

**TRANSITIONAL REVIEW MECHANISM PURSUANT TO
SECTION 18 OF THE PROTOCOL ON THE ACCESSION
OF THE PEOPLE'S REPUBLIC OF CHINA**

Questions from the European Communities

In the context of increased use of Anti-Dumping instruments by China, the EC expresses its concern that some aspects of the Anti-Dumping proceedings raise questions in terms of transparency and protection of confidentiality of data.

1. The People's Republic of China is currently requesting Chinese legal representation in case of anti-dumping proceedings. Non-Chinese lawyer may not represent exporters in the context of Anti-Dumping proceedings (e.g. submit written comments, participate in hearings). It was our understanding that this was a transitional requirement and not a permanent restriction.

- (a) Can the People's Republic of China please explain why this requirement is maintained?
- (b) Can the People's Republic of China please explain whether and when they intend to lift this obligation?

2. It is our understanding that the Chinese Investigating Authorities do not automatically conduct on-spot-visits at domestic industry before Imposition of Provisional Measures.

- (a) Can the People's Republic of China please explain what actions they are taking to ensure the accuracy of the data received from the domestic industry?
- (b) Can the People's Republic of China please explain if they have any written instructions determining the process of verification of data provided by the domestic industry?
- (c) Can the People's Republic of China please outline the main steps of such verification process?

3. When is China going to notify the Committee of the enactment of the new Foreign Trade Law?

4. Pursuant to Article 6.5 of the WTO Agreement on Anti-Dumping covering the subject of Confidentiality, information can only be provided on a confidential basis if "good cause" has been shown. This implies that a simple request of confidentiality is not sufficient.

- (a) Can the People's Republic of China please explain what actions they are taking to verify, before granting confidential treatment requested by the Chinese Industry, that such confidentiality is indeed warranted in accordance with Article 6.5 ADA?

(b) Can the People's Republic of China please explain whether they would continue to consider information as confidential, which in the meantime has been made public in another form.

5. Experience on cases, where definitive measures have been imposed, have raised doubt about the respect of confidentiality when requested by European Industry.

(a) Can the People's Republic of China please outline and explain the criteria that determine whether information can be considered confidential?

6. Article 6.9 of the WTO Agreement on Anti-Dumping require that "The authorities shall, ...inform all interested parties of the essential facts under consideration....".

(a) Can the People's Republic of China please explain what in their view and practice constitutes "essential facts" which consequently have to be contained in the disclosure?

(b) Can the People's Republic of China please explain if they consider considerations and interpretations of data to be essential facts?

(c) Can the People's Republic of China please explain if they consider access to the file to be a part of the disclosure?

7. We note that the Chinese Authorities today systematically impose provisional measures before on-spot-visits, based on "facts available". (a) Could the People's Republic of China please explain how the use of facts available relates to Article 6.8 ADA? The EC is particularly concerned about this issue because experience shows that definitive measures might be considerably lower than the provisional measures imposed on the basis of facts available.

(a) Can the People's Republic of China please explain if they will consider conducting on-spot-visits prior to the imposition of provisional measures?
