易委员会事实披露
Silicon Metal 金属硅	Canada 加拿大	Determination of reasonable indication of injury due to dumping and subsidizing 裁定倾销和补贴造成了损害	Canadian International Trade Tribunal Press Release dated 21-6-2013 2013年6月21日, 加拿大国际贸易法庭发布公告

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知文号及日期
Sodium hexametaphosphate 六偏磷酸钠	USA 美国	Affirmative determination in sunset review 日落复审肯定性终裁	US ITC News Release 13-054, dated 18-6-2013 2013年6月18日, 美国国际贸易 委员会发布第13-054号新闻
Sodium nitrate 硝酸钠	India 印度	ADD investigation initiated 发起反倾销调查	Dated 5-6-2013 2013年6月5日
Sodium Perchlorate 高氯酸钠	India 印度	Definitive anti-dumping duty recommended 建议征收最终反倾销税	Notification No. 14/10/2012- DGAD, dated 26-6-2013 2013年6月26日, 通知第 14/10/2012-DGAD
Stainless steel fasteners and parts 不锈钢紧固件及其配件	EU 欧盟	ADD - Initiation of partial interim review 发起反倾销部分期中复审	EU 2013/C 160/03, dated 6-6-2013 2013年6月6日, 欧盟第2013/C 160/03
Steel concrete reinforcing bar (rebar) 混凝土用钢筋	USA 美国	Affirmative determination in sunset review 日落复审肯定性裁决	US ITC News Release 13-053, dated 13-6-2013 2013年6月13日, 美国国际贸易委员会发布公告
Steel wire 钢铁丝	Columbia 哥伦比亚	ADD investigation initiated 发起反倾销调查	Dated 17-6-2013 2013年6月17日, 哥伦比亚贸工 部外贸司第0136号决议
Tungsten electrodes 钨电极	EU 欧盟	Definitive ADD imposed 征收最终反倾销税	Council Implementing Regula- tion (EU) No. 508/2013, dated 29-5-2013 2013年5月29日, 欧盟委员会第 508/2013号执行规定
Tyres for buses or trucks 大客车或货运机动车 径向和常规轮胎	Columbia 哥伦比亚	Definitive ADD imposed 征收最终反倾销税	Dated 12-6-2013 2013年6月12日, 哥伦比亚贸 工部外贸司第0124号决议
USB Flash Drives USB闪存驱动器	India 印度	ADD investigation initiated 发起反倾销调查	Notification No. 14/22/2012- DGAD, dated 21-6-2013 2013年6月21日, 通知第 14/22/2012-DGAD
Xanthan gum 黄原胶	USA 美国	Affirmative determination of threat of material injury 肯定性实质损害威胁裁定	US ITC News Release 13-057, dated 20-6-2013 2013年6月20日, 美国国际贸易 委员会发布第13-057号新闻

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知文号及日期
Zinc Coated (Galvanised) Steel and Aluminium Zinc Coated Steel 镀锌板和镀铝锌板	Australia 澳大利亚	Countervailing duty investigation partly terminated 终止反补贴调查	Australian Customs Dumping Notice No. 2013/50, dated 17-6-2013 2013年6月17日, 澳大利亚海关 倾销通知第2013/50号
Zinc Oxide 氧化锌	India 印度	Sunset review recommends continuation of ADD 日落复审建议继续征收反倾销税	Notification No. 15/14/2011- DGAD, dated 25-6-2013 2013年6月25日, 通知第15/14/2011-DGAD

Trade remedy actions by China

中国采取的贸易救济行动

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知文号及日期
Acetone 丙酮	Japan Singapore Korea RP Chinese Taipei 日本、新加坡、 韩国、台湾	Sunset review investigation initiated 发起反倾销日落复审	MOFCOM Announcement No.35 of 2013, dated 7-6-2013 2013年6月7日, 商务部公告 2013年第35号
Sulfamethoxazol 磺胺甲噁唑	India 印度	Definitive ADD imposed 征收最终反倾销税	MOFCOM Announcement No.38 of 2013, dated 14-6-2013 2013年6月14日, 商务部公告 2013年第44号
Toluidine 甲苯胺	EU 欧盟	Definitive ADD imposed 征收最终反倾销税	MOFCOM Announcement No.44 of 2013, dated 27-6-2013 2013年6月27日, 商务部公告 2013年第44号
Wines 葡萄酒	EU 欧盟	Initiation of anti-dumping duty and Countervailing duty investigations 发起反倾销和反补贴调查	MOFCOM Announcement Nos.36 & 37 of 2013, both dated 1-7-2013 2013年7月1日, 商务部公告 2013年第36号和第37号

WTO News 世贸组织新闻

根据印度尼西亚和巴拿马的请求成立争端解决机构专家组

2013年6月25日，在印度尼西亚第二次请求后，世贸组织贸易争端解决机构成立专家组，审查有关“欧盟-对从印度尼西亚进口的某些脂肪醇的反倾销措施”的争议。印度尼西亚认为欧盟采取的措施不符合反倾销协定第2.3、2.4、3.1、3.5、5.8、9.2和9.4条以及《1994年关贸总协定》第10.3(a)条。因为欧盟未能将印尼出口商与有关联的新加坡销售办事处作为一个经济实体与它们关联的生产者/出口商并且没有对印度尼西亚出口商的出口价格做调整，以反映新加坡销售办事处的销售费用以及支付给关联新加坡销售办事处的佣金。印度尼西亚也认为欧盟不恰当地从国内同类产品排除了“分支”脂肪醇。印度、韩国和美国对参与专家组程序保留他们的第三方权利。

同一天，争端解决机构根据巴拿马的请求也设立了一个专家组，审查“阿根廷-有关的货物和服务贸易的措施”的争端。根据磋商文件，巴拿马称阿根廷在支付利息方面对推定的净利润或对外国债权人的报酬根据其居住国制定了不同的比例，从而导致不同的税务负担和相同金额情况下的较差待遇。巴拿马还称阿根廷对与交易另一方在一些指定国家的交易估值存在歧视并且依据转让定价方法，导致巨大的成本。这些措施被认为不符合服务与贸易总协定第2.1、11、16和17条以及关贸总协定的第1.1、3.2和3.4条。澳大利亚、中国、

厄瓜多尔、欧盟、危地马拉、洪都拉斯、印度和美国作为第三方参与该争端。

欧盟请求与中国进行磋商

2013年6月13日，欧盟请求就中国对从欧盟进口的某些高性能不锈钢无缝管征收反倾销税一事与中国进行磋商。欧盟认为中国的反倾销税认定违反了关贸总协定第六条以及反倾销协议第1、2.2、3.1、3.2、3.3、3.4、3.5、6.4、6.5、6.7、6.8、6.9、7.4和12.2条，因为中国没有根据记录 and 实际数据来确定生产成本和期间费用，从而未能对出口价格和正常价值进行公平比较以确立倾销幅度的存在。欧盟还指称中国的损害认定不是基于积极证据。日本已经针对同一产品对中国发起了一个类似的案件(DS454)，并已成立争端解决机构专家组来审理此案。欧盟与印度、韩国、俄罗斯、美国、土耳其和沙特阿拉伯是后一争端案的第三方。

俄罗斯在政府采购委员会获得观察员地位

政府采购委员会于2013年5月29日授予俄罗斯观察员地位，为俄罗斯联邦作为完整一方最终加入政府采购协议(GPA)铺平了道路。作为加入世贸组织协议的一部分，其他六个国家-克罗地亚、马其顿、蒙古、黑山、沙特阿拉伯和塔吉克斯坦也是致力于加入GPA。印度也享有本协定的观察员地位。

News Nuggets 新闻精华

中国对世贸组织贸易救济措施的实施发布草案

中国商务部发布了一项关于执行世贸组织贸易救济措施和争端解决的政策草案。如果世贸组织的争端解决机构请求中国的反倾销、反补贴或保障措施必须符合世贸组织的协定，那么该草案将赋予中国当局根据相关法律的法律依据或决定采取其他适当的措施的方式行使法定的

自由裁量权来建议或决定修改或取消此类反倾销措施、反补贴措施或保障措施。据报道，这是负责处理与贸易有关事项的商务部第一次发布这样的草案法规。

欧洲法院支持印度-欧盟自由贸易协定文件不向公众公开

在跨太平洋贸易协议或印度-欧盟自由贸易协定

中，被谈论的最多的一直是国家之间贸易交易的保密问题。上个月，欧洲法院的常设法院也维持在贸易交易或谈判中的这种保密。法院于6月7日认为对在咨询委员会的谈判中作为专家参与的本地公司或贸易组织授予访问某些文档的权利，不能被其他组织作为一种工具来使用，以通过类似的方式访问所有此类文件。法院认为向贸易组织和公司提供这些文件

的唯一的目的是，是使所有与会者能够履行其作为委员会的顾问的角色并且申请人缺乏这种地位。组织在国际谈判的重要性或作为一个登记在委员会利益集团的组织的可靠性的争论没有被接受。上诉人争辩说与商业协会和跨国公司共享文件可以被视为"公共传播"，并且材料因而失去其保密的性质。

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