

**TRANSITIONAL REVIEW MECHANISM IN
CONNECTION WITH PARAGRAPH 18 OF THE PROTOCOL
ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA**

Questions from the UNITED STATES to CHINA

The following communication, dated 3 October 2006, is being circulated at the request of the Delegation of the United States.

Notifications

1. During the 2005 transitional review conducted in this Committee, the representative from China stated that the English version of 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* was being prepared for notification. When will China notify this measure to this Committee, as required by Article 16.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement)?
2. The United States understands that China recently promulgated *Regulations on Information Accession and Information Disclosure in Industry Injury Investigations*. When does China intend to notify this measure to this Committee, as required by Article 16.5 of the Anti-Dumping Agreement?
3. The United States understands that China recently promulgated *Regulations on Responding to Anti-dumping Cases of Export Products*. When does China intend to notify this measure to this Committee, as required by Article 16.5 of the Anti-Dumping Agreement?

BOFT Anti-Dumping Investigations

4. The United States continues to hear complaints from interested parties in Chinese anti-dumping proceedings about a lack of transparency regarding the facts being considered by the Bureau of Fair Trade (BOFT) of the Ministry of Commerce (MOFCOM) and a lack of adequate explanation of BOFT's interpretation of those facts. For example, according to these parties, the disclosures of anti-dumping margin calculations in preliminary and final determinations have not contained the necessary information needed in order to reproduce certain calculations and identify specific adjustments that may have been made.
 - (a) Please describe the specific steps that have been taken by BOFT since last year's transitional review before this Committee to ensure that disclosures to interested parties provide greater transparency.

- (b) Please provide a full explanation of all of the calculations used by BOFT in its methodology for comparing export price and normal value.

5. Please explain how China justifies BOFT's practice of refusing to exclude respondents from anti-dumping measures when they receive *de minimis* rates in a completed anti-dumping investigation, taking into account Article 5.8 of the Anti-Dumping Agreement and the Appellate Body's report in *Mexican Rice* issued on 29 November 2005 (WT/DS295/AB/R).

IBII Injury Investigations

6. Please describe the specific means by which MOFCOM's Investigation Bureau for Industry Injury (IBII) informs interested parties prior to the final determination of all essential facts under consideration in a manner consistent with Article 6.9 of the Anti-Dumping Agreement, and as required by Article 20 of IBII's *Regulations on Information Accession and Information Disclosure in Industry Injury Investigations*.

7. Reports by interested parties continue to suggest that IBII does not regularly provide in a timely manner sufficiently detailed non-confidential summaries of information submitted to IBII during anti-dumping investigations, as mandated in Article 6.5 of the Anti-Dumping Agreement. Where non-confidential summaries have been provided by IBII, they have been criticized as not containing sufficient detail to permit a reasonable understanding of the substance of the information submitted, as required by Article 6.5.1 of the Anti-Dumping Agreement. What specific steps is IBII taking to address this issue in accordance with Articles 11 and 12 of its *Regulations on Information Accession and Information Disclosure in Industry Injury Investigations*?

Customs

8. During the 2005 transitional review before this Committee, the representative from China stated that if any problems arose in the implementation of anti-dumping measures, MOFCOM and the General Administration of Customs would consult with each other. It is the United States' understanding that implementation problems have occurred during the past year.

- (a) Do any written procedures exist for handling problems that arise in the implementation of anti-dumping measures? If so, please identify them.

- (b) Please describe the steps that are taken to resolve implementation problems when different interpretations exist between MOFCOM and the Customs Administration.

9. In recent anti-dumping determinations, BOFT has published a formula for calculating the amount of anti-dumping duty collected upon entry at the port for products subject to anti-dumping measures, i.e., $\text{Deposit Amount} = (\text{Duty Paid Price} \times \text{AD Deposit Rate}) \times (1 + \text{import VAT rate})$. It is the United States' understanding that this formula assesses the value added tax (VAT) on the anti-dumping duty in addition to the entered value of the merchandise. Please explain whether BOFT in fact instructs the Customs Administration to collect VAT on the anti-dumping duty and, if so, which provision of the Anti-Dumping Agreement allows for this action.

10. Has any VAT assessed on anti-dumping duties, or any other duty collected in excess of the margin of dumping, ever been refunded by China following a request by an importer, as required by Article 9.3.2 of the Anti-Dumping Agreement? Please explain.
