

**TRANSITIONAL REVIEW MECHANISM PURSUANT TO PARAGRAPH 18
OF THE PROTOCOL ON THE ACCESSION OF THE
PEOPLE'S REPUBLIC OF CHINA ("CHINA")**

Communication from the European Communities

The following communication, received on 9 October 2007, is being circulated at the request of the Delegation of the European Communities.

I. GENERAL COMMENT

1. The European Communities would like to take this opportunity to welcome the further improvements in the relationship between China and the European Communities. The European Communities notes also improvements in the bilateral consultations between the Chinese authorities and its member States. The European Communities believes that these bilateral consultations are essential to improve the mutual trust and the better understanding indispensable to forging strong relationships.

2. In this respect, the European Communities would like to highlight that an important element of the mutual understanding process, leading to mutual trust, is the knowledge about each others' sanitary and phytosanitary standards, legislation and regulations in force. This is important not only as a matter of transparency but also because it allows the trading partners to ensure they comply with each others' safety standards and prevent trade problems.

3. The European Communities welcomes the recent Chinese efforts to improve food safety and to increase pre-export testing of consignments. Nevertheless the European Communities regrets that the notification process, which had started well, now is dramatically slowing down despite the fact that legislative activity in the sanitary and phytosanitary area China is increasing.

4. In the same way, the European Communities also notes that China has not yet aligned its animal health legislation to the World Organisation for Animal Health (hereinafter referred to as the "OIE") principles. In this regard the European Communities would like to point out that, in common with other international standards, the OIE standards are intended to be used to avoid unexpected and sometimes unjustified trade bans.

5. As China is aware, the internal flow of information between the competent national and regional services is important for assuring the correct application of the measures or procedures set at central level. At present it seems that the internal information network is not yet at the required level. The European Communities encourages China to improve its national information network in order to avoid inconsistency in the measures or procedures, which can lead to unjustified problems with consignments.

6. The European Communities also consider the very slow progress in negotiations of certain bilateral protocols between China and EC member States. In this respect the European Communities invites China to accelerate these negotiations in order to avoid undue procedural delays.

7. The European Communities acknowledges that, with the increase in trade the work is growing, and encourages China to dedicate more resources to this new task consistent with the responsibilities that follow from membership in the WTO and the SPS Agreement.

8. The European Communities welcome China's notification G/SPS/N/CHN/100, which brought important changes to the existing rule (Notice N° 1, 2002) 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 to the recommendations contained in the OIE Terrestrial Animal Health Code. The European Communities expressed satisfaction (formally at the 39th SPS Committee in June 2007), to see China's efforts to adjust its national rules in accordance to international standards, that they are scientifically justified and that they are more in proportion to the risk.

II. EC SPECIFIC CONCERNS ON THE APPLICATION OF THE SPS AGREEMENT

9. The European Communities would like to highlight the currently limited market access for its food products, which result from several reasons, among which are the following.

Microbiological criteria

10. The European Communities is concerned about the enforcement of food controls in China that place reliance on end-product testing, that often creates a significant barrier to trade. In particular, reference is made to some microbiological criteria such as for *E. Sakazakii* and others. The standard set for this pathogen and its application are not in line with the Codex, and are unnecessarily trade restrictive within the meaning of Article 5 of the SPS Agreement. This has created serious problems for trade in dairy products. We also would like to highlight that the microbiological standard regulation has not yet been notified.

- The European Communities would like China to explain the reason for the lack of notification of its national legislation, regulation and standards.

Animal health standards

11. With reference to the animal health policy, the European Communities is concerned about the Chinese interpretation of OIE guidelines on BSE. In this respect, the European Communities would like to remind China that the OIE issued a list of bovine products which can be safely traded, regardless of the BSE status of country, among which is de-boned skeletal muscle meat from cattle 30 months of age or less. Despite the OIE guidelines, EC beef and other bovine products, with particular reference to bovine semen and embryos, are still banned, although the European Communities has several measures in place aimed at assuring the highest level of consumer protection. Among these are a strict feed ban, strict controls on specified risk materials and active surveillance.

- The European Communities would like China to explain its scientific reasons for the restrictions on the products that according to the OIE list can be safely traded.

Plant health standards

12. The European Communities considers that compliance with the Chinese plant regulatory import system is unjustifiably difficult. Many of the import requirements go beyond the IPPC recommendations and the SPS Agreement. Nevertheless recently the communication flow between the European Communities and the Chinese authorities has improved considerably. The European Communities welcomes the positive attitude shown by China in this regard and looks forward to a speed up in Chinese procedures with a view to concluding ongoing negotiations on export protocols for fruits and vegetables, in order to achieve a substantial improvement in market access for this sector in the near future.
