

**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS**

Questions Posed by the SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU,
KINMEN AND MATSU Regarding the Notification of
THE PEOPLE'S REPUBLIC OF CHINA¹

The following communication, dated 3 October 2002, has been received from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

Questions with regard to China's Transitional Review Mechanism (TRM) on Anti-Dumping Practices

Referring to the regular meeting of the Committee on Anti-Dumping Practices to be held on 24-25 October 2002, I have the honour to enclose herewith questions of my Mission concerning China's national legislation.

1. Period of provisional measures

Article 30 of the Anti-Dumping Regulation provides that the period for applying provisional anti-dumping measures, "in special circumstances, may be extended to 9 months". Please explain how that provision complies with Article 7.4 of the WTO Anti-Dumping Agreement which limits the application "to a period not exceeding six months".

2. Unilateral corresponding measures

Article 56 of the Anti-Dumping Regulations indicates possible corresponding measures against a country (region) which discriminatorily imposes anti-dumping measures on the exports from China. Please confirm that the application of said Article will be in full conformity with the relevant provisions of the Anti-Dumping Agreement and the WTO dispute settlement mechanism, and will not be invoked when China unilaterally considers those measures discriminatory.

3. On-the-spot Verification

(1) Pursuant to Item (5), Article 39 of the Provisional Rules on Initiation of Anti-Dumping Investigation, the intention to carry out on-the-spot investigation should be indicated in the Public Notice of the initiation of an investigation. Please indicate whether or not on-the-spot verification

¹ G/ADP/N/1/CHN/2.

will only be carried out when indicated in the Public Notice. Please also explain its conformity with the requirement stipulated in Article 6.7 of the Anti-Dumping Agreement including "to obtain the agreement of the firms concerned" and "to notify the representative of the government of the Member in question".

(2) Pursuant to Item (2), Article 21 of the Provisional Rules on On-the-spot Verification of Anti-Dumping Investigation, the investigating authority may use "best information available" should the request for on-the-spot verification is objected by the government of the Member in question. This legislation seems to be inconsistent with the ruling made in the Report of the Panel in the *Guatemala – Definitive Anti-Dumping Measures on Grey Portland Cement from Mexico* case, which clearly stated that even on-the-spot verification is objected, "'best information available' should not be used when information is 'verifiable', and when 'it can be used in the investigation without undue difficulties.'" (See paragraph 8.252, WT/DS156/R.) Please confirm that when on-the-spot verification is objected, the investigating authority will nevertheless try to verify all information submitted, and 'best information available' practice will be employed only after demonstrating that the information could not be used 'without undue difficulties'.
