

Committee on Anti-Dumping Practices

**CHAIRMAN'S REPORT TO THE COUNCIL FOR TRADE IN GOODS
ON TRANSITIONAL REVIEW OF CHINA**

1. The Committee on Anti-Dumping Practices undertook the third transitional review of China pursuant to Paragraph 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432) at its meeting of 26 and 28 to 29 October 2004.
2. There is no information specified for submission to the Committee under Annex 1A to the Protocol. Members submitted questions and comments in the context of the transitional review relating to China's implementation of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement). These can be found in documents G/ADP/W/439 (submitted by the European Communities), G/ADP/W/440 (submitted by Japan), G/ADP/W/441 and G/ADP/W/443 (submitted by the United States), and G/ADP/W/442 (submitted by Chinese Taipei).
3. The statements made at the meeting of 26 and 28 to 29 October 2004, at which the transitional review was item K of the agenda, are reflected in the minutes of the meeting, which will be circulated as document G/ADP/M/27. The relevant paragraphs of the minutes, which reflect the statements made and the discussion at the meeting, are annexed.

Excerpt from the minutes of the regular meeting of the Committee on Anti-Dumping Practices held 26 & 28 to 29 October 2004, to be circulated as document G/ADP/M/27

K. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION

1. The Chairman recalled that Paragraph 18 of the Protocol of Accession of the People's Republic of China to the World Trade Organization provides that all subsidiary bodies, including the ADP Committee, "which have a mandate covering China's commitments under the WTO Agreement or [the] Protocol shall, within one year after accession, review, as appropriate to their mandate, the implementation by China of the WTO Agreement and of the related provisions of [the] Protocol." He noted that China was to provide relevant information in advance of the review, including information specified in Annex 1A to the Protocol, and that China can also raise issues relating to any reservations under Section 17 or to any other specific commitments made by other Members in the Protocol, in subsidiary bodies which have a relevant mandate. The Committee must report the results of the review promptly to the Council for Trade in Goods. Review is to take place after accession in each year for eight years, with a final review in year 10 or at an earlier date decided by the General Council. The Chairman also recalled that there are no procedures set out for the conduct of the transition review in the Protocol, except that China is to provide relevant information in advance of the review.

2. The Chairman noted in this regard that there is no information specified for submission to this Committee under Annex 1A. He further noted that Members had submitted questions and comments in the context of the transitional review by the Committee, and that these had been circulated in documents G/ADP/W/439 (submitted by the European Communities), W/440 (submitted by Japan), W/441 (submitted by the United States), and W/442 (submitted by Chinese Taipei).

3. Before turning to the questions posed by Members, the Chair asked whether any Member had any general comments.

4. The delegate of the United States¹ stated that in the three years since China had acceded to the WTO, China had expended a great deal of effort to fashion an anti-dumping regime intended to satisfy its obligations under the WTO Anti-Dumping Agreement and its Protocol of Accession. The goal of the transitional review of the Committee, itself a provision of China's Protocol of Accession, is to allow Members to examine and report on China's progress in meeting its obligations under the Anti-Dumping Agreement. As of that point, China had made noteworthy strides in promulgating laws and regulations and building an administering authority, but it still had much work to do. China had quickly become one of the leading users of the anti-dumping remedy – in the previous year China had imposed the second highest number of anti-dumping measures among all WTO Members. However, China did not appear to have placed sufficient emphasis on the fundamental principles of transparency and fair procedures. Transparency and fair procedures form the core of the Anti-Dumping Agreement – in order to build a WTO-compliant anti-dumping regime, any Member must embrace those concepts and instil them in its administrative culture. The United States wished to outline its principal observations and concerns.

5. China modified the legal framework of its anti-dumping regime in the wake of the 2003 reorganization of China's anti-dumping administering authority into the Ministry of Commerce ("MOFCOM"). However, it was not clear from China's recently delivered response to the questions the United States posed in May 2004² which ministerial rules were still in force, which rules had been annulled and which rules had been modified. For example, it was the United States' understanding

¹ The statement of the United States was circulated in document G/ADP/W/443.

² G/ADP/Q1/CHN/46, 18 October 2004

that as part of this overhaul, China also had revised its Foreign Trade Law. To the United States' knowledge, these revisions had not been notified to the Committee for Members' information and review. The status of ministerial-level rules was even more problematic. While the United States appreciated China's recent notification of its regulations pertaining to anti-dumping actions, it urged China to clarify in detail to the Committee the full set of rules, regulations and laws that currently governed its anti-dumping regime.

6. In addition to issues surrounding the legal framework of China's anti-dumping regime, the United States continued to be concerned about transparency in several aspects of China's conduct of its investigations and reviews.

7. A principal concern involved timely access to information needed by interested parties to participate meaningfully in China's anti-dumping investigations. The United States appreciated MOFCOM's efforts to make certain types of documents available to interested parties. The Bureau of Fair Trade ("BOFT"), MOFCOM's dumping investigation unit, maintained a public reading room in which it provided non-confidential versions of the petitions filed by Chinese domestic industries and most anti-dumping-related questionnaire responses submitted by responding parties. Furthermore, the United States understood that the BOFT generally made available to responding parties a summary of the key facts and decisions underlying the agency's dumping margin determinations, although the United States was concerned about the limited substance and detail revealed in those summaries. The United States urged BOFT to go a step further and make available in the public reading room, or at least to interested parties, summaries of meetings between interested parties and agency decision-makers and to ensure that confidential documents not released were identified in comprehensive indices so that all parties knew of their existence.

8. In contrast to the relative ease of access to non-confidential versions of documents from the BOFT, the United States had serious concerns about the availability of information from the Investigation Bureau for Industry Injury ("IBII"), MOFCOM's injury arm. As noted in China's response to questions posed by the United States in May 2004, the IBII had just recently begun placing documents in the BOFT public reading room. However, based on a very recent visit by US Embassy officials, that reading room contained a limited number of documents pertaining to a limited number of China's ongoing investigations, but hardly all of its proceedings. Furthermore, interested parties, including responding parties and officials of the US Government, had been frustrated in their attempts to obtain from the IBII non-confidential versions of even basic documents, such as Chinese industry responses to IBII questionnaires. Unfortunately, the IBII often denied access to such documents, or it imposed impossible preconditions, such as requiring parties to identify the precise titles of the documents requested – despite the fact that there was no record available to a requesting party that listed the documents in the IBII's possession. This situation was exacerbated at an even more fundamental level. To the knowledge of the United States, the IBII had never disclosed to a responding party the essential facts under consideration as required by Article 6.9 of the Agreement. The United States intended to continue monitoring this practice very closely but hoped that the IBII's having recently placed in the public reading room some documentation related to its current injury investigations was a signal that it intended to make a broad move towards disseminating key information to interested parties on a timely basis.

9. The timely availability of information, however, was only a first step. Article 6 of the Anti-Dumping Agreement requires that non-confidential summaries of confidential documents must be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. Without access to confidential information submitted to MOFCOM, it is essential to responding parties to have comprehensive and informative non-confidential summaries in order to be able to mount an effective defence. The United States noted that the quality of the non-confidential summaries China had made available varied considerably, and urged China to enforce tighter standards.

10. Furthermore, the United States was concerned that, in some cases, critical arguments or evidence put forward by interested parties had not been addressed adequately in either preliminary or final determinations. This problem was especially prevalent in injury determinations. Similarly, and again especially in injury determinations, many of the conclusions MOFCOM reached did not appear to be supported by adequate evidence. In many instances, either no evidence was cited at all, or the evidence cited was not available to anyone except the administering authority. Conclusory statements without evidentiary support do not constitute "positive evidence" within the meaning of the Anti-Dumping Agreement. In particular, details of the factual basis and reasoning supporting the investigating authority's decisions as well as petitioners' allegations and briefs must be made available to all interested parties.

11. Given the increasing number of investigations and reviews being undertaken by China, the United States urged China to apply fair procedures to all parties to an investigation as envisioned by the Anti-Dumping Agreement. For investigations and reviews, this includes, but is not limited to, timely access to administrators and favourable consideration of hearing requests, as embodied in Article 6.2 of the Anti-Dumping Agreement. The United States was aware of a number of delays in responding to requests to hold hearings requested by interested parties. The United States also noted with some concern the increased use of meetings other than formal hearings in some investigations and urged that interested parties not present be quickly informed of matters discussed at such meetings.

12. The United States recognized the efforts that China had made to inject transparency into its anti-dumping regime. However, with three years of WTO membership behind it, China needed to redouble its efforts to ensure that its anti-dumping system fully conformed to WTO rules. The United States stood ready to assist China in these efforts and looked forward to seeing substantial improvements in the very near future.

13. The delegate of China stated, with regard to the meeting, that China preferred to finish the agenda item during the morning session, because there was another transition review meeting going on in another Committee. China hoped that the Members would be understanding about finishing the meeting in the morning, to save time and avoid the conflict of the two meetings.

14. The Chairman responded that as long as the discussion could be finished in time, this would not pose any problem for the Chair. He invited the delegation of China to take the floor to respond to the questions and comments submitted by the European Communities.

15. The delegate of China wished to present the Committee the developments in the area of anti-dumping of China since the review of the previous year. Firstly, in terms of China's legislation on anti-dumping, China's legal framework in its regime was based on the foreign trade law which was just amended on 6 April 2004 and came into effect as of 1 July of the same year. Comparing to the old Foreign Trade Law, the amendment does not include many essential changes in the area of anti-dumping. The translation of the full text of this newly amended Foreign Trade Law was almost accomplished and would soon be submitted to WTO for notification.

16. On 31 March 2004 the State Council of China issued its Decree No. 401 to amend the regulations of the People's Republic of China on anti-dumping. The amended regulations came into effect on 1 June 2004. This amendment mainly involved changes in the anti-dumping investigation and implementation brought by the recent Chinese Government restructure. In addition the amendment also introduced adjustments in China's investigation and implementation of anti-dumping measures in a manner more consistent with the relevant WTO rules. On 20 October 2004 the WTO Secretariat had circulated a notification of the full text of this amended regulation submitted by China. Secondly, on China's investigation and implementation of anti-dumping measures during the previous few years, China had initiated anti-dumping investigations against nine imported products

and had made preliminary determinations on five products and final determinations on three products. Since the first initiation of anti-dumping investigations in December 1997, China had initiated anti-dumping investigations against a total of 33 imported goods, all of which had been carried out in strict accordance with the anti-dumping regulation of China and with the WTO Agreement on Anti-Dumping Practices. China sincerely believed that the sole purpose of the Anti-Dumping measures should be to protect a balanced international trading order, a fair competition environment as well as the rights and interests of the importing countries' domestic industries. China believed that a target of anti-dumping investigations should only be the injury-causing imports priced below normal value. As a major target of the anti-dumping investigations China objected to any trade protectionism by means of anti-dumping measures, which China believed would certainly do harm to the trade of all Members, especially that of the developing countries.

17. The Chairman recalled that the Committee was looking at the questions posed by the European Communities, and suggested that for any future statements that China might be making on other replies, it would be appreciated if China could provide copies of their statements to the interpreters, as this would facilitate communication of their statements. The Chairman asked the delegation of China if they wished to refer to the questions from the European Communities.

18. The delegate of China stated that a copy of the statement just made already had been given to the interpreter. The delegate wished to respond to the questions raised to China, but to save time and also to avoid some overlapping questions, he intended to respond to all of the questions relayed from the Members. He apologized to the interpreters because the responses were going to be picked up from the various detailed regulations and rules, and he did not have a readily available copy of his statement.

19. On the question regarding notification and related matters of the Anti-Dumping Legislation, all of the current laws and regulations relating to anti-dumping practices under dates of issues and publications were available at the official website at the Ministry of Commerce. To respond to the particular point raised in the opening statement of the representative of the United States, China's notification of Anti-Dumping Legislation reflected the latest development of the legislation. One or two pieces of the legislation were not notified and the reason was basically the burden of translation. As indicated, the translation of the revised Foreign Trade Law was almost done and it would be notified in a couple of weeks time. The newly amended Regulations of the People's Republic of China on anti-dumping had already been notified to the WTO and the reference number was G/ADP/N/100/CHN. As to the changes made in these legislations, they mainly reflected the recent Chinese Government restructure and could be identified easily when compared to the old version of the legislation.

20. On the question of notification of the choice of the time-period in making a determination of negligible import volumes, China had submitted its notification a couple of weeks earlier. On the question relating to the responsibilities between the Ministry of Commerce and the Customs General Administration, the Ministry of Commerce was responsible for the investigation and determination of anti-dumping cases and the Customs General Administration was responsible for the implementation of anti-dumping measures. The regulations on anti-dumping of the People's Republic of China stipulated that the Customs General Administration implemented the anti-dumping measures in accordance with the anti-dumping determination notices issued by the Tariff Commission of the State Council and the Ministry of Commerce. The Department of Duty Collection and Administration in the Customs General Administration was the responsible office for anti-dumping with the function of implementing the anti-dumping measure throughout the customs offices across the country and resolving related problems in customs clearance.

21. On the question relating to information disclosure, Chinese investigating authorities had always attached great importance to the information disclosure and transparency requirements. The

investigation authorities had enacted the interim rules on information disclosure in anti-dumping investigations and the interim rules on access to public information in anti-dumping investigations. The two rules had been notified to the Committee. Information of the investigations was duly disclosed in line with the provisions set forth in the two rules. And the interest of every concerned party were effectively protected. While China could understand the concern expressed by one of the Members in this regard on some specific cases, China also recognize the requirement to "appropriately protect the confidential information" as identified in Article 6 and Article 12 of the Anti-Dumping Agreement. On that consideration the authorities would not be in a position to release in the public notice some of the data used to determine the dumping margin which was classified as commercial secrets. However, the analysis of the data and the final determination were included in the public notice. Furthermore, it needed to be underlined that Chinese authorities had always abided by the requirements identified in Articles 3, 6 and 12 identified by the Agreement. Apart from the explanation of the public notice, the method and data employed in the calculation of the dumping margin were also provided to each and every enterprise under investigation. Sufficient opportunities for comment were also provided to the enterprises. Chinese authorities were also ready to listen to comments from enterprises on the issue of information released. On the question regarding essential facts, according to the interim rules on the information disclose in anti-dumping investigations, the essential facts included the following information: with respect to normal value they included the establishment of normal value submit the transaction data and adjusted data in calculation of the normal value, data rejected in calculation of a normal value and a reason for the rejection, etc. With respect to export prices they included the establishment of export prices submitted with transaction data and adjustments of the data used in calculation of export prices, data rejected in calculation of the export prices and the reasons for the rejection, etc. With respect to costs they included the data for the establishment of cost of production, allocation method for various expenses and data adopted, estimate of profits, establishment of abnormal or non-recurring items, etc. They also included use of best information available and facts available and the reasons, but with confidential information of all interested parties excluded. They also included the methodologies where calculation of dumping margins and other information the investigating authorities consider necessary to disclose. Considerations and interpretations of the data, which is the question of one of the Members, may be considered as essential facts. And also access to the file could also be a part of the disclosure of essential facts.

22. On the question regarding the measures for accessing the anti-dumping public information access room, the measures mentioned were firstly issued by the former Minister of Foreign Trade and Economic Cooperation and reissued after the establishment of the Ministry of Commerce, and was still working. Information on injury investigations could also be accessed in the same reading room. MOFCOM's public reading room for anti-dumping investigation and reviews was the official place for all interested parties to have access to the public information on both dumping and injury investigations. MOFCOM maintained a public index for all documents for the public, in the public reading room. For the confidential materials, MOFCOM maintained an index of all documents only used by investigating authorities. On the length of time to make available documents relating to the dumping phase of the anti-dumping investigation, public documents would be placed in the reading room immediately after receipt. When relating to the injury phase of anti-dumping investigations the information would be placed in the reading room within 10 working days after the authorities obtain or generate them.

23. For the ongoing cases involving US exporters, all the public documents relating to the cases had been put in the public reading room and were readily accessible for all interested parties related to specific anti-dumping cases. MOFCOM also provided the public version of written applications for initiation of the anti-dumping cases to the Government of the exporting Members according to Article 6 of the Anti-Dumping Agreement. Up until that time, all public documents related to the anti-dumping cases had been put in the public reading room and were available to all interested parties relating to the specific anti-dumping cases in a timely manner. Public information was

provided to interested parties in strict accordance with the two rules on public information, as mentioned before.

24. On the treatment of confidential information the authorities would examine the request of the confidentiality and its explanation for good cause. The examination would be based on evidence provided by interested parties. Whether the information was considered confidential depended on whether its disclosure would be of significant competitive advantage to a competitor or whether its disclosure would have a significantly adverse effect upon a person supplying the information or on a person from whom that person acquired the information. If the information had already been made public legally it would not be considered as confidential any longer.

25. As to the requests for confidentiality posed by foreign parties, they were fully respected by the investigating authorities. As a matter of fact the confidential information in all the cases that had been submitted by the interested parties had never been disclosed or used elsewhere, other than in the investigations.

26. On the on-spot visit at domestic industry – in all the investigations initiated to that point, the authorities had conducted on-spot verification of the domestic industry before making the preliminary determination. Such a practice was likely to continue in the future in good faith. Verifications were conducted with the procedure in accordance with the requirements for data verifications of domestic industries in the WTO Anti-Dumping Agreement.

27. In regard to use of facts available, the Chinese authorities used facts available in cases where interested parties refused access to or otherwise did not provide the necessary information within a reasonable period, or significantly impeded the investigation. Use of facts available depended on specific situations and the conditions of a specific case. In line with Annex 2 of the WTO Anti-Dumping Agreement, if the evidence or information was not accepted, the supplying party would be informed and given an opportunity to provide further explanations by the Chinese authorities. On-spot visit was carried out to prove supplied information or evidence. Some evidence or information favourable to the investigated company or enterprise would be verified and accepted. As a result the definitive duty levels might be lower than the provisional ones imposed on the basis of facts available which was unfavourable to the enterprise. The authorities do not rule out the possibility of conducting on-spot visits prior to the imposition of provisional measures. It depends on the specific situation and conditions of the investigation in a specific case.

28. On judicial review, pursuant to Articles 14 and 17 of the Law of the People's Republic of China on State procedure, the first trial of an administrative case in relation to anti-dumping was to be heard by the Second Intermediate Court of Beijing. Also pursuant to the law of China on administrative procedures and the judicial interpretation of the Supreme People's Court on certain issues concerning the application of law, on hearing anti-dumping administrative cases, all interested parties were equally entitled to the judicial rights of filing a case, entrusting representatives providing evidence, debate before the court, accepting the judgement, appeals, and applying for endorsement, etc. On the notification of this judicial interpretation, China was finalizing the translation, which would be notified in the coming months.

29. On the issue of legal representation on anti-dumping cases, this was an issue of trade in services in nature. The current requirement of China in this regard was consistent with the specific commitments made on legal services as contained in China's Services Schedule. As far as China was aware, such a requirement was not only maintained by China but also by a lot of other Members. As to whether there would be any change of this practice, this was an issue to be dealt with in Services Negotiations.

30. As to the comment of a Member on China's practice regarding cumulative assessment, if one looked into the facts, it was not true that authorities cumulatively assessed imports without demonstrating by positive evidence that the volume of imports from each country was not negligible. In all the anti-dumping cases initiated by China, the authorities did conduct serious examinations on the volume of imports of every interested country in accordance with the evidence and data provided by interested enterprises in order to confirm whether the volume was negligible. The practice of the Chinese investigating authorities in conducting cumulative assessments were in full consistency with Article 3 of the Anti-Dumping Agreement. When the import volume from certain countries was determined to be negligible the investigations were terminated in a manner consistent with the requirements of the Anti-Dumping Agreement. If the Member concerned looked carefully into the cases notified to the Committee, it would find that strict examination on whether the volume of imports was negligible was a common practice of the investigating authorities of China. Secondly, the Member's statement that Chinese authorities conducted its investigation on condition of competition without any reason was also not true at all. As stated in the notices cited by the Member, the investigating authorities of China always took into consideration physical and chemical characteristics, structure of raw materials, production process and also use of the products under investigation. When examining the above elements the authorities usually consulted experts who were completely neutral for advice. China also noticed that the Working Group on Implementation of the Committee was discussing the draft paper regarding the practice to be followed in cumulative assessment of imported products.

31. China was willing to exchange views with other Members as to how to improve examination in this regard, but believed that there was no ground to say that the investigating authorities of China did not meet the requirements of positive evidence, and an objective examination in Article 3 of the Anti-Dumping Agreement. In fact China's practice was in strict accordance to the WTO rules and domestic legislation. Therefore, China did not accept this allegation. As to the issue of like product the facts also were not as commented by the Member. The investigating authorities of China had always observed Article 2 of the Anti-Dumping Agreement when determining like product. It was well acknowledged that determination on products in anti-dumping investigations was a complex issue subject to further discussion. In the process of determining like-product in every investigation, the investigating authorities of China carefully examined its physical characteristics, and users of the product made explanations thereof in the determination. The situation referred to by the Member did not exist at all. China therefore kindly advised the Member to make comments based on solid evidence and facts of individual cases. On the specific case of dispersion single mode optical fibre, even before the comments were made by the Members, the Chinese investigating authority had listened to reports and comments on this issue from the interested parties, and was working on a solution. As always the investigating authorities in China had granted the right, in that particular case, to interested parties to comment and protect their own interests.

32. Lastly was the question on the inquiry point. The website was being reconstructed but this inquiry point, establishing the Ministry of Commerce, is working properly. Inquiries could be sent to the inquiry point by fax or mail at the following address which was the WTO Notification and Enquiry Bureau of the Ministry of Commerce of China, at 2 East China Street, Beijing. The fax number was 00681065197340.

33. China had faithfully prepared detailed responses to a number of the questions in a good spirit of cooperation and did not want to prolong the meeting, but hoped that the responses were satisfactory to Members who had raised these questions.

34. The delegate of the United States stated that his delegation continued to believe that the transition review was a very useful exercise both for China and other Members. It allowed Members to have their questions and concerns addressed, it helped Members to assess China's implementation

progress, and it also clarified areas of agreement or disagreement. The United States appreciated China's detailed responses to its questions and had just a few clarifications that it sought.

35. The United States thanked the Chinese delegation for the efforts that they were making to implement transparency in their system. The answer that was given regarding the types of information that both the BOFT and IBII would eventually be providing as part of their disclosure of essential facts was well-taken. To the United States' knowledge, IBII had never as of that point disclosed essential facts to responding parties and the United States asked if that was correct, and if not, whether the delegation of China could indicate cases where the IBII had disclosed essential facts to responding parties.

36. Also in response to China's answer about the placement of documents in its public reading room, the United States was pleased that the IBII had begun to do so, but as noted in the opening statement of the United States, this appeared more to represent China's goal in cases involving the United States rather than complete fact. Given that this did not yet reflect the actual situation, the United States asked what steps MOFCOM was taking to ensure that adequate non-confidential versions of all information submitted to, or generated by MOFCOM, in the future would be made available to parties on a timely basis.

37. The delegate of Japan appreciated China's having provided informative answers to Japan's questions, and wished to raise some preliminary comments on the answers.

38. Regarding the answer to question one, as far as Japan had read in the final or preliminary determinations of the recent AD investigations such as TDI and optical fibre, there were no disclosures in those determinations regarding how the authority made analysis of the condition of competition between imported goods and domestic products, and why the authority concluded that the cumulative assessment was appropriate in light of the conditions of competition. If China truly made this analysis in detail as answered in the meeting, Japan requested China to make adequate disclosure of this analysis in the preliminary and final determinations.

39. Regarding the answer to Japan's question four, Japan appreciated China's efforts to resolve this problem. Japan had heard that China had made a public notice to resolve the problem but also had heard that Japanese respondents were still facing the problem of the implementation of the public notice because the public notice so far has not been implemented by Chinese customs and other relevant authorities. Japan hoped that China would quickly resolve this remaining problem.

40. Finally, all of the questions raised were very technical, so to correctly inform other personnel in the capital of China's answers, Japan would highly appreciate China's providing a written copy of its oral statement.

41. The delegate of the European Communities thanked China for the answers given and its efforts made to reply to the questions and comments. That being said, the EC found itself in a particularly difficult situation for two reasons: first, the replies to the questions had not been provided in writing which made it difficult to note the answers and to see to what extent the questions had been replied to. The EC had submitted its questions more than one month before and considered this to be sufficiently in advance to allow China to provide written replies to the questions. The second problem was that China had replied to four sets of questions in one general reply. This also made it difficult not only for the EC but also for other Members to identify which answer corresponded to which question and whether ultimately all the questions had been replied to. The EC thus requested, as had Japan, that China provide written answers. China had made considerable efforts in preparing the replies so it would be beneficial to all to receive them in written form. If this could not be done for the four sets of questions, the common reply which had been presented orally could perhaps be circulated in writing.

42. The delegate of China thanked the three delegations that had made follow-up questions. Regarding the questions from the United States, in the detailed oral responses China had provided the answer that its investigating authority had enacted the two rules with regard to information disclosure. Before coming from Beijing for the meeting the delegate had been told by the investigating authority that China's practices with regard to the information disclosure were conducted in line with the provisions of the two rules and also that the authority believed that this was consistent with the requirements of the WTO ADA. The delegate took note of the comments, which he certainly would transfer back to the investigating authority of China.

43. With regard to the comment from Japan, the delegate could certainly transfer the comment back, but on the last point, which also was echoed by the delegation of the EC, regarding the written copy of the responses, the delegate did not want to waste the time of the Members, but thought that it had been made very clear that it was the position of China that with regard to the TRM, as said in the Chairman's opening statement, there was no procedure. It had been clear that the Chinese delegation had always been not in the position to provide a written paper. In that regard, he encouraged Members to have exchanges with China's delegation through the other agenda items of the Committee. China believed that that already provided enough possibilities or opportunities for bilateral exchanges of views under which China believed it could also provide all the answers in written form.

44. Turning to the Committee's report on transitional review, the Chairman recalled that there are no guidelines for this in China's Protocol of Accession, and that in the past, the Chair acting on his or her own responsibility had prepared a brief factual report with references to the documents concerned and attaching the portion of the minutes of the meeting which related to the transitional review. The Chairman asked Members whether the same procedure could be followed for this review.

45. The Committee so decided.
