

**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 Follow-Up Questions from the UNITED STATES¹
Regarding the Notification of CHINA²

The following communication, received on 16 April 2004, is being circulated at the request of the Delegation of China.

QA. China states that an application of an importer seeking redress in a dispute over classification of imported merchandise and/or an error in the amount of duty collected by Chinese Customs should be filed to the “competent administrative organ for reconsideration”. In a situation as described above, what agency would be considered the most appropriate “competent administrative organ”?

Reply

In accordance with the Law on Administrative Review of the People’s Republic of China, the “competent administrative organ” normally refers to the administrative organ at the next level up of the administrative organ that takes the specific administrative action in question.

QB. Please explain the basis for automatically requiring parties to report data on sales to third countries even in cases where China has previously determined that the conditions of Article 2.2 for use of such data did not apply.

Reply

The six months period before refund application and the period for original investigation are not the same period. That the price of export to a third country is not used as the basis of normal value determination in the original investigation will not affect the determination of normal value in the refund application. For cases of refund application, due to the changes of market situation, there is the possibility of using the price of export to a third country in determining the normal value.

¹ G/ADP/Q1/CHN/36-G/SCM/Q1/CHN/36.

² These questions relate to regulations notified by China in G/ADP/N/1/CHN/2 + Suppl.1 (11 September 2002). The original questions were posed by the United States in G/ADP/Q1/CHN/14-G/SCM/Q1/CHN/14 (11 April 2003). In additional questions, the United States noted that its original questions numbered 22-38 had not been answered in G/ADP/Q1/CHN/24- G/ADP/Q1/CHN/24 (12 September 2003). China replied to these questions in G/ADP/Q1/CHN/33-G/ADP/Q1/CHN/33 (24 October 2003), and those replies are referred to in these follow-up questions.

QC. Could China please clarify whether the term “actual export” means goods that have arrived in China? Will China conduct a new shipper review on the basis of a sale to China where the merchandise has been exported, but has not yet entered the customs territory of China?

Reply

“Actual export” means that the exported goods have actually arrived in China. For new shipper review, there must have been goods in question that have already entered the customs territory of China.

QD. Could China please define what would constitute “a reasonable period of time”?

Reply

“A reasonable period of time” in Article 48 means one year after anti-dumping duty takes effect.

QE. If MOFCOM does not conduct an on-site verification or otherwise verify some of the respondents because of its own resource restraints, does this mean it will not use bona fide data submitted by those respondents? If so, what information will be used to calculate dumping margins for those respondents? In cases involving resource restraints, how will MOFCOM select which respondents will be verified?

Reply

MOFCOM, in principle, will conduct an on-site verification on each cooperating respondent. In practice, MOFCOM will choose the responding companies for on-site verification in light of the specific circumstances of each case. In special circumstances where on-site verification is not possible, MOFCOM may resort to other ways to verify the data and information submitted and will admit such data and information if they are found to be creditable.

QF. Do Chinese Customs Regulations permit the posting of bonds, and if so, under what circumstances? Additionally, when will these bonding requirements be notified?

Reply

China Customs Regulation allow for a bond to be posted as provisional anti-dumping measure. According to Article 29 of the Anti-Dumping Regulations of the People’s Republic of China, the posting of bond is decided by the Ministry of Commerce. China Customs will inform the interested parties and implement the decision.
