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## Article 文章

# Indonesia - Iron or Steel Safeguards: Metallurgic jurisprudence on definition of a "Safeguard Measure"

## 印度尼西亚 - 钢铁保障措施：冶金法律体系对“保障措施”的定义

By Bhargav Mansatta and Jayant Raghu Ram

### Introduction

The Agreement on Safeguards (SGA) details the substantive and procedural provisions concerning the imposition of a safeguard measure. However, the conditions under which a safeguard measure can be implemented by a WTO Member are provided in Article XIX:1(a) of the GATT. Article XIX:1(a) permits a WTO Member to implement a safeguard measure if, as a result of unforeseen developments and of the effect of the obligations incurred under the GATT (including tariff concessions), any product is being imported into its territory in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic producers of the product in that territory.

In July 2014, Indonesia had imposed a "safeguard duty" on imports of iron and steel products ("**subject goods**"). Indonesia had however exempted 120 developing countries from the ambit of the safeguard duty, as required under Article 9.1 of the SGA.<sup>1</sup> It must be noted that Indonesia did not have tariff bindings on the subject goods in its Schedule of Concessions, i.e., there were no ceilings on the rate of duty that Indonesia could apply on imports of these subject goods.

<sup>1</sup> Article 9.1 of the SGA permits the Member imposing safeguard measures to exempt developing countries from the scope of application if import from these countries constitute less than 3% of the total volume of imports of the subject goods into the territory of such Member.

At the WTO, Vietnam and Chinese Taipei<sup>2</sup> contested the consistency of the safeguard investigation and the resulting duty with the SGA and also as being in violation of Article I (MFN obligation)<sup>3</sup> of the GATT.

### Assessment of the Panel

Article XIX:1(a) of the GATT states:

"If, as a result of unforeseen developments and of the *effect of the obligations incurred* by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to *suspend the obligation in whole or in part or to withdraw or modify the concession.*"

In its analysis, the panel noted that for the measure to constitute a safeguard measure, it had to violate a GATT obligation for the purpose of preventing or remedying injury. However, in the present case, since Indonesia did not have

<sup>2</sup> Viet Nam and Chinese Taipei were not exempt from the specific duty imposed by Indonesia.

<sup>3</sup> Article I of GATT prohibits a WTO Member from according treatment to the imports of goods from a WTO Member that is less favourable than that accorded to imports from other territories.

tariff bindings on the subject goods in its schedule of concessions, the specific duty imposed by Indonesia on imports of the subject goods, i.e., the "safeguard measure", did not suspend, withdraw, or modify Indonesia's obligations under GATT Article II. Thus, the panel concluded that the specific duty was not a safeguard measure.

The panel had examined Indonesia's argument that since the safeguard duty violated Indonesia's tariff obligations under its various free trade agreements (**FTA**), there was a violation of GATT Article XXIV. Article XXIV permits FTAs between WTO Members, which in turn prevent parties to FTAs from raising their bound tariffs under the FTAs. However, the panel rejected this argument holding that there was no such obligation in Article XXIV, and such obligations were instead governed by the applicable FTA.

In the absence of a violation of any GATT obligation, the panel rejected the characterization of the measure as a safeguard measure. The panel exercised judicial economy and desisted from making findings on merits under the SGA.

In support of its contention that the measure was a safeguard measure, Indonesia argued that the measure was imposed after conducting a safeguard investigation under its applicable safeguard framework. Further, Indonesia stated that it had made the necessary notifications under the SGA to the WTO's Safeguard Committee. However, the panel did not agree that compliance with these procedures would characterise the impugned measure as a safeguard measure.

The panel then held that the measure, i.e., the increase in specific/import duty on imports of the subject goods was a violation of GATT Article I:1, on account of Indonesia's exemption for developing countries from the applied duty.

Among other things, the panel also clarified that the absence of tariff bindings on a particular good did not mean that a WTO Member could not impose a safeguard measure. It clarified that, in such a circumstance, such a measure would have to be in the nature of a quota or minimum import price, as that would be in violation of the obligation under GATT Article XI to not impose quantitative restrictions on imports.<sup>4</sup>

### Concurrence by the Appellate Body

Before the Appellate Body (**AB**), Indonesia argued that the panel had gone beyond its brief by examining the characterization of the measure even though the parties had not disputed the same. The AB however rejected this argument and held that the panel was not only entitled, but rather, was obliged under DSU Article 11 to determine which covered agreement was applicable.

The AB also upheld the panel's findings concerning the characterization of the measure and agreed with the panel's reasonings.<sup>5</sup>

### Conclusion

A "safeguard measure" has to be one which violates a GATT obligation, and purpose of the violation should be for preventing or remedying injury to the domestic industry. There is no requirement to conduct a safeguard investigation (for the purpose of imposing a safeguard duty) into imports of a product on which there is no tariff binding. The implication of this decision is

<sup>4</sup> The SGA permits a Member to impose a safeguard measure in the form of a quota or a specific duty.

<sup>5</sup> In its report, the panel held that that violation of the GATT obligation for *such extent* and for *such time*, as may be necessary for preventing or remedying injury to the domestic industry, was part of the definition of a safeguard measure. However, the AB modified the panel's finding to hold that the **extent** and **duration** of such a measure was not was not relevant for determining whether the measure was a safeguard measure.

that where a country does not have tariff bindings, if the authority imposes a safeguard measure in the form of duties, it should *not exempt* developing countries. If, however, a country *does* intend to exempt developing countries, then the safeguard measure should be

in the form of a quota or any other quantitative restriction.

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## 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	Measure 措施	Notification No. and date 公告文号和日期
Aluminium products 铝型材	Lebanon 黎巴嫩	ADD affirmative preliminary finding 反倾销肯定性初裁	MOFCOM news, dated 22-11-2018 2018 年 11 月 22 日, 商务部新闻
Ammonium Nitrate 硝酸铵	Australia 澳大利亚	ADD affirmative preliminary finding 反倾销肯定性初裁	Anti-Dumping Notice No. 2018/166, dated 24-10-2018 2018 年 10 月 24 日, 反倾销公告第 2018/166 号
Carbon steel welded pipe 碳钢焊接钢管	Canada 加拿大	ADD and CVD – Expiry review – Statement of Reasons issued 反倾销和反补贴-期终复审-发布事实披露	Canada Border Service Agency CSWP1 2018 ER, dated 2-11-2018 2018 年 11 月 2 日, 加拿大边境服务署 CSWP1 2018 ER
Circular welded carbon, quality steel pipe 圆形焊接碳素钢管	USA 美国	ADD and CVD sunset review initiated 发起反倾销和反补贴复审	83 FR 54915 [A-570-910 and C-570-911], dated 1-11-2018 2018 年 11 月 1 日, 83 FR 54915 [A-570-910 和 C-570-911]
Ceramic flags and paving, hearth, floor, or wall tiles; whether or not on a backing; finishing ceramics 瓷砖	GCC 海合会	ADD investigation initiated 发起反倾销调查	MOFCOM news, dated 15-11-2018 2018 年 11 月 15 日, 商务部新闻

Product 产品	Country 国家	Measure 措施	Notification No. and date 公告文号和日期
Coated paper 铜版纸	Argentina 阿根廷	ADD – affirmative final finding after sunset review 反倾销-日落复审后肯定性终裁	MOFCOM news, dated 14-11-2018 2018 年 11 月 14 日, 商务部新闻
Cold-Rolled Steel 冷轧钢	Canada 加拿大	ADD and CVD – Final determinations issued 反倾销和反补贴 – 发布最终裁决	Canada Border Service Agency CRS 2018 IN, dated 15-11-2018 2018 年 11 月 15 日, 加拿大边境服务署 CRS 2018 IN,
Color coated sheet 彩涂板	Viet Nam 越南	ADD investigation initiated 发起反倾销调查	MOFCOM news, dated 30-10-2018 2018 年 10 月 30 日, 商务部新闻
Common Alloy Aluminum Sheet 铝合金薄板	USA 美国	ADD - Affirmative Final Determination of Sales at Less-Than-Fair Value 反倾销-肯定性终裁低于正常价值销售	83 FR 57421 [A-570-073], dated 15-11-2018 2018 年 11 月 15 日, 83 FR 57421 [A-570-073],
Common Alloy Aluminum Sheet 铝合金薄板	USA 美国	Final Affirmative Determination of countervailable subsidies 肯定性终裁存在补贴	83 FR 57427 [C-570-074], dated 15-11-2018 2018 年 11 月 15 日, 83 FR 57427 [C-570-074]
Copper Tube 铜管	Canada 加拿大	ADD and CVD – Initiation of expiry review 反倾销和反补贴 – 发起期终复审	Canada Border Service Agency CT 2018 ER, dated 21-11-2018 2018 年 11 月 21 日, 加拿大边境服务署 CT 2018 ER
Corrosion-Resistant Steel Sheet 耐腐蚀钢板	Canada 加拿大	ADD – Preliminary determination 反倾销初裁	Canada Border Service Agency COR 2018 IN, dated 8-11-2018 2018 年 11 月 8 日, 加拿大边境服务署 COR 2018 IN
Di Methyl Formamide 二甲基甲酰胺	India 印度	Final Findings issued recommending non-imposition of anti-dumping duties 最终裁决建议不征收反倾销税	F.No.6/37/2017-DGAD, dated 23-10-2018 2018 年 10 月 23 日, 第 6/37/2017-DGAD 号



Product 产品	Country 国家	Measure 措施	Notification No. and date 公告文号和日期
Diamond Sawblades and Parts 金刚石锯片及其部件	USA 美国	ADD - Preliminary Affirmative Determination of Circumvention 反倾销-初步肯定性裁决存在规避	83 FR 57425 [A-570-900], dated 15-11-2018 2018 年 11 月 15 日, 83 FR 57425 [A-570-900]
Forged Steel Fittings 锻钢件	USA 美国	Countervailing Duty Order issued 发布反补贴征税令	83 FR 60396 [C-570-068], dated 26-11-2018 2018 年 11 月 26 日, 83 FR 60396 [C-570-068]
Forged Steel Fittings 锻钢件	USA 美国	Antidumping Duty Orders issued 发布反倾销征税令	83 FR 60397 A-570-067], dated 26-11-2018 2018 年 11 月 26 日, 83 FR 60397 A-570-067]
Hollow Steel Sections 空心型钢	New Zealand 新西兰	ADD negative final finding 反倾销否定性终裁	MOFCOM news, dated 27-11-2018 2018 年 11 月 27 日, 商务部新闻
Large Diameter Welded Pipe 大口径焊管	USA 美国	Final Affirmative Determination of countervailing subsidies 反补贴肯定性终裁	83 FR 56804 [C-570-078], dated 14-11-2018 2018 年 11 月 14 日, 83 FR 56804 [C-570-078]
Lever arch mechanisms 杠杆拱形文件夹装置	EU 欧盟	Definitive anti-dumping duty imposed after sunset review 日落复审后征收反倾销税	Commission Implementing Regulation (EU) 2018/1684, dated 8-11-2018 2018 年 11 月 8 日, 欧盟委员会执行公告第 2018/1684 号
O-Acid 氧氟羧酸	India 印度	Anti-dumping Duty on O-Acid from China, imposed vide Notification No. 6/2018-Cus. (ADD) extended to imports of Ofloxacin Ester from China 对来自中国的氧氟羧酸征收反倾销税延伸至对来自中国的氧氟羧酸酯	F.No.7/14/2018-DGAD, dated 24-10-2018 and 55/2018-Cus., dated 15-11-2018 2018 年 10 月 24 日, 第 7/14/2018-DGAD 号, 和 2018 年 11 月 15 日第 55/2018-Cus. 号
Pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries 卡客车轮胎	EU 欧盟	Definitive Countervailing duty imposed 征收最终反补贴税	Commission Implementing Regulation (EU) 2018/1690, dated 9-11-2018 2018 年 11 月 9 日, 欧盟委员会执行公告第 2018/1690 号

Product 产品	Country 国家	Measure 措施	Notification No. and date 公告文号和日期
Polyester Textured Yarn 拉伸变形丝	USA 美国	ADD - Initiation of Less-Than-Fair-Value Investigations 反倾销-发起低于正常价值调查	83 FR 58223 [A-570-097], dated 19-11-2018 2018 年 11 月 19 日, 83 FR 58223 [A-570-097]
Polyester Textured Yarn 拉伸变形丝	USA 美国	CVD - Initiation of Countervailing Duty Investigations 反补贴-发起反补贴调查	83 FR 58232 [C-570-098], dated 19-11-2018 2018 年 11 月 19 日, 83 FR 58232 [C-570-098]
Polytetrafluoroethylene Resin 聚四氟乙烯树脂	USA 美国	Negative industrial injury final determination 否定性产业损害终裁	MOFCOM news, dated 30-10-2018 2018 年 10 月 30 日, 商务部新闻
PVC Suspension Grade Resin 悬浮级聚氯乙烯	India 印度	ADD - Initiation of Sunset Review investigation 反倾销-发起日落复审调查	F.No.7/34/2018-DGTR, dated 29-10-2018 2018 年 10 月 29 日, 第 7/34/2018-DGTR 号
Quartz Surface Products 石英台面产品	USA 美国	CVD - Preliminary Affirmative Determination of Critical Circumstances 反补贴-肯定性初裁存在紧急情况	83 FR 57419 [C-570-085], dated 15-11-2018 2018 年 11 月 15 日, 83 FR 57419 [C-570-085]
Quartz Surface Products 石英台面产品	USA 美国	ADD - Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination 反倾销-肯定性初裁存在低于正常价值销售并且延期发布最终裁决	83 FR 58540 [A-570-084], dated 20-11-2018 2018 年 11 月 20 日, 83 FR 58540 [A-570-084]
Radial ball bearing 向心球轴承	Argentina 阿根廷	ADD – affirmative final finding after sunset review 反倾销-日落复审后肯定性终裁	MOFCOM news, dated 14-11-2018 2018 年 11 月 14 日, 商务部新闻
Railway Wheels 火车车轮	Australia 澳大利亚	ADD and CVD - Extension of time granted to issue the Final Report 反倾销和反补贴-延期发布最终裁决	Anti-Dumping Notice No. 2018/177, dated 26-11-2018 2018 年 11 月 26 日, 反倾销公告第 2018/177 号
Rubber Bands 橡皮筋	USA 美国	Final Affirmative Countervailing Duty Determination 最终肯定性补贴裁决	83 FR 58538 [C-570-070], dated 20-11-2018 2018 年 11 月 20 日, 83 FR 58538 [C-570-070]

Product 产品	Country 国家	Measure 措施	Notification No. and date 公告文号和日期
Seamless steel tube 无缝钢管	GCC 海合会	ADD investigation terminated 终止反倾销调查	MOFCOM news, dated 6-11-2018 2018 年 11 月 6 日, 商务部新闻
Seamless steel tube 无缝钢管	Mexico 墨西哥	ADD sunset review initiated 发起反倾销调查	MOFCOM news, dated 22-11-2018 2018 年 11 月 22 日, 商务部新闻
Sodium Gluconate, Gluconic Acid, and Derivative Products 葡萄糖酸钠、葡萄糖酸及衍生产品	USA 美国	Antidumping Duty and Countervailing Duty Orders issued 发布反倾销和反补贴征税令	83 FR 56299 [A-570-071, C-570-072], dated 13-11-2018 2018 年 11 月 13 日, 83 FR 56299 [A-570-071, C-570-072]
Steel Pallet Racking 钢托盘货架	Australia 澳大利亚	ADD investigation – Amendment to securities 反倾销调查-修改保证金	Anti-Dumping Notice No. 2018/168, dated 5-11-2018 2018 年 11 月 5 日, 反倾销公告第 2018/168 号
Steel Racks 钢货架	USA 美国	CVD - Preliminary Affirmative Determination of countervailable subsidies 反补贴-肯定性初裁存在补贴	MOFCOM news, dated 22-11-2018 2018 年 11 月 22 日, 商务部新闻
Steel Wheels 钢制轮毂	USA 美国	Preliminary Determination of Sales at Less-Than-Fair-Value 初步裁决低于正常价值销售	83 FR 54568 [A-570-082], dated 30-10-2018 2018 年 10 月 30 日, 83 FR 54568 [A-570-082]
Sucker Rods 抽油杆	Canada 加拿大	ADD and CVD – Notice of final determination 反倾销和反补贴-发布最终裁决	Canada Border Service Agency SR 2018 IN, dated 14-11-2018 2018 年 11 月 14 日, 加拿大边境服务署 SR 2018 IN
Zeolite 4A (Detergent grade) 4A 沸石	India 印度	Final Findings issued recommending imposition of anti-dumping duty 最终裁决建议征收反倾销税	F.No.6/14/2017-DGAD, dated 29-10-2018 2018 年 10 月 29 日, 第 6/14/2017-DGAD 号



## Trade Remedy actions by China

### 中国采取的贸易救济行动

Product 产品	Country 国家	Measure 措施	Notification No. and date 公告文号和日期
Barley 大麦	Australia 澳大利亚	ADD investigation initiated 发起反倾销调查	MOFCOM Announcement No.89 of 2018, dated 19-11-2018 2018 年 11 月 19 日, 商务部 2018 年第 89 号公告
7-phenylacetamido-3-chloromethyl-3-cephem-4-carboxylicacidpmethoxybenzyl ester 7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯	India 印度	ADD investigation initiated 发起反倾销调查	MOFCOM Announcement No.90 of 2018, dated 26-11-2018 2018 年 11 月 26 日, 商务部 2018 年第 89 号公告
7-phenylacetamido-3-chloromethyl-3-cephem-4-carboxylicacidpmethoxybenzyl ester 7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯	India 印度	CVD investigation initiated 发起反补贴调查	MOFCOM Announcement No.91 of 2018, dated 26-11-2018 2018 年 11 月 26 日, 商务部 2018 年第 89 号公告



## WTO News 世贸组织新闻

### 泰国对香烟进口实施措施-发布执行专家组报告

11 月 12 日, 世贸组织分发了由菲律宾提出的“泰国-对来自菲律宾的卷烟实施海关和财政措施-菲律宾援引 DSU 第 21.5 条”争端案(DS371)的执行专家组报告。在执行程序中, 菲律宾对三套措施提出质疑:

- 泰国上诉委员会关于泰国菲利普·莫里斯(泰国总理)进口的一些香烟装运的海关估价的裁定, 被认为违反一系列海关估价协定(CVA)的程序;
- 根据 CVA, 对 2003 年至 2006 年期间泰国总理因未申报香烟进口关税而提起的刑事指控的实质内容。
- 泰国财政部在没有满足通知要求的情况下对香烟实施增值税制度。

裁决支持了菲律宾，执行专家组认为：

- 上诉委员会的裁决不符合 CVA 第 1.1 和 1.2(a)、第 5.1(a)(i)、(i i)和(iv)条、第 11.3 条和第 16 条，因为它无正当理由拒绝进口商申报的交易价值，并且未能提供决定采取另一种海关价值的充分或及时的解释。
- 这些刑事指控与 CVA 第 1.1 和 1.2(a)条不一致，因为它们拒绝了进口商申报的交易价值，而没有有效的依据，也没有对表明进口商与出口商之间关系的销售情况进行适当审查，是否进口商影响了支付的价格；
- 泰国财政部对香烟的增值税制度的管理与 1994 年关贸总协定第十条第 1 款不一致，因为泰国通过了一项普遍适用的行政裁决而没有公告；《税法》以不合理的方式对香烟进口商规定了增值税通知要求，无法确保有效地遵守，从而使进口商面临违规的潜在风险；以及 1994 年关贸总协定第 3.4 条，因为存在实际情况使得泰国国内同类产品的生产商能够为其卷烟设定零售价，从而确保其遵守增值税通知要求。

## 印度钢铁保障措施税-发布专家组报告

11 月 6 日，世贸组织就日本提出的“印度——钢铁产品进口的某些措施”争端案(DS518)发布了专家组报告。在专家组面前，日本曾质疑印度对某些钢材进口实施的保障措施，认为这不符合保障措施协定和 1994 年关贸总协定的各种规定。

印度要求就日本的申诉与 DSU 第 3.7 条的一致性作出初步裁决，因为所争议的措施已经过期。专家组裁定，虽然在专家组成立后，该措施期满，但这并不妨碍专家组行使 DSU 第 11 条规定的职能，对日本提出的质疑作出裁决结果，并在该措施继续产生任何效果的情况下提出符合要求的建议。

关于日本提出的实质性和程序性索赔，专家组认为印度的行为与 1994 年关贸总协定和保障措施协定的规定不一致。然而，专家组没有支持日本的主张，这些主张包括国内生产的“主要比例”、印度当局未能评估国内产业所占领的市场部分、印度当局未能评估某些损害因素中的积极趋势以及根据第 12.1(a)、(b)和(c)条，始终如一地及时通知保障措施委员会。

## 摩洛哥对土耳其钢铁产品征税-世贸组织发布专家组报告

10 月 31 日，世贸组织就土耳其提出的“摩洛哥-对来自土耳其的某些热轧钢采取反倾销措施”争端案(DS513)发布了专家组报告。在争端中，土耳其对摩洛哥针对土耳其的某些热轧钢产品的反倾销措施提出质疑。专家组在大多数问题上采取了司法经济措施，认为摩洛哥方面存在显著的不一致性，理由有三：

- 摩洛哥在确定“尚未建立”的国内产业方面与《反倾销协定》第 3.1 条不一致，在评估土耳其的进口是否“实质上阻碍”了该行业的发展时，与《反倾销协定》第 3.1 和 3.4 条不一致。
- 摩洛哥违反《反倾销协定》第 5.10 条的规定，未能在该条规定的 18 个月最高时限内完成调查。它还发现，摩洛哥未向所有利害关系方通报某些“基本事实”，从而违反了第 6.9 条。
- 摩洛哥拒绝所报告的信息，并根据可获得的事实为两个被调查的土耳其生产商确定倾销幅度，从而违反了《反倾销协定》第 6.8 条。

## 巴基斯坦对电影征税、韩国对钢铁征税、美国对钢铁和铝的措施及成员国的反制措施-成立专家组

10 月 29 日，在世贸组织争端解决机构的一次会议上，世贸组织成员同意成立专家组，审查由阿拉伯联合酋长国提出的巴基斯坦对阿联酋的双轴取向聚丙烯薄膜(BOPP 薄膜)征收反倾销税争端案，以及审查由日本提出的韩国对来自日本的不锈钢棒材征收反倾销税争端案。

争端解决机构还考虑了七个世贸组织成员提出的请求成立专家组以审查美国对钢铁和铝进口征收额外关税争端案，以及美国提出的四项请求成立专家组审查世贸组织成员根据美国对钢铁和铝进口征收关税的反措施。另外，美国还请求成立一个专家组，以审查中国保护知识产权的措施。

## 乌克兰对亚美尼亚、吉尔吉斯共和国对钢管征税发起争端解决

10 月 22 日，世贸组织向世贸组织成员分发了乌克兰提出的与亚美尼亚和吉尔吉斯共和国进行磋商的请求。该请求涉及两国对乌克兰钢管征收反倾销税。

## 巴西对中国的白糖进口措施发起争端解决

10月22日，世贸组织向世贸组织成员分发了巴西向中国提出的磋商请求。该请求涉及中国对从巴西进口糖所实施的某些措施。

## 日本对韩国给予造船厂支持发起争端解决

11月13日，世贸组织向世贸组织成员分发了日本向韩国提出的磋商请求。该请求涉及韩国政府向其造船业提供的所谓补贴。



## India Customs & Trade Policy Update 印度海关和贸易政策更新

### 境内制造-印度统一形式

财政部间接税和海关中央委员会更新了申请境内制造许可和保存各种记录的程序。为此目的，2018年10月18日签发的第38/2018-Cus号通知也规定了各种形式并澄清了此类情形下从该仓库移走加工货物的税务责任。为了简化业务和避免审批过程中重复的部分，申请境内制造许可的表格也将用于申请私人保税仓库许可证。申请的表格已经被设计成申请私人保税仓库许可证和申请境内制造或其他操作的许可都适用的单一形式。

此外，根据《海关法》第65条行事的单位为收货、加工和搬运货物，还保留了单独表格。新表格结合了《1966年仓库制造及其他操作条例》和《2016年仓库(货物保管及处理)条例》所要求的数据内容。该通知还规定仓库货物必须由仓库货物所有人执行的三重关税保证金。

### 对外贸易总局整合限制出口产品所需的文件列表

商工部对外贸易总局为出口商在申请限制性物品出口许可时，编制了必要的文件清单。为此目的发布的第35/2018号贸易通知还阐明了公司/个人应遵守的在线

和离线申请过程，同时提供了对外贸易总局应遵循的步骤。有关行政部门为授予NOC所要求的具体文件已经合并，其他经常交易的限制性货物的检查表将很快发布。

### 出口促进资本货物授权的有效期从18个月延长到24个月

出口促进资本货物(EPCG)授权的有效期从18个月延长到24个月。对外贸易总局于2018年11月6日发布第47/2015-20号公告，同时修订《FTP程序手册》第1卷第2.16段，还规定在2018年11月16日之前签发的EPCG授权的进口有效期尚未到期的，也应延长该授权至自授权发出之日起24个月。

### 药品出口-延期对药品制剂的跟踪系统

药品制剂出口跟踪系统的实施日期已延长至2019年7月1日。该延期涉及包装方面的关系，并在中央门户上传SSI和非SSI制造的药物。对此，外贸总局已经于2018年11月1日通过第43/2015-2020号公告，修订《2015-20FTP程序手册》第2.90A(vi)和(vii)段。该系统将于2018年11月15日起实施。



## Ratio Decidendi 判决理由

### 采用加速方式的反倾销新出口商复审-时限应与第 22 条一起考虑

马德拉斯高等法院认为，必须完成新出口商复审调查的时限应结合《1995年海关关税规则(识别、评估和征收反倾销税和确定损害)》第22条，而不规定任何时限。在这方面，高等法院仔细研究了《世贸组织反倾销协定》第9.5条，其中规定，与正常的评估程序相比，这种审查必须在加速的基础上进行。它指出，世贸组织协定明确规定，这些复审评估所用的时间不能超过最初的调查。

在这方面，法院还依赖印度在制定第22条复审规定的沟通函件，印度指出，规则第22条的“定期审查”一词意

味着加速审查。法院认为不能这样解释第22条规则，即没有为执行第22条的复审程序而确定时限。

高等法院度人法官庭在其被驳回的裁定中认为，在第 22 条没有规定任何时限的情况下，根据第 22 条规则进行的复审不需要在 12 或 18 个月内完成。“新出口商审查”是根据日期为 2015 年 9 月 23 日的“公告”发起的，最终裁决于 2017 年 4 月 10 日公布。  
[*Saint Gobain India Private Ltd. v. Union of India - Writ Appeal Nos. 412 to 414 of 2018, decided on 14-11-2018, 马德拉斯高等法院*]

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