

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

Questions from the United States

The following communication, dated 5 October 2004, is being circulated at the request of the Delegation of the United States.

Notifications and Related Matters

1. Since October 2003, China has issued, revised or repealed various laws, regulations and rules relating to its anti-dumping practice. In responses to this Committee, including G/ADP/Q1/CN/40, China appears to have identified some but not all of these laws, regulations and rules.
 - (a) Please list all laws, regulations and rules relating to China's anti-dumping practice that are currently in force, and for each such law, regulation and rule include appropriate citation to its date of issuance and date of publication in the official journal.
 - (b) For those laws, regulations and rules that have not been notified to the Committee, including the *Foreign Trade Law*, revised on 6 April 2004, and the *Anti-Dumping Regulations*, revised on 31 March 2004, please indicate when China will make the notification required by Article 16.5 of the Anti-Dumping Agreement.
 - (c) For each of the laws, regulations and rules relating to China's anti-dumping practice that have been repealed since October 2003, please identify the law, regulation and/or rule that replaced it and explain the changes made.
2. Please describe the division of responsibility between the Ministry of Commerce (MOFCOM) and the Customs General Administration with regard to the administration of anti-dumping measures.
3. Please list the offices of the Customs General Administration that are involved in the assessment of anti-dumping duties and describe their functions. Please also identify the laws, regulations and/or rules that set forth these functions, and indicate when China will notify them to this Committee.
4. On 27 November 2002, the Committee on Anti-Dumping Practices adopted a Recommendation Concerning the Time-Period to be Considered in Making a Determination of Negligible Import Volumes for Purposes of Article 5.8 of the Agreement (G/ADP/10). The Committee adopted this Recommendation pursuant to the mandate from Ministers in paragraph 7.3 of the Decision on Implementation-Related Issues and Concerns adopted at Doha. Under the Committee's Recommendation, Members were required to notify to the Committee within 60 days

which of the time periods set out in the Recommendation they will use in anti-dumping investigations thereafter. The notifications by Members to the Committee to date on this issue are available on the WTO website at G/ADP/N/100. To the United States' knowledge, and based on a review of the WTO website, it appears that China has still not made any such notification to the Committee as required by this Recommendation, even though China is now one of the most active users of anti-dumping measures in the WTO. Please indicate when China will submit this required notification to the Committee.

Transparency

5. On 25 June 2002, China issued the *Measures for Accessing the Anti-Dumping Public Information Access Room (Provisional)*. Are these Measures still in force, and do they apply to both MOFCOM's Bureau of Fair Trade for Imports and Exports and MOFCOM's Investigation Bureau of Industry Injury?

6. Please describe the current status of MOFCOM's public reading room(s) for anti-dumping investigations and reviews. Does MOFCOM maintain a publicly available index of all documents, both public and confidential, for anti-dumping investigations and reviews?

7. What is the average length of time for MOFCOM to make available documents relating to the dumping phase of anti-dumping investigations?

8. Please describe the process for accessing information relating to the injury phase of anti-dumping investigations. What is the average length of time for MOFCOM to make available documents relating to the injury phase of anti-dumping investigations?

9. The United States has been unable to obtain or locate on the public record adequate non-confidential versions of all information submitted to, or generated by, MOFCOM with regard to both the calculation of dumping margins and injury determinations, for the following ongoing cases involving US exporters: Chloroform; Ethanolamine; Optical Fiber; Chloroprene Rubber; Hydrazine Hydrate; Unbleached Kraft Linerboard; Dimethyl Cyclosiloxane; Ethylene-Propylene-Non-Conjugated Diene Rubber; and Furan Phenol.

(a) Please indicate when this information will be made available to interested parties, as envisioned in Article 6 of the Anti-Dumping Agreement?

(b) Please indicate when this information will be placed on the public record.

10. What steps is MOFCOM taking to ensure that adequate non-confidential versions of all information submitted to, or generated by, MOFCOM in the future are made available to interested parties on a timely basis, as envisioned in Article 6 of the Anti-Dumping Agreement?

Judicial Review

11. In paragraph 152 of its Working Party Report, and pursuant to Article 13 of the Anti-Dumping Agreement, China took on the obligation to provide judicial review with regard to various anti-dumping proceedings. Although not notified to this Committee, the *Provisions of the Supreme People's Court on Certain Issues Concerning the Applicability of Laws in the Hearing and Handling of Anti-Dumping Administrative Cases* appear to address judicial review of anti-dumping investigations generally.

(a) Please indicate when China will notify these Provisions to the Committee.

- (b) Please identify the court(s) that will be conducting reviews in the anti-dumping context, and describe in detail the procedures that must be followed by an interested party when pursuing judicial review.

Enquiry Point

12. In paragraph 2(C)(3) of its Protocol of Accession, China agreed to establish or designate an enquiry point relating to all laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange. Based on our understanding of information which China has previously supplied this Committee, this enquiry point is supposed to be accessible at <http://www.chinawto.gov.cn>. However, this link does not appear to be working at this time. Please provide up-to-date information on the enquiry point, and explain the process by which a Member, enterprise or individual can ask a question and receive a response through the enquiry point.
