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CHINA'S TRANSITIONAL REVIEW MECHANISM

Communication from the European Communities

The following communication, dated 1 November 2007, is being circulated at the request of the delegation of the European Communities.

I. INTRODUCTION

1. Fruitful cooperation between China and the EC on TBT issues has continued since last year's transitional review. Frequent bilateral contacts between the EC and China and the good functioning of a number of formal cooperation mechanisms in the TBT field have allowed for some progress in most of the areas covered in the last year's submission (G/TBT/W/272).

2. This document identifies a number of outstanding concerns in the TBT field, which the EC will continue to discuss with the Chinese authorities in a bilateral context. The EC also considers it useful to table these concerns in a multilateral context in order to inform other Members of the WTO.

II. CCC SYSTEM

3. The EC would like to underline its positive cooperation with the competent Chinese authorities, which has allowed the EC to raise concerns on the CCC system and discuss in detail various issues relating to the practical implementation of the CCC system.

4. As a general remark, the EC notes that, despite some improvements in a number of areas, the CCC system remains one of the main market access hurdles for foreign companies, and in particular for small and medium-sized enterprises, due to the complexity, length and costs of the procedure.

5. The EC considers that the current requirements of the CCC system are not always relevant to the level of risk the products pose, which implies that the CCC system is more trade restrictive than necessary. The EC sees a general need for the overall streamlining and simplification of the CCC system.

6. The EC would like to recall its main requests and outstanding concerns:

A. CONFORMITY ASSESSMENT PROCEDURES SHOULD BE MORE CLEARLY LINKED TO THE LEVEL OF RISK POSED BY THE PRODUCT

7. In this respect, the EC notes that, during last year's transitional review before this Committee, China stated that it had been studying the possibility of adopting different conformity assessment procedures, including the Supplier's Declaration of Conformity (SDoC), to reflect the different levels of risk posed by the products listed in the CCC Product Catalogue.

8. The EC expresses appreciation for the efforts undertaken by China's National Certification and Accreditation Administration (CNCA) in the course of 2007, in particular as regards the launch of a comprehensive research programme on risk management and risk assessment schemes with a view to identifying categories of low-risk products in respect of which CCC requirements could and should be considerably simplified.

9. The EC also notes the efforts of the Chinese authorities in establishing a more efficient post-market surveillance system as well as an adequate legal framework in support of the possible future introduction of SDoC for some products.

10. The EC encourages China to accelerate the above process and stands ready to share its experiences of managing conformity assessment procedures based on the SDoC for low-risk products.

B. SPARE PARTS, COMPONENTS AND SUB-ASSEMBLIES

11. Spare parts, components and sub-assemblies are currently exempted from CCC certification when incorporated in final exported products.

12. However, they are subject to mandatory certification, when they are imported as single units, even when they are intended for incorporation in CCC certified final products and are not made available separately on the Chinese market.

13. The EC would request China to consider exempting from the CCC certification requirements single spare parts, components and sub-assemblies which (i) are solely intended for incorporation into a CCC certified final product and (ii) are not sold separately on the Chinese market.

C. ALLOW FOREIGN-OWNED CERTIFICATION BODIES ESTABLISHED IN CHINA TO BE DESIGNATED AS CCC CERTIFICATION BODIES

14. China's Regulation on Certification and Accreditation provides for the possibility that foreign-owned certification bodies be established and engage in product certification activities in China.

15. During last year's transitional review, China confirmed that foreign-owned certification bodies established in China could be qualified as CCC certification bodies by way of official authorization by CNCA.

16. However, the EC understands that, due to certain general limitations in Chinese law on the activities of foreign-owned entities, only Chinese-owned certification bodies are in practice eligible for designation under the CCC System.

17. On the other hand, the EC understands that acceptance of test results from local-based foreign-owned certification bodies is possible on the basis of either prior approval from CNCA followed by a contractual arrangement between such bodies and a CCC designated Chinese certification body, or on the basis of an international voluntary scheme that China adheres to (e.g. the IECEE CB Scheme).

18. The EC would appreciate it if China could clarify the situation regarding the effective possibility for foreign-owned certification bodies established in China to be designated and perform activities under the CCC System without discrimination compared to Chinese-owned certification bodies.

D. FACILITATE AND EXPAND THE SCOPE OF RECOGNITION OF TEST RESULTS FROM FOREIGN CERTIFICATION BODIES

19. In the field of electrical safety, recognition of test results from foreign certification bodies is greatly facilitated by China's participation in the IECEE CB Scheme.

20. The EC would like to request China to consider making full use of all the options provided for under this scheme, by accepting in particular the results of tests performed in qualifying manufacturers' laboratories in accordance with the Supervised Manufacturer's Testing and Recognised Manufacturer's Testing procedures.

21. The EC further encourages China to continually increase the scope of the products and of the IEC standards it adheres to in the IECEE CB Scheme.

22. The EC understands that, outside international voluntary schemes such as the IECEE CB Scheme, foreign-based certification bodies may be accepted to undertake testing work on behalf of Chinese certification bodies, on the basis of bilateral agreements with CNCA and the relevant Chinese certification bodies.

23. The EC asks China to continue to encourage such agreements, which have great potential for facilitating compliance with the CCC requirements as well as for reducing associated costs, in particular for small and medium-sized enterprises who often do not have representation in China.

E. FACTORY INSPECTIONS

24. The EC takes note of China's position, as stated in the context of last year's transitional review, that the factory inspection in the CCC System contains not only requirements related to general quality management systems, as specified in the ISO9001 series, but also requirements on process control and product conformity assessment. China is therefore of the view that ISO9001 cannot fully replace the factory inspection requirement in the CCC system.

25. The EC would like to request assurance from China that the requirements already covered by the ISO9001 certificate are not verified again in the context of the factory inspection under the CCC system.

26. Given the significant costs associated with the factory inspections (mostly related to travel and subsistence costs of the Chinese auditors), which place a very heavy burden especially on small and medium-sized enterprises, the EC urges China to consider allowing foreign-based certification bodies to carry out the initial factory inspection, on the basis of agreements similar to those currently in place between CNCA and designated Chinese certification bodies, on one hand, and a number of foreign-based certification bodies, on the other hand, in connection with the follow-up factory inspections.

III. STANDARDIZATION - GENERAL

27. Cooperation in the field of standardization between Europe and China is effective. Real progress was made on some of the issues raised last year's transitional review although there remain some areas of concern, as outlined below.

A. PARTICIPATION OF FOREIGN-OWNED COMPANIES ESTABLISHED IN CHINA IN DOMESTIC STANDARDISATION WORK

28. The EC was pleased to hear from the Chinese delegation on the occasion of the last transitional review that the Standardisation Administration of China (SAC) had promulgated Document No. 40 of 2005 on *Opinions on Participation of Foreign Enterprises in China in Domestic Standardisation*, which provides the legal framework for the participation of foreign-owned enterprises established in China in the domestic standardisation making process.

29. The EC is also pleased to report that, at a recent bilateral meetings with the EC in October 2007, China confirmed that the "national treatment" principle would be systematically applied in all standard development activities, especially in Technical Committees.

30. The EC very much welcomes these developments and would like to stress the importance of ensuring an effective participation of foreign-owned enterprises established in China in the domestic standardisation-making process on the same conditions as Chinese-owned enterprises.

31. Full industry participation is the key to success for any standard development. Failure to involve foreign companies might result in the respective Chinese Standard Development Organizations not gaining access to recent technological developments, to the ultimate detriment of the Chinese society.

B. IMPLEMENTATION OF INTERNATIONAL STANDARDS – NATIONAL DEVIATIONS

32. The EC notes with appreciation China's achievements with regard to the adoption rate of international standards and its commitments to the continuous alignment of its domestic technical regulations and standards with international standards.

33. The EC also wishes to positively highlight China's commitment to play a substantial role in international standardization organizations and the related technical committees.

34. At the same time, some concerns remain as to the availability of information regarding deviations of Chinese standards from corresponding international standards. The EC would appreciate if China could provide an update of any measures taken to make information on those national deviations more transparent and accessible for economic operators.

C. COMPULSORY VERSUS VOLUNTARY STANDARDS

35. The Chinese standardization system distinguishes between four different levels of standards, namely National Standards, Sector Standards (also known as Industrial Standards), Local Standards, and Enterprise Standards. National Standards, Sector Standards and Local Standards can be further subdivided into voluntary or compulsory.

36. "Compulsory Standards" are a unique feature of the Chinese standardization system and, as far as the EC understands, focus mainly on fields of specific public interest such as health and safety, environmental protection, data protection, etc.; however, they often include unrelated topics such as performance and interoperability requirements. Compulsory standards might create effective trade barriers, especially in cases where other international standards favour differing technical solutions, or where current Chinese standards do not reflect latest technical developments in this field.

37. European industry has reported that in some instances standards initially developed as "Voluntary Standards" have in fact later been made mandatory without any prior warning being given

to the participants in the standard-making process about this policy change. By the same token, no notification in accordance with the provisions of the TBT Agreement was given.

38. As an example, the EC refers to the standard on a *Unified Charger for Mobile Telecommunications Terminal Equipment* (YD/T 1591-2006), which had been developed and initially adopted in December 2006 as a "Voluntary Industrial Standard" but was later rendered mandatory (as of 14 June 2007) on all mobile phones and chargers manufactured in China in the framework of the Network Access License procedure operated by the Ministry of Information Industry (MII).

39. The EC would appreciate it if China could clarify the effective differences between Compulsory Standards and Voluntary Standards in China's domestic standardisation system, including the different suffixes of the standard codes used to differentiate between the two categories of standards.

IV. STANDARDISATION - ICT

40. The EC would like to draw China's attention to the following issues:

A. HOME-GROWN STANDARDS

41. There continues to be considerable concern about the development of a "home-grown" body of national standards featuring unique Chinese technologies to the exclusion of leading technologies of foreign origin, especially in areas where internationally recognized standards serving identical purposes already exist or are being developed.

42. When relevant international standards are translated into Chinese standards, additional requirements are sometimes placed on top of the specifications of the international standards.

43. This requires re-designing products specifically for the Chinese market, thus delaying time-to-market, which is crucial in such a fast evolving sector, and also leads to potential inter-operability problems. Ultimately, the need to find local variations to existing solutions that are applied anywhere else in the world hampers the development of innovative products and applications in the Chinese market. This means that Chinese consumers are being denied access to the latest mobile-phone technology.

44. As examples, the EC would like to refer to the TD-SCDMA (Time Division-Synchronous Code Division Multiple Access) for the third generation mobile telecommunications standard, the China Multimedia Mobile Broadcasting (CMMB) standard, the WLAN Autentication and Privacy Infrastructure (WAPI) standard and the Audio Video Coding Standards (AVS).

45. The EC identifies here a contradiction with China's commitment to increase adoption of international standards and reiterates its call for the respective Chinese standardization efforts being integrated in established international standardization organizations and consortia. The EC remains committed to supporting all respective activities from Chinese standard developing organizations.

B. STANDARDS FOR MOBILE PHONES

46. The EC notes a growing trend in Chinese standardisation for mobile phones to regulate in detail aspects related to design and quality.

47. The EC urges China to limit the scope of compulsory standards to aspects related to the protection of public interests such as human health and safety, property, or the environment, and to

avoid covering aspects that are merely or mostly related to user satisfaction in compulsory standards, thereby allowing market forces to dictate the quality of the products.

48. The EC would like to point out that excessive regulation in the absence of a compelling public interest to be protected may not only constitute a market access barrier but also slow down innovation and restrict the choice of innovative products for Chinese consumers.

49. The EC is aware that a number of standards are currently being developed by MII in the field of mobile telephony on topics such as the size of lithium batteries of mobile phones (*"Specification for General lithium batteries of Mobile Telecommunication Terminal Equipment"*, YD/T xxxx-xxxx), peripheral interface with mobile phones, headset interface, data exchange format, hearing aid compatibility, and so on.

50. The EC would be grateful if China could explain the purpose of the above standardisation programme for mobile phones and whether the standards under development are based on any international standard.

51. The EC would also ask China to confirm that demonstrating compliance with any of the above standards will not become mandatory for mobile phone manufacturers to obtain the relevant CCC certificate or Network Access License before placing their products on the Chinese market.

52. If any of those standards will be a mandatory requirement, the EC expects China to notify them before they come into effect in accordance with the provisions of the WTO TBT Agreement so as to provide an opportunity for interested parties to comment.

V. ICT PRODUCTS

53. The EC would like to draw China's attention to the following issues:

A. MULTIPLE AND PARTIALLY OVERLAPPING CERTIFICATION PROCEDURES

54. The EC would like to recall its concerns about the costly and lengthy multiple, and in some respect duplicative certification procedures (e.g. on electromagnetic compatibility aspects) managed by different authorities, namely the CCC (managed by CNCA) plus the Radio Certificate or Type Approval and the Network Access License (both managed by MII).

55. As far as the EC understands, while the three procedures continue to remain separate from an administrative point of view, unified testing has been developed in practice by Chinese laboratories for the purposes of both the CCC and the Network Access License. However, separate testing in a different laboratory is still required under the Radio Certificate procedure.

56. The EC would like to again urge China to consider simplifying the current system by merging the existing separate procedures into a single approval procedure managed by one authority.

57. At the least, concrete steps should be taken towards developing unified testing procedures under the responsibility of a single body in order to avoid any duplication of testing, to reduce costs and administrative burdens and shorten time-to-market.

58. The EC understands that the simplification of the certification procedures for ICT equipment is being addressed in China's draft new Telecommunications Law, which is currently pending before the State Council. The EC would appreciate it if China could provide additional information in this regard, including on the possibility for foreign stakeholders to provide their views into the legislative process.

B. MULTIMODE PRODUCTS

59. The EC understands that, due to the current level of regulation and restrictions on the use of certain technologies, the placing on the market of innovative products having multimode capabilities (multimedia, multiradio, etc.) is often impeded as some of the new features are not accepted by the Chinese authorities.

60. This results in the supplier of the equipment having to remove specific functions from the device (e.g. the WLAN function) in order for it to be placed on the Chinese market.

61. The EC would urge China to lift the current restrictions and allow multimode products on the market.

C. TRANSPARENCY AND PREDICTABILITY IN THE DEVELOPMENT AND ENFORCEMENT OF TECHNICAL REGULATIONS AND STANDARDS

62. European industry reports a practice of verbal communications between the Chinese regulators and the bodies entrusted with the certification and type approval procedures in the ICT field regarding crucial issues such as the date of mandatory application of a standard or changes in the technical requirements of the procedures. This can give rise to a situation of legal uncertainty and actually complicate the regulator's own efforts in ensuring full compliance with the new requirements.

63. The EC expresses its appreciation for the fact that e.g. in the recent unified charger case written notice was given to vendors of the date of mandatory application of the relevant standard.

64. Building on this positive development, the EC would like to request China to undertake to systematically:

- give public written notice of any regulatory change in accordance with Article 2.10 of the TBT Agreement, and

- provide for a reasonable interval between the publication of technical regulations and their entry into force in order for economic operators to adapt in accordance with Article 2.11 of the TBT Agreement.

VI. AUTOMOBILES

65. The EC notes with satisfaction the increased cooperation with Chinese authorities, which has improved both in terms of frequency and depth of discussions.

66. Nevertheless, the EC needs to reiterate its disappointment at the apparent continuous broadening and deepening of Chinese regulations. The EC appreciates the increasing possibilities for representatives of the EC and of its automotive sector to be involved in consultations with the Chinese authorities on issues of standards, regulations, and conformity assessment and fully supports the goals of regulating safety, health, and environmental concerns with respect to motor vehicles, which are shared by both administrations.

67. The EC believes that these goals could be well achieved through harmonisation under the United Nations 1958 Agreement on Motor Vehicles (under the Economic Commission for Europe, UNECE). Thus, the EC continues to urge China to become a Contracting Party to this Agreement, and also to work to eliminate the duplicative, costly and burdensome inspections and testing of China’s unique ‘CCC’ certification and marking system, which seems at present to offer very little

possibility for non-Chinese firms to perform inspections or offer certifications, although there are UN and ISO standards for doing so.

68. In light of the fact that many of China's regulations in this sector are very similar to UN Regulations under the 1958 Agreement, the EC would like to pursue full consultation with the Chinese authorities at the earliest possible time.

VII. PHARMACEUTICALS

69. The EC regrets that no significant progress has been made on the issues raised in the context of last year's transitional review.

70. The EC would therefore like to draw again China's attention to the following issues:

A. ACTIVE PHARMACEUTICAL INGREDIENTS

71. The issue of active pharmaceutical ingredients (APIs) remains of great concern to the EC, in particular the fact that each imported API batch in China is subject to routine multi-sampling and testing practice carried out by the Port Drug Inspection. Systematically batches are sampled and tested 6-7 times resulting each time in an identical outcome.

72. The EC urges China to clarify the rationale for carrying out multi-sampling and testing practice on batches that are intrinsically homogeneous and of consistent quality throughout. It should also be stated that the homogeneous quality is already guaranteed by the applied manufacturing method (ICH (International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use)/Q7A Guideline on cGMP for API manufacture) which is one of the criteria for receiving a Chinese import registration licence from the State Food and Drug Administration (SFDA) in the first place.

73. The EC is of the opinion that the practice is not in line with Article 5.1.2 of the TBT agreement, which calls for conformity assessment procedures not to create an unnecessary obstacle to trade, and with Article 5.2.6, which specifies that the selection of samples should not be such as to cause unnecessary inconvenience to applicants or their agents. As the substantial testing costs (from 20% to 100% of the market value) are to be carried by the products, this practice unnecessarily results in increased cost of APIs and has already, in some cases, acted *de facto* as an import ban of valuable drugs precursors for Chinese consumers. In this regard the EC has a concern that the fee structure must not give imported goods less advantageous conditions of competition than those applicable to domestic goods.

B. NON-TARIFF BARRIERS

74. Some trade impediments originate in a variety of unnecessary, burdensome or costly registrations, licensing, certification and reimbursement procedures.

75. Imported active pharmaceutical ingredients as well as finished medicinal products face stricter testing requirements compared to locally manufactured products.

- It typically takes 6 to 12 months to obtain clinical trial approval in China, whereas clinical trial approval can usually be obtained within 3 months in other major markets;

- medicinal products registration timelines are extremely long and requirements are not always clear;

- one problem relates to the National Reimbursement Drug List (NRDL). As the lists are not updated annually the most innovative products are not included.

76. In this regard, the EC would be grateful if China could:

- ensure that imported and locally manufactured products are treated equally;

- ensure the regular, systematic updates to reimbursement lists are made for newly registered drugs.

VIII. COSMETICS

77. The EC would like to draw China's attention to the following issues:

A. PRE-MARKET APPROVAL PROCEDURE FOR NON-SPECIAL USE IMPORTED COSMETICS

78. Currently, the pre-market approval procedures for non-special use imported cosmetics still differ from that of domestic non-special use cosmetics. All non-special use imported cosmetics must be registered with the Ministry of Health (MoH) prior to importation and sale. Each shipment of imported cosmetics must be inspected at the port of entry by local Entry-Exist Inspection and Quarantine (CIQ) offices.

79. The MoH pre-market notification procedure and local CIQ inspection procedures delay imported non-special use cosmetics into China by 4-6 months, when compared to domestic non-special use cosmetics. This measure appears to be incompatible with China's obligation pursuant to Article 2.1 of the TBT Agreement to accord to products imported from the territory of any Member treatment no less favourable than that accorded to like products of national origin.

80. In this regard, the EC would be grateful if China could unify the notification system currently in force for imported and domestic non-special use cosmetics. The EC considers that the simplification of procedures should be only a first step towards lifting *all* ex-ante approvals for imported cosmetics – regardless of the level (central or regional).

B. COSMETICS LABELLING SUPERVISION REGULATION

81. In China, there are currently several regulations and standards related to cosmetic labelling. In addition to the National Standard for Cosmetic Labelling (GB 5296.4-1998), recently the MoH and the Administration on Quality Supervision, Inspection and Quarantine (AQSIQ) drafted two different versions of the Cosmetics Labelling Supervision Regulation.

82. Some sections of the two regulations overlap and are not consistent with the existing regulations and standards for cosmetic labelling which are still valid. It will be extremely difficult and confusing to comply with two different requirements from two different government bodies at the same time. This will cause huge regulatory difficulties for both international and domestic companies.

83. The EC urges the Chinese authorities to unify the multiple cosmetics labelling supervision and standards to facilitate the manufacturers' compliance.

C. COSMETICS STANDARDS

84. Presently, MoH and AQSIQ are mandating two different cosmetic standards.

- MoH is enforcing the Hygiene Standard for Cosmetics 2007.

- AQSIQ is using another Hygiene Standard for Cosmetics (GB 7916-1987) issued in 1987.

85. Comparing the two standards, there are many different requirements in terms of cosmetic definition, such as a prohibited and restricted ingredient list. As a result, cosmetic products cannot comply with the different requirements.

86. The EC would welcome a unification of the two different compulsory cosmetic standards that are currently mandated by MoH and AQSIQ.

IX. MEDICAL DEVICES

87. The EC would like to draw China's attention to the following issues:

A. REGISTRATION AND RE-REGISTRATION PROCEDURES

88. Two types of mandatory registration with the same scope of requirements are required from SFDA and AQSIQ offering no additional safety benefit for patients and users. After four years manufacturers have to repeat registration not only with SFDA but also with AQSIQ after five years.

89. In the context of a bilateral meeting with the European Commission in October 2007 SFDA emphasised its willingness to align its provisions with the AQSIQ legislation by prolonging the validity of registration from 4 to 5 years, as outlined in the draft revision of Decree 276. The EC welcomes this alignment; however, the EC would prefer if unlimited registration were supported by China.

90. As a general principle, the EC would suggest to the Chinese authorities to follow the guidelines developed by the Global Harmonisation Task Force (GHTF) for medical devices. For the ongoing revision of Decree 276 as well as the subsequent more specific regulation SFDA is urged to follow GHTF guidelines as much as possible. In this context, the EC also recommends to SFDA to adopt the GHTF classification of four categories of medical devices into the new legislation.

B. SUPERVISION OF IMPORTED MEDICAL DEVICES

91. On 29 June 2007, AQSIQ issued Order No. 95 on "*The Administrative Measures on Examination and Supervision of Imported Medical Devices*". Pursuant to this Order, from 1 December 2007 imported medical devices will be subject to controls and examinations in addition to the CCC marking and SFDA approval based on the importer's rating and device risk qualification. This new regulation might create unnecessary obstacles to trade resulting from stricter and more time-consuming procedures for imports (only) than are necessary to assess that a product complies with the domestic laws.

92. In the context of a bilateral meeting with the European Commission in October 2007 AQSIQ explained that the aim of Order No. 95 was to standardise inspections and quarantine controls carried out by local CIQ offices on Import & Export companies dealing with medical devices and to speed up customs clearance and strengthen the controls over high risk products. Furthermore, AQSIQ admitted that with regard to the current situation of major concerns and misunderstanding of the rules by various stakeholders, some adjustment in its practical implementation (guidelines and product catalogue) might be further considered. However, no formal decision has been made yet.

93. The EC urges China to announce in an official way the postponement of the effective date of the new rules in order to allow sufficient time for feedback and further considerations of details of the practicality of all the implementation procedures.

C. REPROCESSING AND REPROCESSED MEDICAL DEVICES

94. The EC urges the Chinese authorities to treat new or fully refurbished medical devices in the same way. The EC believes that the ban on refurbished products is not justified. In Europe, refurbished medical devices are subject to the same requirements as new medical devices. The EC urges China to take a similar approach.

95. In the context of a bilateral meeting with the European Commission in October 2007 AQSIQ presented its intention to establish a regulatory framework for refurbished medical devices which would allow placing them on the Chinese market under the same conditions required for new products. The EC welcomes this initiative; however, it is understood that an approval by the Ministry of Commerce (MOFCOM) is necessary to change the legal framework for refurbished products. The EC would kindly request the Chinese authorities to accelerate this approval procedure.

X. TEXTILES

96. The EC would like to draw China's attention to the following issues:

A. RAW SILK QUALITY COMPULSORY CERTIFICATE

97. Raw silk and thrown yarns are subject to quality screening and to a compulsory export quality certificate before being exported from China. The testing costs (up to 2 per cent of value) are borne by international buyers whilst in the domestic Chinese market raw silk can be bough freely without any quality certificate. This discriminatory practice and limitation to the export of a raw material has been highlighted in the context of last year's transitional review, but no action has been taken by the Chinese authorities so far. The issue was also raised several times in meetings between the European Commission and the National Development and Reform Commission of China (NDRC), AQSIQ and MOFCOM.

98. In this context, the EC urges China to allow market forces to operate in its trade in raw materials in general and in particular to abolish the compulsory nature of raw silk testing and terminate discriminatory treatment of foreign buyers.

B. CONFORMITY ASSESSMENT PROCEDURES AND MARKET SURVEILLANCE MECHANISMS FOR TEXTILES AND FOOTWEAR

99. The compliance of textiles, clothing and footwear products with Chinese standards and legislation is verified at the ports and distribution centres. Additional checks are carried out by Market Surveillance Authorities. Compulsory inspections are considered by EC operators as burdensome.

100. In this context, the EC would like to recall its requests related to textiles, clothing and footwear:

- Considering that textile, clothing and footwear products do not constitute a danger to public health, the EC would urge China to progressively replace systematic import commodities inspections with random import commodities inspections. Furthermore, whenever appropriate, China is urged to accept suppliers' declarations of conformity as assurance of conformity with applicable requirements.

- To accept ISO standards and take the necessary steps for mutual recognition of test reports issued by international recognised laboratories.

C. LABELLING REQUIREMENTS

101. Considering that excessive labelling requirements can hinder trade, the EC would like to urge the Chinese authorities to simplify labelling requirements for textiles and footwear products. This would mean no requirements for any form of prior approval registration or certification of labels as a condition for allowing the textile and footwear goods to be placed on the market. Furthermore, the amount of compulsory information required on labels should be reduced to the minimum necessary.

XI. TOXIC CHEMICALS

102. On 1 January 2006, the *"Regulations for Environmental Management on the First Import of Chemicals and the Import and Export of Toxic Chemicals"* came into force in China. The severe problems that this legislation creates for European exporters of chemicals to China have been discussed several times in different forums since then. However, so far no significant improvement has been made. Therefore, the EC has continuing concerns with regard to this issue.

103. For these reasons the EC would like to raise the following issues:

(a) the EC would request more information concerning the rational for the list of chemicals covered, which goes beyond those chemicals subject to the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* and the *Stockholm Convention on Persistent Organic Pollutants*. The EC would like the Chinese authorities to clarify how the relevant risks have been assessed. The EC would be pleased to receive a copy of the available technical and scientific information used as the basis of this assessment;

(b) a clarification of the legislative and operational requirements especially as regards the rules on mixtures and articles containing strictly restricted would be also appreciated. The EC would suggest that China publish guidance material on the internet in this context;

(c) under the new legislation, the cost of registration is 10,000 $. This registration is limited to one supplier and one chemical and is valid for only 2 years. This high registration cost is a significant non-tariff barrier. Since local manufactures of the same substances are not affected by these requirements the EC is concerned about the consistency of this legislation with the TBT Agreement.

XII. MEASURES ON THE ENVIRONMENTAL MANAGEMENT OF NEW CHEMICAL SUBSTANCES

104. New measures on the *Environmental Management of New Chemical Substances* entered into force on 15 October 2003. While sharing China's objective to protect the environment, the EC is also concerned about the impact of this legislation on EC exporters.

105. The Chinese legislation regarding new chemical substances does not provide for reduced notification requirements for low volumes (e.g. less than 1 ton) as most other jurisdictions. As a result, the data requirements for low volume chemicals are very restrictive.

106. Therefore, the EC would like to ask China whether it is considering changing its current legislation so that low volume chemicals (e.g. less than 1 ton) can benefit from reduced testing schemes. Such a notification scheme would continue to protect health and the environment but also allow business to introduce new technology through innovative substances.

107. The EC also would like to know whether the data requirements are comparable to the OECD Minimum Pre-marketing set of data.

XIII. FOOD LABELLING.

108. The EC notes further improvements in food labelling regulations in China. However, some issues still remain open and require further clarification, notably as regards registration procedures for labelling. The EC continued to be concerned that there should be a homogenous application of registration procedures throughout China.