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Tax Alert – Canada

Canada imposes provisional duties on imports of high protein content pea protein from China

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

On 22 July 2024, the Canada Border Services Agency (CBSA) made preliminary determinations of dumping and subsidizing respecting high protein content (HPC) pea protein originating in or exported from China, pursuant to subsection 38(1) of the *Special Import Measures Act* (SIMA). For goods released by the CBSA on or after 22 July 2024, provisional duties ranging from 1.1% to 54.6% will now apply to the import of these goods.

Background

On 22 April 2024, the CBSA initiated investigations, pursuant to subsection 31(1) of the SIMA, respecting the alleged injurious dumping and subsidizing of HPC originating in or exported from China.¹

For the purposes of the investigations, the subject goods were defined as HPC pea protein originating in or exported from the People's Republic of China in all physical forms regardless of packaging, with a minimum pea protein content of 65% on a dry weight basis (calculated using a Jones factor of 6.25). Subject goods exclude:

- ▶ Texturized pea protein; and
- ▶ HPC pea protein that has been incorporated into finished products if the HPC pea protein itself is further processed such that it no longer retains its initial physical and chemical characteristics and other properties.²

¹ [Statement of reasons–Initiation of investigations: High Protein Content Pea Protein \(HPC 2024 IN\) \(cbsa-asfc.gc.ca\)](https://www.cbsa-asfc.gc.ca/press-releases/communiqués/2024/20240722-pea-protein.html).

² Ibid, paragraph 12.

On 7 May 2024, the CBSA concluded that there was sufficient evidence that imports of HPC originating in or exported from China threaten injury to the pea protein industry in Canada.³

Following the CBSA's conclusion, the Canadian International Trade Tribunal (CITT) began a preliminary inquiry to determine whether available evidence discloses a reasonable indication that the alleged dumping and subsidizing of the subject goods have caused or are threatening to cause injury to Canadian industry.

On 20 June 2024, the CITT made a positive determination of reasonable indication of injury,⁴ following which the CBSA made its preliminary determination of dumping and subsidizing with respect to HPC pea protein and began to levy provisional duties as of 22 July 2024.

Provisional duties

The subject goods are normally imported under the following tariff classification numbers:

- ▶ 3504.00.90.00
- ▶ 2106.10.00.00

The CBSA identified five exporters that have been assigned specific provisional rates of duty ranging from 1.1% to 12%; all other exporters are subject to a provisional duty rate of 54.6% during the provisional period.⁵

Next steps

The CBSA will issue a Statement of Reasons within 15 days of the date preliminary determinations were made.

The CBSA's investigations are expected to conclude by 21 October 2024, at which point either final determinations will be made, or the investigations will be terminated. If the CBSA makes final determinations of dumping and/or subsidizing, the CITT will continue its inquiry, and public hearings with respect to the question of material injury to the Canadian industry will be held. The CITT is required to make a finding with respect to the subject goods no later than 120 days after the date of the CBSA's preliminary determinations.

³ Ibid.

⁴ [Tribunal Issues Determination of Reasonable Indication of Injury—Pea Protein from China - Canadian International Trade Tribunal \(citt-tcce.gc.ca\)](https://www.citt-tcce.gc.ca/tribunal-issues-determination-of-reasonable-indication-of-injury-pea-protein-from-china-canadian-international-trade-tribunal).

⁵ [Notice of preliminary determinations: High Protein Content Pea Protein \(HPC 2024 IN\) \(cbsa-asfc.gc.ca\)](https://www.cbsa-asfc.gc.ca/notice-preliminary-determinations-high-protein-content-pea-protein-hpc-2024-in).

Learn more

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