

Committee on Sanitary and Phytosanitary Measures

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

The present report is submitted under the responsibility of the Chairperson, as agreed by the Committee at its meeting of 27-28 October 2004.

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1. The Committee held its third annual Transitional Review under Paragraph 18 of the Protocol of the Accession of the People's Republic of China at the regular meeting on 27-28 October 2004 (WT/L/432 refers).
 2. Statements made at the Committee meeting in the context of this transitional review by Australia, China, the European Communities, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the United States will be reflected in the Summary Report of the October meeting to be circulated as G/SPS/R/35 (excerpt attached).
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ATTACHMENT - EXCERPT FROM G/SPS/R/35

AGENDA ITEM 11: TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

1. The Chairman recalled that in accordance with Paragraph 18 of the Protocol of Accession of the People's Republic of China, the SPS Committee is to undertake an annual review for eight years of the implementation by China of the SPS Agreement. He opened the floor for comments or questions from Members.

2. The representative of the European Communities thanked the Chinese authorities for their positive move to lift the embargo for some bovine and dairy-based products, such as bovine semen, bovine embryo and other protein derivatives from bovine. Therefore, in the document for the Transitional Review of China submitted by the European Communities (G/SPS/W/154), some of the points or comments were no longer up to date. The representative of the European Communities indicated that he would make a written correction in the form of an addendum to the document submitted and the positive moves on these issues would accordingly be updated in this document.

3. The representative of the United States stated that in response to this item, that was announced and placed on the agenda as of the last meeting, the United States had submitted a paper (G/SPS/W/153) dated 4 October, which provided some information on issues that they had raised with China in a number of different fora, including at meetings of this Committee. The United States considered that the Transitional Review Mechanism was a useful exercise to gain an improved understanding and to clarify important aspects of China's implementations of its obligations under the SPS Agreement. It was also important to take note, as was done in the opening sentences of paragraph 1 of the US paper, that in the view of the United States, China's implementation had markedly improved since the last time the Committee conducted this review.

4. The representative of the United States indicated that he was not going to go into details of all the issues that were presented in the paper, but would highlight a few. In many cases China had promulgated and implemented laws without notification to the WTO. One example of this problem was AQSIQ Decree 73, and in the transitional review conducted by the Committee on Agriculture, the United States had submitted document G/AG/W/64 and Add. 1 to that document, which provided written questions concerning a number of decrees, including ACSIQ 73. At the 23 September 2004 Committee on Agriculture transitional review discussion, the Chinese delegation indicated that they would address the issues and questions that the United States had presented regarding Decree 73 in this Committee. In paragraphs 11-13 of its paper, the United States had again presented those questions for a response from the Chinese delegation.

5. The representative of the United States further noted that his country was interested in continuing discussions with China on its SPS programmes. As was noted earlier by the Chinese delegation, the United States had an on-going technical assistance programme with China and looked forward to productive discussions and enhanced understanding of their implementation of their SPS obligations.

6. The representative of Chinese Taipei commended China on its effort to meet its accession commitment. Chinese Taipei also wanted to take this opportunity to express concern regarding China's SPS measures and had raised questions in document G/S/SPS/W/152, which was circulated 1 October 2004. Chinese Taipei looked forward to receive a response from China.

7. The representative of Australia noted that Australia valued its strong relationship with China and continued to make efforts to strengthen communication and cooperation with China on SPS

matters. Australia appreciated China's efforts to develop and improve its quarantine and inspection systems and to ensure that quarantine procedures were based on sound scientific evidence and implemented with appropriate risk management. While Australia understood the challenges China faced, it continued to encourage China to bring its systems fully into compliance with the SPS Agreement as quickly as possible, including ensuring consistency and transparency in its development and administration of SPS measures, at both a national and provincial level, as well as conformity with notification obligations under the SPS Agreement. This would benefit China and all WTO Members.

8. The representative of Australia further observed that Australia had been pleased to offer a significant amount of technical assistance to China, to assist development of its SPS capabilities and systems and would continue to do so. Australia was continuing to pursue a number of bilateral SPS issues with China, some of a long-standing nature. The Australian delegation held a constructive meeting with the Chinese delegation during the course of the week, and had clarified a number of market access issues with the Chinese delegation at that time. Australia looked forward to early resolution of these issues to allow bilateral trade to expand to the mutual benefit of China and Australia.

9. The Chairman asked if any other delegation wished to take the floor. He recalled that in accordance with paragraph 18 of the Protocol of the Accession of the People's Accession of China, this was simply an opportunity for discussion, and certainly there were no questions being posed directly to any Member here.

10. The representative of China stated that China felt obliged to remind Members that since the deletion of the three bullet points under agenda Item 11 has been adopted by all Members at the very beginning of the meeting, it was obviously inappropriate to make reference to documents invalid under this agenda item. He then invited his colleague to give some responses to some questions raised by Members.

11. The representative of China noted that since animal and plant epidemics and their spread frequently changed, China's quarantine requirements mainly reflected the situation through quarantine permits issued to importers. Once an importer obtained a quarantine permit, if there was no import within the validity period or the export country epidemic situation had undergone a major change, then the importer was required to re-apply for a new permit. Importers could return the original permits to AQSIQ and apply to exchange it for another new permit.

12. According to the regulations of the Border Animal and Plant Quarantine Law of the People's Republic of China, importers should gather import quarantine permit before signing import contracts. Exporters could identify China import quarantine requirements in the trading contracts. Thus China allowed the quarantine authority of an exporting country or Member to implement quarantine measures and to produce quarantine certifications against China's quarantine requirements as written in the contract in order to prevent products that did not meet with China's quarantine requirement from being exported to China. This would also be beneficial to preventing importers from suffering unnecessary losses.

13. Regarding the bullet point in AQSIQ Decree 73, the representative of China stated that his regulation reiterated the requirements stated in Article 11 of the Border Animal and Plant Quarantine Law which had been in effect since 1 April 1992, and had been notified to the WTO. This was definitely not a new regulation and the purpose of the formulation of this definition of this regulation had been described in his previous response and was not the meaning understood by some of the Members. Since this regulation's first implementation twelve years ago, the fact was that this law had not received any complaints or concerns from importers or exporters which included those from the Members which had just raised the oral questions.

14. The representative of China added a few words about the initial response his colleague had just given. First he expressed his thanks to the delegations that had just taken the floor, and that had just made interventions, for their interests in China's policies. China was grateful to the technical assistance efforts provided by the United States and Australia to China in this regard. As a new Member China believed efforts of this kind were very useful and very welcome. He believed that with the technical assistance continuing to be provided by those Members, China's regulatory regime for SPS-related measures would continue to improve.

15. The representative of China further noted that some Member's intervention referred to some documents that he thought the Committee had agreed at the beginning of this session to delete, and so he wondered what was the validity of those documents being mentioned here and being included in a deliberation or consideration by this Committee for this session. He said it was difficult for his delegation to consider how to form appropriate responses at this moment to those invalid documents that were not supposed to be included in the deliberations of this session. He noted that in the intervention by the United States the representative of the United States referred to the discussion in the Committee on Agriculture which took place last month, and of course China later on had taken every opportunity, bilaterally and multilaterally at various levels, at national, ministerial, departmental and divisional levels to try to exchange views with their US colleagues on those issues. The representative of China took this opportunity to report to the Committee that just prior to this session China had held SPS bilateral consultations with the United States, and he believed that the discussions in that session had already covered some of the concerns and questions on issues raised by the United States. The representative of China said further that his country was prepared to continue to have this dialogue and exchange of information with their US colleagues on a continuous basis to further explore the ways of how to enhance mutual understanding and how to deepen clarification on understanding of certain issues and regulations. He promised that his delegation was prepared to work as closely as before with the US delegation in this regard.

16. The representative of China concluded by expressing his deep and special thanks to the Chairperson and the Secretariat staff for their great efforts in preparations for this session. He said he was deeply impressed by the Chairperson's professional competence and dedication and hard work and wished him good luck in most successfully chairing this session.

17. The Chairperson thanked the representative of China and asked whether he wanted the Chair to expand on the question that had been posed. He queried whether it had been a question to the Chair or just a rhetorical question that could be left in the air in terms of the procedural aspects. The Chairperson indicated that he was in the hands of the representative of China regarding how he would like that handled.

18. The representative of China indicated that it could be understood either way, but to save labour, one could assume that it could be deemed to be a rhetorical question.

19. The Chairman noted that he was trying to work as carefully as possible to assure that things were well understood. He asked if any other delegation wished to take the floor.

20. The representative of the United States thanked the Chinese delegation for the information that they had just provided, and noted that his country too looked forward to continuing to build and enhance their SPS relationships and to develop a deeper understanding of China's implementation of its SPS obligations. The United States took note that some of the issues that were in their paper, some of the questions, the rather specific questions, in their paper had not been addressed and that it would be the intention of the United States to continue to work with China to understand the response that the Chinese government had to these particular questions. Many of these issues would be more fully developed and addressed through the on-going dialogue and the United States would continue in that matter.

21. The representative of China said that he appreciated very much the intervention just made by the delegate of the United States. He believed that besides this TRM exercise, other avenues of dialogue were also open and China was, like the United States, ready to continue this dialogue and exchange on all those issues of concern to the United States. The representative of China made it clear that some of those issues raised in the US paper China believed were legitimate, were understandable. China was prepared to work through dialogue with the United States to be able to get clearer answers and improve upon China's practice where necessary. China was determined to make efforts in that direction.

22. The Chairman stated that he would make a short factual report on the transitional review to the Council for Trade in Goods (circulated as G/SPS/34).
