

**NOTIFICATIONS OF LAWS AND REGULATIONS UNDER
ARTICLE 12.6 OF THE AGREEMENT**

Replies from CHINA to Questions
Posed by the EUROPEAN COMMUNITIES¹

The following communication, dated 17 October 2003, from the Permanent Mission of the People's Republic of China.

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- **PRC's Provisional Rules for Initiation of Safeguards Investigation;
(G/SG/N/1/CHN/2/Suppl.1)**
 - **Provisional Rules conduct of Public Hearing in Safeguards Investigations;
(G/SG/N/1/CHN/2/Suppl.1)**
 - **Rules on Investigation and Determinations of Industry Injury for Safeguards;
(G/SG/N/1/CHN/2/Suppl.2)**
 - **Rules on Public Hearings with regard to Investigations of Injury to Industry.
(G/SG/N/1/CHN/2/Suppl.2)**

Question relevant to all the above listed notifications

Q1. Following the Government restructuring in March 2003, would China please clarify the administrative organization within the Ministry of Commerce involved in carrying out the principal aspects of safeguard investigations and the decision making procedures?

Reply

Before the recent government restructuring, according to the *Regulations of the People's Republic of China on Safeguard Measures*, which came into effect on 1 January 2002, the former Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the former State Economic and Trade Commission (SETC) were authorities responsible for the safeguard investigations. After the restructuring, it is the Bureau of Fair Trade for Imports and Exports and the Bureau of Industry Injury Investigation under the newly established Ministry of Commerce (MOFCOM) that assume the function of conducting safeguard investigations, including, but not limited to, those on the increased imports, the injury to the domestic industry, and the causal link between the two as well as making determinations on the basis of the findings of such investigations.

¹ G/SG/Q1/CHN/8

The general criteria for choosing the experts are:

- (a) the expertise needed and an above-the-average level in his or her own trade;
- (b) impartiality;
- (c) adherent of the obligation on the maintenance of confidentiality;
- (d) willingness and ability to take the responsibility as an expert

Reason: to provide the investigating authority with the professional technical support.

Questions on Rules on Investigation and Determinations of Industry Injury for Safeguards

Q2. Article 20 of Investigation of injury to industry provides for the engagement of experts on different aspects of the investigation for consultation purposes. Could China please clarify how and why such experts would be chosen and if they consider this approach to be compatible with the confidentiality rules of the SA? Given the sensitivities of certain commercial information will all parties co-operating in an investigation be informed of the participation and identity of such experts prior to submitting information? How can confidentiality of all sensitive information be assured?

Reply

Article 20 of the Rules is in accordance with the articles relating to the maintenance of confidentiality of the Agreement. The identity of the experts will not be kept in confidence.

Q3. Article 26 of Investigation of injury to industry provides for the organisation of conferences to appraise the adjustment of the domestic industry. Who does China envisage as being the 'other organizations and experts' as referred to in that Article? How will China ensure that confidentiality is maintained in this context?

Reply

The "other organizations" normally refers to the intermediary organizations such as consulting or appraisal organizations. The experts hereby normally refer to the experts from the trade or industry related to the products. The other organizations and experts normally make the general analysis and appraisal of the data on the general industry information in which the products under investigation are involved without referring to the information on the specific enterprises. If they do refer to the specific information, they will take the relative obligation on the maintenance of confidentiality.

Q4. Article 26 of Investigation of injury to industry proposes that the ex-SETC, now Ministry of Commerce may make policy-related proposals on the adjustment of the domestic industry. Can China please clarify what will be the status of these proposals - will they be binding on the domestic industry? What are the repercussions vis-à-vis the continued imposition of measures if the domestic industry fails to act in accordance with such recommendations?

Reply

The policy-related proposals are only for the reference of the domestic industries and other departments and are not mandatory.
