

**TRANSITIONAL REVIEW MECHANISM PURSUANT TO
SECTION 18 OF THE PROTOCOL ON THE ACCESSION
OF THE PEOPLE'S REPUBLIC OF CHINA**

Questions from the EUROPEAN COMMUNITIES to CHINA

The following communication, dated 21 October 2008, is being circulated at the request of the Delegation of the European Communities.

Notification requirements

Article 25 of the Agreement on Subsidies and Countervailing Measures ("SCM-Agreement") sets out the requirements for subsidy notifications according to which Members agreed that subsidies shall be notified not later than 30 June of every second year. This area of requirement was specifically addressed in the Protocol of Accession of the People's Republic of China under paragraph "10 subsidies" in which China committed to notify the WTO of any subsidy within the meaning of Article 1 of the SCM-Agreement and to eliminate all subsidy programmes falling within the scope of Article 3 of the SCM Agreement upon Accession.

China's first subsidy notification was incomplete and only submitted long after the deadline, and it would appear that China now follows the same approach by not having submitted the subsidy notification covering calendar years 2005 and 2006 which was due on 30 June 2007.

- a. Could China please explain whether it is currently working on this subsidy notification and confirm that the notification will cover federal, provincial and local governmental subsidies and when it expects to submit its subsidy notification?
- b. In light of the very late submission of China's first subsidy notification which severely undermines the usefulness of such a notification to other WTO Members we request that China submit its subsidy notification as soon as possible or provide a specific commitment for the submission of subsidy programmes at all levels of government.

Prohibited Subsidies

1. In its Protocol of Accession China not only committed to provide a subsidy notification by a stipulated deadline, but also committed to eliminate all subsidy programmes falling within the scope of Article 3 of the SCM-Agreement. Irrespective of China's continued failure to provide a full and timely subsidy notification the EU continues to uncover prohibited subsidy schemes which have only recently been adopted. On this occasion, the EU points to the fact that China according to available information subsidises the development of name brands at various levels of governments. In this regard we make reference to the *Circular on Printing and Distributing the Method of Nanhai District, Foshan City for Supporting and Awarding Independent Innovation, Brand Drive and Enterprise IPO* of 17 October 2007 which is addressed to all town governments, all district offices and all organizations directly under Nanhai District Government. According to "category 2: Award for creation of famous brands" it is the stated objective of this category to award RMB 2m in a lump sum to a product which was rated for the first time as China World Top Brand Product in the current year. Moreover, a product of an enterprise which has been rated as a China Famous Export Brand will be awarded RMB 500,000 in a lump sum. This program seems to originate from a *Circular on Carrying out Evaluation of Products to be recognized as China World Top Brand of 24 March 2005* setting out the eligibility criteria in order to qualify as a China World Top Brand Product. According to the eligibility criteria the applying product must be:

- in international front ranks in the industry in terms of total output and export volume
 - exported to many countries and regions
- a. Please identify the products MOFCOM rates as China World Top Brand Product and as China Famous Export Brand respectively?
 - b. Please indicate how many of these products have benefitted from this scheme to date and provide the amounts per product and per enterprise?
 - c. Please describe the relationship between the Circulars mentioned above?

2. Over the course of the last year the EC has identified the *Circular of Nanchang Municipal People's Government on Printing and Distributing the Interim Measures for Administration of Nanchang Foreign Trade Development Fund of 3 August 2007*. This Circular explicitly states inter alia "that these measures are formulated to further strengthen the administration of foreign trade development fund, optimize the environment of foreign trade, promote growth of foreign trade export and expedite the development of foreign-oriented economy. The Municipal finance earmarks RMB 6M of the development fund from fiscal budget each year to support enterprises' foreign trade. The money not used in a year will be brought to next year for continued use. Support export of local products and range of support: any enterprise which creates USD 3M or above of foreign exchange from the export of local products in a year. Enterprise of which export amount of local products in the current year is USD 3-5M (including USD3M) will be awarded RMB 30,000. If the amount exceeds the base, additional RMB 1,000 will be awarded for each 1 per cent of excess but the maximum amount is RMB 30,000".

- a. These measures clearly appear to be export contingent once a certain threshold has been exceeded. Could China please indicate how many enterprises have benefited from this program to date and the amounts provided?
- b. Please explain in detail the development fund, its capitalisation, the funding source and policy objectives?

Subsidies – semi conductor industries

We have been repeatedly informed that the semi-conductor industries have been receiving subsidies in the form of income tax exemptions for five years followed by a 50-per cent rate for five years at 7.5 per cent in addition to free electricity and water. Moreover, China applies a 3-per cent value-added tax rate on China-made chips.

- a. Please describe the specific incentives provided to the semi-conductor industries?
 - b. Are there any incentives offered which are contingent upon export performance or contingent upon the use of domestic over imported goods as appears to be the case with the 3 per cent VAT rate for China-made chips?
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