

**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLE 12.6 OF THE AGREEMENT**

**Questions and Comments Posed by the Delegation of JAPAN
Regarding the Notification of the PEOPLE'S REPUBLIC OF CHINA**

The following communication, dated 1 November 2005, is being circulated at the request of the Delegation of Japan.

The Government of Japan (GOJ) appreciates the steady improvements in the safeguard rules and procedures of the People's Republic of China (PRC) through the Transitional Review Mechanism (TRM).

However, there have still existed some concerns on the consistency of its safeguard rules and procedures with the General Agreement on Tariffs and Trade (GATT) and the WTO Agreement on Safeguards (WTO-SG Agreement). Therefore, GOJ poses several questions below and are willing to discuss these issues with PRC in a constructive manner.

1. The Consistency of Article 31 of Regulations of PRC on Safeguards with GATT and WTO-SG Agreement

Following the comments by PRC at the previous TRM meeting, measures under Article 31 of Regulations of PRC on Safeguards "are different from rebalancing measures." Please specify on which provisions of GATT, WTO-SG Agreement and/or Dispute Settlement Understanding the above measures based.

2. Lack of Explicit Provisions in Domestic Acts

The Acts and regulations on safeguards of PRC do not have specific provisions regarding some rules provided under GATT and WTO-SG Agreement. Although PRC stated that some of them, such as considerations of "unforeseen developments," were assured at its investigation procedures, GOJ requests PRC to provide those rules explicitly in the relevant laws and regulations.

- Regulations of PRC on Safeguards do not stipulate as one of the conditions for taking Safeguard measure "unforeseen developments", prescribed in GATT Article XIX: 1(a). In the previous TRM meeting, PRC stated that it had made investigations in consistent with WTO-SG Agreement, even though without any specific provisions. In order to assure the consistency with the WTO-SG Agreement, GOJ requests PRC to provide the above-mentioned rule clearly in its laws and regulations.

- Article 3.1 of WTO-SG Agreement stipulates that “the opportunity to respond to the presentations of other parties and to submit their views, *inter alia*, as to whether or not the application of a safeguard measure would be in the public interest” shall be given. However, Article 19 of Regulations of PRC on Safeguards only provides, “[t]he application of safeguard measures shall be in the public interest.” From the point of view of the clarity and the consistency with WTO-SG Agreement, GOJ requests PRC to stipulate explicitly “the opportunity to respond to the presentations of other parties and to submit their views” in the laws and regulations.
- Regarding compensation measures (Article 8.1 of WTO-SG Agreement), PRC commented in the previous TRM meeting, “[c]onsultations under Article 24 of Regulations of PRC on Safeguards respond to the matter of the relevant provisions of WTO Agreement on Safeguards and the article includes compensation measures.” However, the article only requires making available “adequate opportunities for consultations,” and does not mention any compensation measures. GOJ request PRC to include a provision about compensation measures in the relevant regulations ,making it fully consistent with WTO Agreement on Safeguards.

3. Disclosure of Data for Investigations

With regard to the definition of “domestic industry,” PRC commented at the previous TRM meeting that it was specified in Article 10 of Regulations of PRC on Safeguards, and PRC had conducted investigations based on the article. But, in the case of the steel safeguard, PRC limited the scope of its investigation to eight domestic steel manufacturers, and deemed the sum of the above eight manufacturers’ productions as the total production of domestic industry, because of the reason that their outputs accounted for a major part of the total production in PRC. However, investigation authority of PRC did not disclose any specific data on output quantities in its findings. GOJ request PRC to make the relevant data public along with its findings in its future investigation.
