

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 18-19 October 2007.

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1. The Committee held its sixth Annual Transitional Review under Paragraph 18 of the Protocol of the Accession of the People's Republic of China at the regular meeting commencing on 18 October 2006.
 2. Prior to the meeting, the United States and the European Communities submitted questions in writing to China, which can be found in documents G/SPS/W/213 and G/SPS/W/216, respectively.
 3. Statements made at the Committee meeting in the context of this transitional review by China, by the European Communities and the United States will be reflected in the Summary Report of the meeting, to be circulated as G/SPS/R/46 (excerpt attached).
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ATTACHMENT - EXCERPT FROM G/SPS/R/46

AGENDA ITEM 12: 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 United States recalled that in its submission for the 2007 transitional review (G/SPS/GEN/213), the United States had presented a comprehensive account of its concerns. These related to China's: (1) sanitary regulations applied to US products with the stated purpose of preventing the introduction of BSE, avian influenza, food-borne pathogens and residues; (2) varietal restrictions on apples; (3) lack of transparency; and (4) implementation of national treatment obligations. A few of the concerns had particular importance since they had been going on for many years.

3. The first concern related to China's continued imposition of BSE-related restrictions on imports of beef and beef products from the United States that exceeded those recommended by the OIE. In May 2007, the OIE had classified the United States as a controlled risk for BSE. The OIE recognized that trade in beef and beef products from cattle of all ages from a "controlled risk" country was safe, provided that certain slaughter and beef processing conditions were met, including the removal of specified risk materials (SRMs). The United States requested China to explain why it had failed to base its measures on OIE guidelines regarding the import of US beef and beef products, in accordance with Articles 3 and 5 of the SPS Agreement, and to provide a copy of its risk assessment if China had performed one.

4. The United States was also concerned that China imposed additional BSE-related import restrictions on US protein-free tallow, a product which was recognized by the OIE as safe to trade regardless of the BSE status of the exporting region. On this issue, China was requested to explain its failure to base its measures on OIE guidelines.

5. Another important concern of the United States regarded China's de-listing of US poultry establishments based on a zero-tolerance requirement for certain pathogens, such as salmonella on raw meat and poultry products, inconsistent with the Codex standards. China appeared to mistakenly apply Codex standards for ready-to-eat products to raw products. This requirement was unnecessarily trade restrictive within the meaning of Article 5 of the SPS Agreement. Furthermore, it seemed that China did not enforce this zero-tolerance requirement to domestically produced meat and poultry products. The representative of the United States asked China to explain how it applied its zero-tolerance requirement to its equivalent domestic products, and if this were not the case, requested China to review its domestic enforcement to ensure conformity with Article 2.3 of the SPS Agreement.

6. Finally, the representative of the United States highlighted concerns regarding residue standards. China had de-listed several US pork establishments due to its ban on ractopamine, a swine feed ingredient. This restriction was based on a blanket ban of beta-agonists drugs. However, the United States was unaware of any risk assessment conducted by China to evaluate ractopamine. Codex had established a draft standard (MRL) for ractopamine based on recommendations from the FAO/WHO Joint Expert Committee on Food Additives. The draft standard for ractopamine would be considered for final approval at the July 2008 meeting of the Codex Alimentarius Commission. In this context, the representative of the United States asked China to explain how it had taken Codex recommendations into account in the development of its ban on ractopamine and asked whether China had completed a risk assessment.

7. The representative of the European Communities welcomed further improvements in the relationship between China and the European Communities including improvements in bilateral consultations between the Chinese authorities and EC member States. The European Communities also welcomed recent Chinese efforts to improve food safety and to increase pre-export testing of consignments. However, the European Communities regretted that China's notification process, which had started well, was now dramatically slowing down despite an increase in China's legislative activity in the SPS area. Furthermore, China had not yet aligned its animal health legislation to the OIE guidelines, although adherence to OIE was a fundamental requirement for WTO Members.

8. The European Communities also encouraged China to improve its national information network, in other words, the flow of information between the competent national and regional services, in order to avoid inconsistency in SPS measures or procedures.

9. The representative of the European Communities also highlighted the currently limited access to the Chinese market for food products, due largely to imposition of restrictive SPS standards. The enforcement of food controls in China placed reliance on end-product testing, that often created a significant barrier to trade.

10. The representative of the European Communities welcomed China's notification G/SPS/N/CHN/100, which brought important changes to the existing rule for exports to China of cosmetic products. In particular, the proposed change modified the management measures for cosmetics imported from BSE-infected areas in accordance with the OIE recommendations.

11. However, the European Communities was otherwise concerned about China's interpretation of OIE guidelines on BSE. The OIE issued a list of bovine products which could be safely traded, regardless of the BSE status of a country, among which was de-boned skeletal muscle meat from cattle 30 months of age or less. Despite these guidelines, EC beef and bovine meat products were still banned by China. In addition, bovine semen and embryos were subject to restrictions in China in contradiction to the OIE recommendations.

12. Lastly, the representative of the European Communities indicated that compliance with the Chinese plant regulatory import system was unjustifiably difficult in that many of the import requirements went beyond the IPPC recommendations. However, recent communication flow between the European Communities and the Chinese authorities had improved considerably and the European Communities welcomed the positive attitude shown by China in this regard and looked forward to more efficient, rapid Chinese procedures.

13. The representative of China stated that the competent authorities had been actively engaging in dialogues with their counterparts in the United States and European Communities in the spirit of finding mutually satisfactory solutions to issues of interest to all sides. Issues identified in the submissions had also appeared on the agendas of bilateral talks.

14. Some of the issues had already been covered in the Committee meeting, and the representative of China therefore focussed on some of the other issues. According to the relevant OIE guidelines, controlled BSE risk countries should trace and supervise relevant cattle relating to BSE cases, and such cattle should be destroyed. However, complete tracing of cattle related to BSE cases had not been fully realized in the United States, and in some cases, the related farms were not even found. Also, according to relevant OIE guidelines, feed bans should be effectively enforced, and ruminants should not be fed with meat, bone meal and tallow derived from ruminants. Unfortunately, the United States did not seem to have a policy in place to ensure these requirements were met. As the United States recognized in its submission, China had agreed to resume import of US boneless beef from animals up to 30 months of age in July 2006, and then agreed this year to the resumption of bone-in beef from animals up to 30 months of age. These decisions were in line with relevant OIE

guidelines. China's competent authorities were not convinced that it was safe for China to import other US beef. China hoped that the US Government would strictly follow the feed ban recommended by the OIE, establish a complete tracing system for cattle, and ensure the security and traceability of beef exported to the Chinese market. China encouraged the United States to work with the Chinese authorities to first resume trade in beef from animals up to 30 months of age.

15. As to protein-free tallow, the representative of China recalled that the OIE guidelines indicated that only protein-free bovine tallow, of which the content of infusible impurity was less than 0.15 per cent, could be traded freely, and any bovine products containing SRM should not be traded. China permitted protein-free tallow meeting its regulations as well as the international standard to enter its market.

16. China was revising its sampling plans and microbiological criteria for food-borne pathogens, which would be identical to those of the International Commission of Microbiological Specifications for Foods (ICMSF), and completed in 2008. Once these new criteria were established, China would conduct a review and set the maximum microbiological limits in food commodities accordingly. Regarding residue standards, China did not allow ractopamine, a beta-agonist, as a swine-feed ingredient due to its cumulative nature. Consumption of meat from swine treated by ractopamine could cause side-effects to the human heart and nervous system. For this reason, the use of ractopamine was forbidden in over 160 countries and regions.

17. The representative of China noted that transparency was an important principle in the SPS Agreement and the Committee was well aware of what China had done in the past six years to contribute to the transparency discussions and fulfil its obligations under the SPS Agreement. China had a mechanism to ensure that SPS measures falling into the criteria of those to be notified under the SPS Agreement were notified. Among the 21 measures identified by the United States, some were notified a long time ago, some were established for domestic management only, and others were meant to intensify quality and safety of products for export and so were actually trade facilitating measures. China's understanding of transparency under SPS was that they notified what they found necessary to notify instead of all measures. Notifying measures complying with international standards would have no significant trade effect and increased the burdens to trading partners, especially developing country Members. Yesterday, China submitted three new SPS notifications to the Secretariat for circulation, and again it managed to provide a 60-day comment period starting from the date of circulation by the Secretariat.

18. The representative of China emphasized that treatment of products produced domestically or imported was the same. There was always the possibility for an exporter or importer to lodge a complaint and/or ask for re-inspection of the goods if these were found by Chinese port inspection and quarantine authorities to be non compliant.

19. The Chairman informed the Committee that he would make a short factual report of the transitional review to the Council for Trade in Goods.
