

amicus

印度新德里 Lakshmikumaran & Sridharan
律师事务所电子版新闻简报

2016年6月-第61期

Fifth Anniversary Issue 五周年刊

国际贸易 法律月刊

内容

文章

欧盟的贸易救济工具陷入僵局? 2

贸易救济新闻

对中国采取的贸易救济行动 5

中国采取的贸易救济行动 10

世贸组织新闻

判决理由 12

June
2016

Article 文章

EU trade defence instruments at a deadlock?

欧盟的贸易救济工具陷入僵局？

By **Edouard Descotis**

The recent developments in the global steel crisis and the distinct features of the European Union (hereinafter the 'EU') have underlined the challenges currently faced by the EU trade policy. The EU is an economic and political union of 28 Member States with a specific institutional and decision-making framework. The entire trade policy has been delegated by the Member States to the European Commission and Member States can no longer impose trade defence on their own. However, any modification of the trade defence instruments necessarily involves the three institutions responsible for the decision-making. The European Commission which represents the general interest has the power to make legislative proposals. The European Council, which represents the interest of the Member States, and the European Parliament, which represents the interest of the European people, both act as co-legislators and can amend the Commission's proposal.

The recent market disturbances caused by the overcapacity, low prices and the surge in imports of steel products originating in China has resulted in escalating tensions between trading partners. EU steel producers and Member States' governments have requested the European Commission to protect the EU industry. However, the imposition of trade remedies has brought up two challenges

facing the EU trade defence instruments: the market-economy status for China and the modernization of the trade defence instruments.

To grant or not to grant market economy status to China

China joined the World Trade Organization in 2001. However, the full benefit of the WTO membership has been differed to the end of 2016 for anti-dumping investigations. As a general rule, the dumping margin is computed by comparing the export price of a product with the domestic price or costs of the product in the exporting country. However, the specific market conditions prevailing in non-market economy, characterized by massive state intervention, usually lead to artificially low prices. These prices do not reflect the normal market conditions and hence cannot be taken into account for determining the dumping margin. WTO rules allow investigating authorities to resort to data from another market (the so-called analogue country) or the data of the domestic industry duly adjusted to determine the normal value.

China's Protocol of Accession to the WTO (hereinafter the 'Protocol') contains a specific provision on the market economy treatment. According to Article 15(a)(ii) of the Protocol, WTO members may use a methodology that is not based in a strict comparison between the

export price and the domestic price. However, this provision is set to expire on 11 December 2016.¹

It is broadly accepted by scholars and practitioners that Article 15 of China's Protocol of Accession to the WTO was poorly drafted. As a result, the outcome of the expiry of Article 15(a)(ii) is not clear and contradicting views exist. The effects of Article 15 of the Protocol will not be analyzed here. Rather, the options available to the EU to treat China as a market economy will be explored.

Unlike the Indian legislation, the EU anti-dumping Basic Regulation specifically mentions China as being a non-market economy.² Therefore, any decision to grant market economy status to China will require an amendment of the Basic Regulation to withdraw China from the list of non-market economies. Due to the distinct process of the EU decision-making, treating China as a market economy in anti-dumping investigations appears very difficult for the following reasons. First, the European Commission is still considering whether to grant market-economy status to China. Second, the European Parliament, one of the co-legislators, voted a non-binding resolution on 12 May 2016 urging the European Commission to deny market economy status

to Beijing.³ This resolution was voted by an overwhelming majority and clearly indicates the European Parliament's position against any favorable treatment for China. Last, but not least, Member States are divided on how to treat China. This question is currently very high on the EU agenda and lobbying efforts from various industries are expected to increase.

However, one should not exclude a compromise in the form of a 'yes, but' option. The European Parliament and the Member States could agree on the market-economy status for Beijing in exchange of the introduction of new rules for determining the dumping margin in order to address the specific market conditions (without specifically targeting China). Back in 2003, and before Russia joined the WTO, the EU modified the Basic Regulation by adding a new paragraph to Article 2(5) of the Basic Regulation to allow the European Commission to disregard the costs associated with the production and sale of the product under investigation if they are not reasonably reflected in the records.⁴ The objective was to offer the European Commission with the possibility to reject the low prices of raw materials (e.g. natural gas and electricity) paid by Russian companies due to the market distortions and government

¹ Article 15(d) of China's Accession Protocol to the WTO.

² See Article 7(b) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community, OJ 2009 L 343.

³ See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2016-0223>

⁴ See Council Regulation (EC) No 1972/2002 of 5 November 2002 amending Regulation (EC) No 384/96 on the protection against dumped imports from countries not members of the European Community, OJ 2002 L 305.

intervention in Russia.⁵ This provision has been applied in numerous investigations against Russia, Argentina and Indonesia. However, in *EU – Anti-dumping measures on biodiesel from Argentina*, a WTO panel recently ruled that the European Commission acted inconsistently with Article 2.2.1.1 of the WTO Anti-Dumping Agreement by failing to calculate the cost of production of biodiesel on the basis of the records kept by the producers.⁶ This ruling gave a serious blow to the use of Article 2(5), second paragraph, of the Basic Regulation and could lead the EU to refrain from introducing any new provision. Another possibility would be to negotiate with China the grant of full market economy treatment for certain Chinese sectors in exchange for limited protection for specific EU industry. However, the option seems unrealistic given the tough stand of China vis-à-vis the automatic grant of market economy status.

The long and difficult overhaul of EU trade defence

In addition to the uncertainty regarding the treatment of China, the EU also appears to be mired in the modernization of its trade defence instruments. In April 2013, the European Commission published a proposal to reform the trade defence instruments. The objective was to adapt the instruments to economic environment changes and to

improve the transparency, effectiveness and enforcement. The European Commission made groundbreaking proposals. For instance, it proposed to provide interested parties with a pre-disclosure, limited in scope, two weeks before the imposition of provisional measures. The underlying idea was to avoid factual errors or calculation mistakes and to provide information to interested parties as to whether their business will be affected by provisional measures. Besides, the European Commission suggested not to levy duty on the subject goods shipped within the two-week period. The main proposal concerned the so-called lesser duty rule according to which investigating authorities may impose duties below the dumping margin if such lesser duty is sufficient to remove the injury caused to the domestic industry. The lesser duty is a ‘WTO-plus’ requirement that goes beyond the WTO rules and is currently used by several WTO members including the EU and India. The European Commission’s proposal was to refuse the application of the lesser duty rule in anti-subsidy investigations and where structural raw material distortions is found to exist in anti-dumping investigations.

The proposal was extensively modified by the European Parliament and new restrictions to the lesser duty rule were added. The European Parliament proposed not to apply

⁵ E. Borovikov and B. Evtimov, ‘EC’s Treatment of Non-Market Economies in Anti-Dumping Law: Its History: An Evolving Disregard of International Trade Rules; Its State of Play: Inconsistent with the GATT/WTO?’, *Revue des Affaires Européennes*, 2002, pp. 875-896.

⁶ WTO Panel Report, *EU – Anti-dumping measures on biodiesel from Argentina*, DS473.

the lesser duty rule in three additional instances: when the exporting country has an insufficient level of social and environmental standards (no ratification of core International Labor Organization conventions or/and Multilateral Environmental Agreements to which the EU is party), when the complainants are largely SMEs and when subsidies are found to exist in anti-dumping cases. Despite several round of discussions, the Member States have not been able to reach an agreement at the European Council. Again, the fate of the trade defence modernization is affected by the competing interests of the EU institutions and the Members States.

Conclusion

The question of granting market economy status to China and the ongoing modernization of the trade defence instruments have both

been affected by the steel crisis that has divided the Member States into two camps. A group of Member States headed by the Scandinavian countries and the UK is opposed to any restriction to the lesser duty rule and supports free trade with China. Another group under the leadership of France, Italy and Spain claims that granting China full membership in the WTO could have disastrous consequences for the EU's economy. The EU appears to be mired in a long-running standoff that reflects its north-south split on trade. However, the deadline for deciding on China's market economy status is looming and this could force the EU to take a position that is, anyway, likely to be challenged before the WTO by China.

[The author is a Principal Associate, International Trade Practice, Lakshmikumaran & Sridharan, Delhi]

Trade Remedy News 贸易救济新闻

Trade remedy measures 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 通知号及日期
1,1,1,2-Tetrafluoroethane or R-134a 1,1,1,2-四氟乙烷	India 印度	Anti-dumping duty recommended to be continued after sunset review 日落复审后建议继续征收反倾销税	F.No. 5/23/2014-DGAD, dated 30-5-2016 2016年5月30日, 第5/23/2014-DGAD号公告
Aluminium foil 铝箔	EU 欧盟	ADD circumvention investigation initiated in imports of slightly modified item 就微小改变发起反倾销反规避调查	Commission Implementing Regulation (EU) 2016/865, dated 31-5-2016 2016年5月31日, 欧盟委员会执行公告2016/865
Automobile glass 汽车玻璃	Brazil 巴西	ADD affirmative preliminary finding 反倾销肯定性初裁	MOFCOM news, dated 19-5-2016 2016年5月19日, 商务部新闻

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知号及日期
Canned mushrooms 罐装伞菇	Mexico 墨西哥	ADD sunset review initiated 发起反倾销日落复审	MOFCOM news, dated 17-5-2016 2016年5月17日, 商务部新闻
Cased Pencils 盒装铅笔	USA 美国	ADD sunset review initiated 发起反倾销日落复审调查	81 FR 34974 [A-570-827], dated 1-6-2016 2016年6月1日, 81 FR 34974 [A-570-827]
Certain iron mechanical transfer drive components 铁制机械传动件	USA 美国	ADD – affirmative preliminary finding 反倾销-肯定性初裁	MOFCOM news, dated 2-6-2016 2016年6月2日, 商务部新闻
Citric acid 柠檬酸	EU 欧盟	ADD - Acceptance of undertaking for two exporting producers, withdrawn 反倾销-撤销两家出口商的价格承诺	Commission Implementing Regulation (EU) 2016/704, dated 11-5-2016 2016年5月11日, 欧盟委员会执行公告2016/704
Coated fine paper 铜版纸	EU 欧盟	ADD and CVD – Initiation of sunset review 反倾销和反补贴-发起日落复审调查	2016/C 172/06 and 2016/C 172/07, both dated 13-5-2016 2016年5月13日, 2016/C 172/06和2016/C 172/07
Compound wood floor 复合木地板	USA 美国	ADD – new shipper review terminated 反倾销-初步决定取消新出口 商复审	MOFCOM news, dated 30-5-2016 2016年5月30日, 商务部新闻
Concrete steel bar 混凝土钢筋	Malaysia 马来西亚	Safeguard investigation initiated 发起保障措施调查	MOFCOM news, dated 2-6-2016 2016年6月2日, 商务部新闻
Cold rolled/cold reduced flat steel products (specified) 冷轧平板产品	India 印度	ADD – Time extended to submit responses 反倾销-延期提交问卷回复	F.No.14/9/2016-DGAD, dated 31-5-2016 2016年5月31日, 第14/9/2016-DGAD号公告
Cold-rolled plate and coil 冷轧板卷	Malaysia 马来西亚	ADD affirmative final finding 反倾销肯定性终裁	MOFCOM news, dated 31-5-2016 2016年5月31日, 商务部新闻

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知号及日期
Cold rolled steel flat products 冷轧钢板	USA 美国	CVD- affirmative final finding and Final Affirmative Critical Circumstances Determination 反补贴-肯定性最终裁决并且裁决存在紧急情况	MOFCOM news, dated 25-5-2016 2016年5月25日, 商务部新闻
Corrosion-Resistant Steel Products 耐腐蚀钢板	USA 美国	CVD – Final determination of countervailing subsidies 反补贴-做出肯定性裁决	81 FR 35308 [C-570-027], dated 2-6-2016 2016年6月2日, 81 FR 35308 [C-570-027]
Corrosion-Resistant Steel Products 耐腐蚀钢板	USA 美国	ADD - Final Determination of Sales at Less Than Fair Value, and Final Affirmative Critical Circumstances Determination, in Part 反补贴-最终裁决低于正常价值销售并且肯定存在紧急情况	81 FR 35316 [A-570-026], dated 2-6-2016 2016年6月2日, 81 FR 35316 [A-570-026]
Coumarin 香豆素	India 印度	Definitive anti-dumping duty continued after sunset review 日落复审后征收最终反倾销税	20/2016-Cus. (ADD), dated 27-5-2016 2016年5月27日, 20/2016-Cus. (ADD)
Deep Drawn Stainless Steel Sinks 不锈钢拉制深水槽	Australia 澳大利亚	ADD – Review initiated in respect of specified company 反倾销-就个别公司发起复审	Anti-dumping Notice No. 2016/53, dated 16-5-2016 2016年5月16日, 反倾销公告第2016/53号
Electric fan 电扇	Argentina 阿根廷	Anti-dumping investigation initiated 发起反倾销调查	MOFCOM news, dated 2-6-2016 2016年6月2日, 商务部新闻
Foamed plastic 泡沫塑料	Ukraine 乌克兰	Safeguard measures imposed 实施保障措施	MOFCOM news, dated 3-6-2016 2016年6月3日, 商务部新闻
Fresh garlic 新鲜大蒜	USA 美国	ADD – new shipper review terminated 反倾销-初步决定取消新出口商复审	MOFCOM news, dated 26-5-2016 2016年5月26日, 商务部新闻
Grinding Balls 研磨球	Australia 澳大利亚	CVD – Part investigation terminated 反补贴-终止部分调查	Anti-dumping Notice No. 2016/58, dated 6-6-2016 2016年6月6日, 反倾销公告第2016/58号

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知号及日期
Hollow Structural Sections 空心型材	Australia 澳大利亚	ADD – Negative Findings in exemption inquiry 反倾销-否定性豁免调查	Anti-dumping Notice No. 2016/52, dated 13-5-2016 2016年5月13日 , 反倾销公告第2016/52号
Hot-rolled flat products (specified) 热轧平板	India 印度	ADD – Time extended to submit responses 反倾销-延期提交问卷回复	F.No.14/9/2016-DGAD, dated 31-5-2016 2016年5月31日 , 第14/9/2016-DGAD号
Hot-rolled flat products of iron, non-alloy or other alloy steel 热轧平板产品	EU 欧盟	CVD investigation initiated 发起反补贴调查	2016/C 172/08, dated 13-5-2016 2016年5月13日 , 2016/C 172/08
Large Residential Washers 家用大型洗衣机	USA 美国	ADD - Postponement of Preliminary Determination 反倾销-延期发布初裁	81 FR 29531 [A-570-033], dated 12-5-2016 2016年5月12日 , 81 FR 29531 [A-570-033]
Latex balloon 橡胶气球	Argentina 阿根廷	Anti-dumping investigation initiated 发起反倾销调查	MOFCOM news, dated 25-5-2016 2016年5月25日 , 商务部新闻
Melamine 三聚氰胺	EU 欧盟	ADD sunset review initiated 发起反倾销日落复审	2016/C 167/08, dated 11-5-2016 2016年5月11日 , 2016/C 167/08
Methyl Acetoacetate 乙酰乙酸甲酯	India 印度	Definitive anti-dumping duty imposed 征收最终反倾销税	22/2016-Cus. (ADD), dated 31-5-2016 2016年5月31日 , 22/2016-Cus. (ADD)
Methylene Chloride / Dichloromethane 二氯甲烷	India 印度	Definitive anti-dumping duty imposed 征收最终反倾销税	21/2016-Cus. (ADD), dated 31-5-2016 2016年5月31日 , 21/2016-Cus. (ADD)
Paper Clips 回形针	USA 美国	ADD sunset review initiated 发起反倾销日落复审	81 FR 34974 [A-570-826], dated 1-6-2016 2016年6月1日 , 81 FR 34974 [A-570-826]

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知号及日期
Petroleum Wax Candles 石油蜡烛	USA 美国	ADD Order continued after sunset review 日落复审继续反倾销征税令	81 FR 33466 [A-570-504], dated 26-5-2016 2016年5月26日 , 81 FR 33466 [A-570-504]
Polyster staple fiber 聚酯短纤维	Indonesia 印度尼西亚	ADD Order continued after sunset review 日落复审继续反倾销征税令	MOFCOM news, dated 31-5-2016 2016年5月31日 , 商务部新闻
Polyester textured yarn 聚酯变形纱线	Argentina 阿根廷	ADD – Definitive duty imposed after sunset review 反倾销日落复审征收最终反 倾销税	MOFCOM news, dated 19-5-2016 2016年5月19日 , 商务部新闻
Portland Cement Type I, II and its Clinker 硅酸盐水泥及其熟料	Taiwan 台湾	ADD sunset review initiated 发起反倾销日落复审	MOFCOM news, dated 30-5-2016 2016年5月30日 , 商务部新闻
Ring binder mechanisms 活页夹	EU 欧盟	ADD – Definitive duty imposed after sunset review 反倾销日落复审征收最终反倾 销税	Commission Implementing Regulation (EU) 2016/703, dated 11-5-2016 2015年5月11日 , 欧盟委员会执行公告第 2016/703号
Rutile titanium dioxide 金红石型钛白粉	Korea RP 韩国	ADD affirmative preliminary finding 反倾销肯定性初裁	MOFCOM news, dated 31-5-2016 2016年5月31日 , 商务部新闻
Seamless tubes, pipes and hollow profiles of Iron, alloy or non- alloy steel, whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD 外径不超过355.6毫米 或14寸的无缝钢管	India 印度	Provisional anti-dumping duty imposed 征收临时反倾销税	18/2016-Cus. (ADD), dated 17-5-2016 2016年5月17日 , 18/2016-Cus. (ADD)
Sodium Chlorate 氯化钠	India 印度	Anti-dumping investigation initiated 发起反倾销调查	FNo.14/13/2015-DGAD, dated 12-5-2016 2016年5月12日 , 第14/13/2015-DGAD号公告

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知号及日期
Steel Reinforcing Bar and Rod in Coils 钢筋和盘条	Australia 澳大利亚	CVD - Time granted to issue Statement of Essential Facts, extended 反补贴-延期发布重要事实披露	Anti-dumping Notice No. 2016/59, dated 6-6-2016 2016年6月6日， 反倾销公告第2016/59号
Steel wire rod and twisted steel bar 钢丝线材和螺纹钢筋卷	Malaysia 马来西亚	Safeguard investigation initiated 发起保障措施调查	MOFCOM news, dated 2-6-2016 2016年6月2日， 商务部新闻
Truck and Bus Tires 卡车胎	USA 美国	ADD - Postponement of Preliminary Determination 反倾销-延期发布临时裁决	81 FR 35332 [A-570-040], dated 2-6-2016 2016年6月2日， 81 FR 35332 [A-570-040]
Tires for Bus and LCV 客车和轻型卡车轮胎	USA 美国	ADD – new shipper review initiated 反倾销-发起新出口商复审	MOFCOM news, dated 3-6-2016 2016年6月3日， 商务部新闻
Wall tile and floor tile 墙砖和地砖	Mexico 墨西哥	ADD affirmative preliminary finding 反倾销肯定性初裁	MOFCOM news, dated 23-5-2016 2016年5月23日， 商务部新闻
Wire rod 盘条	Columbia 哥伦比亚	ADD affirmative final finding 反倾销肯定性终裁	MOFCOM news, dated 30-5-2016 2016年5月30日， 商务部新闻
Woven fabric with a content of combed wool 羊毛织物	Argentina 阿根廷	Anti-dumping investigation initiated 发起反倾销调查	MOFCOM news, dated 31-5-2016 2016年5月31日， 商务部新闻

Trade remedy measures by China

中国采取的贸易救济措施

Product 产品	Country 国家	Measures 措施	Notification No. and date 通知号及日期
Neoprene 氯丁橡胶	Japan, USA and EU 日本、美国和欧盟	ADD sunset review initiated 发起反倾销日落复审	MOFCOM Announcement No. 18 of 2016, dated 11-5-2016 5月11日， 商务部公告2016年第18号

WTO News 世贸组织新闻

欧盟就与阿根廷的生物柴油争端案提起上诉

欧盟就与阿根廷对欧盟实施的生物柴油反倾销措施争端案提交上诉通知 (DS473)。在这一争端中，阿根廷对欧盟就拒绝或调整生产商/出口商的某些成本数据的做法提出质疑，欧盟认为这些成本反映的价格“不正常或人为偏低”，因为价格受到失真的影响。2016年3月29日，专家组支持阿根廷的主张。2016年5月20日的上诉通知书对专家组的认定提出上诉，认为上述实践以及在超过倾销幅度范围征收进口关税的专家组认定是错误的。

吞拿鱼争端-墨西哥请求就第二次执行专家组方面与美国磋商

2016年5月13日，墨西哥通知世贸组织其请求与美国就美国指控的不执行争端解决机构在吞拿鱼产品的进口、销售争端案 (DS381) 中建议和裁决进行磋商。该请求涉及到美国在2016年3月发布的美国海豚安全标签。值得注意的是这是美国在2016年5月9日第二次请求根据21.5条成立“合规专家组”，以考虑美国在这一争端案中根据争端解决机构建议所采取的措施，上诉机构在其早期的合规报告中认为，美国没有将金枪鱼产品引入海豚安全标签制度，因此不符合争端解决机构的建议和裁决。墨西哥方面曾在今年3月请求争端解决机构授权中止减让，此事被提交争端解决机构就暂停进行仲裁。

中国与美国就反补贴争端案的执行进行磋商

2016年5月13日中国通知世贸组织其与美国就美国涉嫌违反有关对某些中国产品实施反补贴税争端案 (DS437) 中争端解决机构做出的建议和裁决进行磋商。原本的争端案中，上诉机构在2014年12月18日的裁决中认定美国就反补贴税认定方面违反了反补贴协议 (SCM) 中的诸多义务。该争端案包括了美国商务部在2007年至2012年期间发起的17项反补贴调查，在这些调查中，美国政府“推定”所有中国的国有企业属于反补贴协议第1.1条中规定的公共机构。

美国寻求就白羽鸡肉争端案的的执行专家组与中国进行磋商

2016年5月10日，美国请求与中国进行磋商，美国认为中国未能遵守争端解决机构在中国对来自美国的白羽肉鸡产品的反倾销和反补贴税的争议案 (DS427) 中做出的建议和裁决。争端解决机构曾在2013年9月25日采纳了专家组于2013年8月2日发布的专家组报告，该报告中专家组认定中国商务部采用的成本分配方法与反倾销协议第2.2.1.1不一致，因为中国调查机关将加工成本分配到涉案产品中，而实际上这些成本与涉案产品的生产和销售相关。中国在2014年7月重新确定了美国涉案产品的关税，但是美国认为该裁决仍然不符

合世贸组织的协议。

菲律宾与泰国就香烟争端案执行复审进行磋商

在另一个上个月发起的执行解决磋商中，菲律宾在2016年5月4日要求与泰国进行磋商，针对的是根据争端解决谅解协议

第21.5条对泰国根据上诉机构报告在2011年6月发布的泰国-对来自菲律宾的香烟的海关和财政措施争端案 (DS371) 的执行情况。专家组和上诉机构曾认定泰国的措施与1994年关税和贸易总协定的各项规则和海关估价协议不一致。

Ratio Decidendi 判决理由

反倾销税-构造正常价值

美国国际贸易法院支持商务部关于降级非优质管道 (被视为副产品) 的价值按照净回收成本。法院认为在该裁决中商务部已经遵循了其实践的做法，对降级的产品，是不适合被作为涉案产品用在相同的条件下。法院在这方面同意了商务部的认定，出口商没有包括非优质管道正常弥补的成本，因此如果不调整此差异，成本将被夸大。法院也指出，非优质管道的成本按照净回收价格与一般公认的会计原则 (GAAP) 一致，因为这避免了资产负债表中库存的过分夸大，会计准则不允许企业的库存产品价值高于市场价格。

美国国际贸易法院也允许调整增值税，并指出商务部不要求被告在调查期间或调查期外对每一项增值税费用获得返还。法院认为调查机关唯一的要求是证明出口获得的增值税退税。法院发还重审涉及到商务部拒绝退税调整的问题，因为法院对于要求在销售时对于退税的条款是知情的这一要求不满意，认为这违反了最近的法院裁决。 [Tension Steel Industries Co. Ltd.

诉美国 - 2016年5月16日，美国国际贸易法院判决简报16-51]

反倾销税-涉案产品

观察到当受到争议的欧盟法规生效时，德国竞争监管机构的调查仍在进行中，因此调查机构无权在损害分析时考虑该因素，欧盟法院驳回了中国出口商的主张认为常设法院错误地减轻调查机关对竞争影响分析的责任。在这方面，法院还驳回了另一主张，即常设法院应当明确欧盟生产商的身份，在反倾销调查中作为样本成为国内产业的一部分，以确定是否有一些生产商也正在接受德国竞争监管机构的调查。欧盟法院维持了常设法院在微观经济指标，如股票，销售价格，盈利能力，资本流动，工资和生产成本方面的裁决。

争议涉及在来自于中国的陶瓷餐具和厨具反倾销案中将普通聚酯涂层陶瓷杯的产品包含在倾销调查范围中。法院的观点是常设法院并没有不合理地加重上诉人的举证负担，因为充分证明了陶瓷杯与在欧盟生产的其他产品直接竞争。 [Photo USA Electronic Graphic Inc. 诉欧盟 - 2016年6月2日，欧盟法院裁决，案件号C-31/15 P]

NEW DELHI

5 Link Road, Jangpura Extension,
Opp. Jangpura Metro Station,
New Delhi 110014
Phone : +91-11-4129 9811

B-6/10, Safdarjung Enclave
New Delhi - 110 029
Phone : +91-11-4129 9900
E-mail : lsdel@lakshmisri.com

MUMBAI

2nd floor, B&C Wing,
Cnergy IT Park,
Appa Saheb Marathe Marg,
(Near Century Bazar)Prabhadevi,
Mumbai - 400025.
Phone : +91-22-24392500
E-mail : lsbom@lakshmisri.com

CHENNAI

2, Wallace Garden, 2nd Street
Chennai - 600 006
Phone : +91-44-2833 4700
E-mail : lsmds@lakshmisri.com

BENGALURU

4th floor, World Trade Center
Brigade Gateway Campus
26/1, Dr. Rajkumar Road,
Malleswaram West, Bangalore-560 055.
Ph: +91(80) 49331800
Fax:+91(80) 49331899
E-mail : lsblr@lakshmisri.com

HYDERABAD

'Hastigiri', 5-9-163, Chapel Road
Opp. Methodist Church,
Nampally
Hyderabad - 500 001
Phone : +91-40-2323 4924
E-mail : lshyd@lakshmisri.com

AHMEDABAD

B-334, SAKAR-VII,
Nehru Bridge Corner,
Ashram Road,
Ahmedabad - 380 009
Phone : +91-79-4001 4500
E-mail : lsahd@lakshmisri.com

PUNE

607-609, Nucleus, 1 Church Road,
Camp, Pune - 411 001.
Phone : +91-20-6680 1900
E-mail : lspune@lakshmisri.com

KOLKATA

2nd Floor, Kanak Building
41, Chowringhee Road,
Kolkatta-700071
Phone : +91-33-4005 5570
E-mail : lskolkata@lakshmisri.com

CHANDIGARH

1st Floor, SCO No. 59,
Sector 26,
Chandigarh - 160026
Phone : +91-172-4921700
E-mail : lschd@lakshmisri.com

GURGAON

OS2 & OS3, 5th floor,
Corporate Office Tower,
Ambience Island,
Sector 25-A,
Gurgaon- 122001
Phone: +91- 0124 - 477 1300
Email: lsgurgaon@lakshmisri.com

INTERNATIONAL OFFICES :

LONDON

Lakshmikumaran & Sridharan Attorneys (U.K.) LLP
Octagon Point,
St. Paul's,
London EC2V 6AA
Phone : +44 20 3823 2165
E-mail : lslondon@lakshmisri.com

GENEVA

Lakshmikumaran & Sridharan SARL
35-37, Giuseppe Motta
1202 Geneva
Phone : +41-22-919-04-30
Fax: +41-22-919-04-31
E-mail : lsgeneva@lakshmisri.com

免责声明： 国际贸易法律月刊旨在提供信息，而不是为了提出建议或法律意见。我们提供信息的目的是为了建立律师-客户关系，也不是为了宣传或招揽业务。Lakshmikumaran&Sridharan律师事务所没有企图通过此新闻简报宣传其服务或招揽业务。Lakshmikumaran&Sridharan律师事务所和其律师对在本新闻简报中出现的任何错误或疏漏或者对基于该内容采取的任何行动不承担任何责任。本新闻简报的文章中所表达的观点系作者个人观点。主动向Lakshmikumaran&Sridharan发出的邮件或信息将不被采取保密措施并且不构成与Lakshmikumaran&Sridharan之间的律师-客户关系。本期所包含的新闻截至2016年6月9日。取消订阅邮件请发至 newsletter.itrade@lakshmisri.com

www.lakshmisri.com

www.addb.lakshmisri.com

www.lakshmisri.cn

www.lakshmisri.ch