

Committee on Sanitary and Phytosanitary Measures

**REPORT TO THE COUNCIL FOR TRADE IN GOODS ON
CHINA'S TRANSITIONAL REVIEW**

The present report is submitted under the responsibility of the Chairman, as agreed by the Committee at its meeting of 19-20 October 2011.

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1. The Committee held its final Annual Transitional Review under Paragraph 18 of the Protocol of the Accession of the People's Republic of China at the regular meeting commencing on 19 October 2011.
 2. Prior to the meeting, the European Union submitted questions to China in writing in document G/SPS/W/262.
 3. Statements made at the Committee meeting in the context of this transitional review by China, the European Union, the United States, Mexico and Japan are attached, and will be reflected in the summary report of the meeting, to be circulated as G/SPS/R/64.
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EXCERPT FROM G/SPS/R/64

III. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

1. The Chairman recalled that in accordance with Paragraph 18 of the Protocol of Accession of the People's Republic of China, the SPS Committee was to undertake this year a final review of the implementation by China of the SPS Agreement. The European Union had submitted its questions and comments on the subject in document G/SPS/W/262.

2. The European Union observed that the Transitional Review Mechanism was a very important and useful instrument, which allowed Members to exchange views regarding China's efforts to comply with its WTO obligations. It noted the considerable amount of work that China had undertaken to revise its food safety standards, and encouraged China to continue efforts in order to fulfil the responsibilities that follow from WTO membership. The European Union noted that it had shared its specific comments and questions in document G/SPS/W/262, and highlighted that in its view, (1) China had not fully fulfilled its transparency obligations as regards availability of legislation in at least one WTO working language and possibilities to comment on all draft legislation, and that (2) China had not yet aligned its legislation to several international standards, or alternatively submitted scientific justification to support all the SPS measures applied. Under the second point, the European Union expressed concerns over the differences between the Chinese list of authorized food additives and processing aids and the list considered safe by international standard-setting bodies, noting that China had not given a scientific justification for this deviation; and on a BSE-related import ban on EU beef and other bovine products despite an OIE classification of EU member States as either "controlled risk" or "negligible risk" countries. Lastly, the European Union expressed concerns over China's approach to audits and inspections, and flagged that an approach that builds on the relevant Codex Alimentarius standard would be key to avoid unjustifiable delays.

3. The United States shared the concerns of the European Union as regards transparency, noting that China did not appear to have notified all proposed SPS measures as required by the SPS Agreement. It also shared the concerns as regards BSE-related import bans, and highlighted in this respect that the OIE had classified the United States as a "controlled risk" country. Further, the United States had specific concerns regarding China's new food registration requirements, notified to the WTO as G/SPS/N/CHN/472, as well as China's zero tolerance limit for certain pathogens in imported raw meat and poultry. Finally, the United States expressed concerns regarding bans on poultry from various US states in response to cases of low-pathogenic avian influenza (AI), stating that these bans were applied beyond the OIE guidance period.

4. Mexico echoed the EU concerns on transparency, and encouraged further efforts by China in terms of publication of standards, technical regulations and other measures, and in making their texts available in at least one WTO working language. On a related point, Mexico expressed its appreciation for the Chinese notification on hygiene standards for distilled liquors and by-products, and noted that it had used this opportunity to provide relevant scientific information on tequila. Mexico also expressed concerns over the control, inspection and approval procedures applied by China, noting that they had been excessively long, and that for certain agricultural products, access to the Chinese market had required bilateral negotiations and additional agreements or protocols. Mexico further highlighted that with certain products, such as pig meat, little progress had been made in this respect.

5. Japan also shared the EU concerns as regards transparency. According to Japan, it appeared that China had not fully complied with its obligation to publish all proposed SPS measures and regulations and to provide a reasonable period for public comments.

6. China thanked the European Union, the United States, Mexico and Japan for their statements, and offered some clarifications and responses to the questions posed. At the outset, China stated that it had eliminated all non-tariff measures and reduced the average tariff on goods, and had overhauled its body of laws and regulations at central and local levels. These achievements, China noted, contributed to full compliance with WTO rules and had a positive effect on trade promotion and facilitation at the multilateral level.

7. China flagged that, as a developing country, it had overcome great capacity constraints to fully honour the principle of transparency. It detailed the numbers of measures notified and enquiries and comments dealt with, and observed that it had dedicated considerable resources to publish its SPS measures in a timely manner. China also stated that it had done its best to provide a sufficient comment period on new SPS measures, as well as to translate the draft measures as frequently as possible into at least one WTO working language.

8. China noted that most of the questions posed by the European Union had already been addressed in previous reviews or discussions, including at a bilateral meeting with the EU delegation the previous day. Nonetheless, China addressed some of the specific questions posed.

9. On the EU question on food additives and processing aids, China noted that its practice not to allow the use of additives in food unless their technical necessity and safety had been proven was in line with the principles upheld by the Codex Alimentarius Commission. It further referenced bilateral talks held with the European Union on China's Administrative Licensing Procedures for New Varieties of Food Additives, and noted that the European Union could encourage its companies to submit their applications to the competent Chinese authority in accordance with these procedures.

10. In relation to the questions posed on BSE, China reiterated that it was a BSE-free country, and stated that it had adopted its current policy on BSE prevention in a most serious, scientific and prudent manner, while taking an open and cooperative approach to engage with the Members concerned. At a seminar held jointly with the European Union in March 2011, experts from both sides had agreed that the pathology of the disease and the way it spreads were not thoroughly understood. China expressed its willingness to continue to cooperate with Members suffering from the disease, including the European Union.

11. China noted that the European Union had put forward in its written submission that China's continued additional trade requirements on live pigs from EU member States due to the pandemic influenza virus H1N1 were unnecessary and unjustified, and not in line with statements made by the main relevant international organizations such as OIE, WHO and FAO. Although the European Union had not addressed this issue in its oral statement, China provided clarification of its approach to preventing H1N1. China followed a two-fold approach: first, there could be no H1N1 outbreak on the exporting farm or within a 50-kilometre radius; and second, live pigs were to be duly tested for H1N1 before they could be exported from the country concerned. China observed that it had reached agreements with Denmark, France, Ireland, the Netherlands and the United Kingdom, and these countries were now engaging in the live pig trade with China as usual.

12. In conclusion, China noted that it was ready and willing to continue discussions with Members in all appropriate arenas.
