

**QUESTIONS POSED BY THE SEPARATE CUSTOMS TERRITORY  
OF TAIWAN, PENGHU, KINMEN AND MATSU WITH REGARD TO  
CHINA'S TRANSITIONAL REVIEW MECHANISM**

The following communication, dated 18 October 2004, is being circulated at the request of the Delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

THE REVISED FOREIGN TRADE LAW

1. We have noted the adoption on 6 April 2004 by the Standing Committee of the Tenth National People's Congress of Revised Foreign Trade Law (hereinafter "Revised FTL") and its entry into force on 1 July 2004. To our knowledge, the Revised FTL has not yet been notified in line with Part I-Section 2(c) of the Protocol on the Accession of China and paragraph 334 of the Report of the Working Party on the Accession of China. We would be pleased to learn when China will notify the Revised FTL.

2. Article 46 of the Revised FTL appears to grant authority to impose trade remedy measures on imports if an import restricting measure taken by another country results in significant increase of imports of such goods into China's market, as to cause or threaten to cause "injury" to its domestic industry.

- Could China confirm if our understanding of the amended article is correct?

- The WTO Agreement on Safeguard requires a minimum criterion of "serious injury" of domestic industry to be qualified for imposing safeguard measure. However, the Revised FTL seems to adopt a lower threshold of "injury". Could China explain how it will implement the Revised FTL in a WTO-consistent manner? Does China think "trade diversion" qualifies the requirement of "unforeseen development" in the Safeguard Agreement?

- What kind of trade relief measures could be covered in the said Article?

REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON SAFEGUARDS and RULES ON  
INVESTIGATIONS AND DETERMINATIONS OF INDUSTRY INJURY FOR SAFEGUARDS

3. Following the restructuring of the Ministry of Commerce, China revised its Regulations of the People's Republic of China on Safeguards on 31 March 2004. In addition, the Ministry of Commerce promulgated the "Rules on Investigations of Industry Injury for Safeguards" on 17 October 2003, which entered into force one month later. To our knowledge, the above-mentioned regulations have

not yet been notified to the Committee on Safeguards. We would be pleased to learn when China will notify these regulations.

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