

**Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures**

Original: English

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

**Replies to the Follow-Up Questions Posed by the EUROPEAN COMMUNITIES¹
Regarding the Notification of CHINA²**

The following communication, dated 17 June 2003, has been received from the Permanent Mission of China.

Follow up to question 3 posed in document G/ADP/Q1/CHN/12-G/SCM/Q1/CHN/12 (answered in document G/ADP/Q1/CHN/20-G/SCM/Q1/CHN/20)³

The EC was not concerned about the capabilities of the legal profession in China. However, the EC would like to invite China to consider the possibility that foreign exporters can decide for themselves whether or not they want to avail themselves of the services of a lawyer in a CVD proceeding (or indeed an AD proceeding) and, if so, to also consider finding legal advice outside China. Exporters should be free to make their choice according to their needs. Otherwise there might be a serious obstacle to cooperation. In this context could the PRC please confirm that its investigating authorities will make the conditions for the participation of a Chinese lawyer in an investigation visit clear from the beginning and will not exercise any pressure on cooperating exporters for agreeing to the participation of certain lawyers?

Reply

In accordance with the Chinese laws, regulations and the Protocol on the accession of the PRC, only the practicing lawyers of the PRC can provide legal services in Chinese law practice. The anti-subsidy investigations in China are conducted according to Chinese laws and regulations. The work about anti-subsidy should be done professionally, so if the responding company retains Chinese practising lawyers to deal with the work concerned, the work concerned will be accomplished in a professional manner and up to standard. Article 27 of the *Provisional Rules for Questionnaires in Countervailing Duty Investigations* specifies as follows: the questionnaire response of the responding company shall be submitted by representation of a practising lawyer of the PRC, and the relevant matters shall be dealt with by the responding company's attorney.

¹ G/ADP/Q1/CHN/22-G/SCM/Q1/CHN/22

² G/SCM/N/1CHN/1 + Suppl.1

³ The EC posed a similar question in respect of China's anti-dumping legislation notification G/ADP/N/1/CHN/2 + Suppl.1 (question 4 in document G/ADP/Q1/CHN/11-G/SCM/Q1/CHN/11, answered in document G/ADP/Q1/CHN/18-G/SCM/Q1/CHN/18) and this follow-up question is also of relevance in that context.

Follow up to question 1 posed in document G/ADP/Q1/CHN/12- G/SCM/Q1/CHN/12 (answered in document G/ADP/Q1/CHN/20- G/SCM/Q1/CHN/20)⁴

Question

With regard to the use of the native official language in investigations the EC would like to refer to the practice of long standing WTO members such as Japan, Egypt or Brazil, which traditionally admit the use of official WTO languages (different from their official native language) in investigations. Considering this tradition and according to the spirit of Art 12.11 ASCM (and the parallel Article 6.13 ADA) can the PRC please indicate whether documents submitted in English as a WTO language might be acceptable under certain circumstances?

In this context the European Communities would like to recall that Art 12.7 ASCM providing for provisional or final determination on the basis of "the facts available" is, like Article 6.8 of the Anti-Dumping Agreement, only conceived for cases of non-cooperation in an investigation, such as refusal of access to information within a reasonable period or significant impediment of the investigation.

Reply

Chinese is the native official language of China. Article 13 of *Provisional Rules for Questionnaires in Countervailing Duty Investigations* specifies as follows: the questionnaire responses shall be completed in simplified Chinese characters and shall be accompanied by relevant supporting documents according to the requirements specified.

⁴ The EC posed a similar question in respect of China's anti-dumping legislation notification G/ADP/N/1/CHN/2 + Suppl.1 (question 2 in document G/ADP/Q1/CHN/11-G/SCM/Q1/CHN/11, answered in document G/ADP/Q1/CHN/18-G/SCM/Q1/CHN/18) and this follow-up question is also of relevance in that context.