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Tariff Exclusion Process

Country: China - Peoples Republic of

Post: Beijing

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Report Highlights:

On April 17, 2020, China's State Council Tariff Commission (SCCTC) updated a Frequently Asked Questions Document to replace the previous version published on March 11, 2020. The updated document describes changes to China's market-based tariff exclusion process. Included in this GAIN report is an unofficial English translation of the updated document.

Executive Summary:

In order to increase imports of U.S. agricultural products, China established a new tariff exclusion process that would exclude successful applicants from the additional tariffs China placed on U.S. imports in retaliation for the U.S. Section 301 Action. Unlike previous tariff exclusions, this process is only open to Chinese importers and exclusions are applied individually. Furthermore, the new tariff exclusion process requires applicants to submit monthly procurement plans and transaction feedback information. This information is all managed through SCCTC's web-based portal, accessible here: <https://gszx.mof.gov.cn/>.

As a result of the increased interaction with the tariff exclusion system, SCCTC published a number of guidance documents on its website. A number of these guidance documents have been translated and published in GAIN reports, including:

- [GAIN Report CH2020-0017: China Announced a New Round of Tariff Exclusions](#). This report contains a translation of the announcement, a table of the 696 enumerated tariff lines associated with this round, and a translated Q&A document from the Ministry of Finance.
- [GAIN Report CH2020-0024: China Publishes Step-By-Step Tariff Exclusion Guide](#). This step-by-step guide was published on February 28, 2020.
- [GAIN Report CH2020-0032: China Publishes Frequently Asked Questions Document on Tariff Exclusion Process](#). This document contains 12 frequently asked questions and answers. It was published on March 11, 2020.
- [GAIN Report CH2020-0059: China Revises the Step-By-Step Tariff Exclusion Guide](#). This document was published on April 17, 2020 and replaces the February 28 document.

On April 17, 2020, SCCTC replaced the March 11 Frequent Asked Questions document with an updated version. This GAIN report contains an unofficial English translation of the updated Frequently Asked Questions Document.

Please note that of the 14 numbered Question and Answers below:

- Four are unchanged from the March 11 document (#'s 1, 2, 7, 10);
- Three are revised (#'s 5, 8, 11); and
- Seven are new (#'s 3, 4, 6, 9, 12, 13, 14).

For convenience, the translation below has indicated any changes using [in-line brackets]. U.S. producers should check with their Chinese importers to determine how these changes may affect their specific circumstances.

(Begin unofficial translation)

Answers to Frequently Asked Questions

1. Can the consumption and user company on a customs declaration serve as the applicant for exclusion of market-based procurement? Can agent companies serve as applicants if they are domestic consignees?

Answer: The applicant for exclusion of market-based procurement shall be a domestic enterprise in China that plans to sign a contract with an American party and import related products and should be consistent with the domestic consignee on the customs declaration in principle.

Example: Enterprise A entrusts Enterprise B to import, and then a contract is signed by Enterprise A or Enterprise B to make procurement from the United States. If the consumption and user company on the custom declaration is Enterprise A, while the domestic consignee is Enterprise B, then both Enterprise A and Enterprise B can serve as the applicant and feedback transaction records according to the actual situation. If Enterprise A serves as the applicant, Enterprise A should provide the proof of relationship with Enterprise B during subsequent write-off process. Enterprise A and Enterprise B should communicate with each other in advance to determine the applicant and avoid repeated application.

[Unchanged from March 11.]

2. What is the relationship between a procurement plan, transaction record, and exclusion number?

Answer: 1): Procurement plan: a procurement plan shall be submitted every month for each product with an 8-digit tariff line, and the applicant shall provide a total value of the proposed transactions for that month. 2) Transaction record: one procurement plan may correspond to multiple transaction records. The mails, contracts, invoices, negotiation records and so on that confirm the transactions can all be taken as supporting documents. The product may be imported in any month within the exclusion period (one year) and may not be necessarily imported in the same month or the following month as indicated on transaction records in the exclusion system. 3) Exclusion number: the exclusion number should be filled in the customs declaration and all related products on one customs declaration should be accompanied by the same exclusion number. One exclusion number may correspond to multiple transaction records. In other words, one exclusion number may cover multiple transaction records for the same product with an 8-digit tariff line and it may also cover multiple transaction records for different products with 8-digit tariff lines. One transaction record may correspond to multiple exclusion numbers. In other words, one transaction record may be accompanied by multiple exclusion numbers.

Example: In April, the enterprise made procurement plans of May for products A and B, respectively. In May, the enterprise provided feedback on the transaction records which included two transactions of product A (known as C1 and C2), and three transactions of product B (known as C3, C4, and C5). In September, C1, C3 and C4 will arrive at the port at the same time. Based on the enterprise's arrangement, C1 and C3 would be declared and imported through one customs declaration and C4 through another customs declaration. The enterprise should get two exclusion numbers, of which C1 and C3 should be included in the exclusion number P0001, and C4 should be included in the exclusion number P0002. After receiving two exclusion numbers, the enterprise should fill two exclusion numbers

in two customs declarations for import clearance. The enterprise should request for exclusion numbers for C2 and C5, separately or together with other products.

[Unchanged from March 11.]

3. What are the specific reviewing criteria for exclusion applications?

Answer: The State Council Tariff Commission (SCCTC) shall review the application materials of the enterprise in conjunction with the first and second batches of exclusion applications for products from the United States that are imposed with additional tariffs. Of which, the review process on procurement plan with a total value below USD \$3,000 will be expedited, and priority will be given to review on those exclusion applications with import time approaching.

When an enterprise applies for additional products, it may provide facts and data explaining the difficulties in looking for alternative sources of products, the damage of imposing additional tariffs to the enterprise, the impact of imposing additional tariffs to the relevant industry, and the significance of importing the relevant products to accommodating domestic demand, etc.

[New.]

4. What is the application deadline for the exclusion system?

Answer: The exclusion application system accepts applications from March 2 and there is no application deadline at this point. If adjustments are made later, information will be published in advance on the website of the Customs Policy Research Centre of the Ministry of Finance (<https://gszx.mof.gov.cn>)

[New.]

5. How to understand the one-year validity period after approval? Can the validity period be extended?

Answer: The approved exclusion application is valid for a year. The exclusion application system will indicate the beginning and ending dates of the exclusion period. The applicant should provide feedback about the transaction records within the required time and declare for import within a year. The applicant may apply for extended exclusion period if necessary.

[Question and Answer revised to indicate that applicants may apply for an extension of the one-year exclusion period if necessary.]

6. How to deal with approved procurement plans without actual transaction or import?

Answer: Tariff exclusion of market-based procurement supports enterprises to purchase and import products from the United States based on commercial considerations and market-oriented principles. If an approved procurement plan has not been transacted or imported due to market changes and/or force majeure, the enterprise may explain in the subsequent write-off process.

[New.]

7. For the same commodity with 8-digit tariff line, if one transaction corresponds to multiple contracts, is it necessary to provide feedback of transaction records separately?

Answer: A transaction is concluded once a procurement agreement is reached with the supplier and the transactions can be confirmed in a variety of forms including signed contracts and mails. If the enterprise concludes the transaction in the form of mail followed by signing of multiple contracts, the enterprise should provide the mail information as the transaction record without the need for submitting the contracts one by one. If the enterprise confirms the transaction directly in the form of contract signing, the enterprise should submit the contracts as the transaction records.

[Same Question and Answer as #3 in the March 11 document.]

8. Can procurement plans, transaction records or exclusion numbers be withdrawn, modified or deleted?

Answer: Enterprises can adjust exclusion application information if there are any changes. A new procurement plan under review can be withdrawn for modification or removal. An approved or rejected procurement plan can be modified or deleted. Transaction records and exclusion numbers can be modified or deleted.

[Changed to include the option of procurement plans, transaction records, or exclusion numbers being deleted.]

9. Do exclusion applications apply to products imported through any forms of trade? Is it necessary to submit an exclusion application for processing trade products for domestic sales?

Answer: The exclusion applications apply to imported products through any forms of trade, including processing trade products for domestic sales if the products are subject to additional tariffs as countermeasures against the U.S. Section 301 Measures. The exclusion applications are valid for one year upon approval. Enterprises may reasonably schedule the submission of their exclusion applications according to actual situation.

[New.]

10. Can an exclusion application of market-based procurement be filed if an exclusion application has been submitted in the second batch of tariff exclusion but is not included in the first exclusion list of the second batch as published in the SCCTC Notice [2020] No. 3?

Answer: For products that are not included in the first and second batches of tariff exclusion lists, the enterprises can apply for tariff exclusion of market-based procurement according to actual needs.

[Same Question and Answer as #6 in the March 11 document.]

11. How to write off exclusion numbers?

Answer: The exclusion application system will assist enterprises with the write-off. If the information of the exclusion number is consistent with related information of the customs declaration, the enterprise does not need to do anything, and it can view the result in the exclusion number list that has been written off. If the information of the exclusion number is not consistent with the that in the customs declaration, the enterprise shall operate or provide explanations as required to finish the write-off. Each enterprise that performs write-off for the first time will receive a reminder of text message and the enterprise can log onto the exclusion application system to check the write-off status. SCCTC and relevant departments will execute supervision during and after the tariff exclusion process of market-based procurement in accordance with the write-off information.

[Similar to the Question and Answer in #5 from the March 11 document, but removes language about the exclusion application system assisting enterprises to verify write-offs.]

12. If a group company applies and receives an exclusion number as the domestic consignee, can the exclusion number be used by the group company's subsidiaries for customs clearance at different ports as consumption or user companies?

Answer: Yes. In principle, the applicant should be consistent with the domestic consignee, but there are no restrictions on the clearance port, the declaration company, and/or the consumption and user company during the import clearance.

[New.]

13. If the products cleared customs after March 2 but additional tariff had been collected, can an exclusion application be filed and get a refund of the additional tariff?

Answer: According to SCCTC Announcement [2020] No. 2, the additional tariff payment made before the approval of the exclusion application shall not be refunded.

[New.]

14. If one customs declaration contains multiple products and the enterprise only submitted exclusion applications for products with high value but did not submit exclusion applications for low value products, can these products clear customs?

Answer: The approval for the procurement plan with a total value below USD \$3,000 has already been expedited and priority has been given to exclusion applications with import time approaching. Therefore, it is suggested that the enterprise submit the exclusion applications for the products with low value in time and get the exclusion numbers according to the information to be declared. If there are products without exclusion applications, products with exclusion applications and products without shall be declared customs separately to avoid impact on subsequent write-off and (future) applications.

[New.]

(End unofficial translation)

Attachments:

No Attachments.