

**TRANSITIONAL REVIEW MECHANISM PURSUANT TO PARAGRAPH 18
OF THE PROTOCOL ON THE ACCESSION OF THE
PEOPLE'S REPUBLIC OF CHINA ("CHINA")**

Questions from the European Communities to China
concerning Sanitary and Phytosanitary Measures

The following communication, received on 9 October 2008, is being circulated at the request of the Delegation of the European Communities.

I. GENERAL COMMENTS

1. The European Communities (EC) would like to take this opportunity to welcome the further improvements in the relationship between the People's Republic of China (hereinafter referred to as "China") and the European Communities. The European Communities notes also improvements in the bilateral consultations between the Chinese authorities and EC member States. The European Communities believes that our bilateral consultations are essential to build mutual trust and the better understanding indispensable to forging strong relationships.

2. Nevertheless the European Communities regrets the lack of progress in negotiations on certain bilateral protocols between China and EC member States. In this respect the European Communities invites China to accelerate these negotiations in order to avoid undue procedural delays.

3. The European Communities acknowledges that with the increase in trade this work is growing and encourages China to dedicate more resources to this new task consistent with the responsibilities that follow from membership of WTO.

4. The European Communities notes that China has not yet aligned its legislation to several international standards. In this respect the European Communities highlights the importance for all countries to harmonise their legislation with international standards. Alternatively, a scientific justification should be submitted to support different standards.

II. SPECIFIC EC CONCERNS ON THE APPLICATION OF THE SPS AGREEMENT

5. The European Communities would like to highlight the currently limited market access for its food products to China. Among the specific concerns of the European Communities are in particular the following:

A. ANIMAL HEALTH STANDARDS

6. With reference to animal health, the European Communities is concerned about China's interpretation of the World Organization for Animal Health (OIE) guidelines on BSE. In this respect, the European Communities would like to remind China that the OIE issued a list of bovine products which can be safely traded, regardless of the BSE status of the exporting country. Among these products is de-boned skeletal muscle meat from cattle 30 months of age or less. Moreover 25 EC member States have now been classified during the last OIE session either as "controlled risk" or "negligible risk". Despite these OIE guidelines and classification, beef and other bovine products from EC member States are still banned.

7. The European Communities has comprehensive measures in place aimed at assuring the highest level of consumer protection. Among these are a strict feed ban, strict controls on Specific Risk Materials and active surveillance. Although the European Communities offers the highest health guarantees to its trade partners, China has not allowed the trade of products from animals aged less than 30 months.

8. Therefore the European Communities would like to request China:

- To open its market to EC exports in these products; or alternatively to justify, by scientific reasons, the restrictions on the products that under the OIE list can be safely traded as well as for all the other products originating from EC member States

B. PLANT HEALTH STANDARDS

9. The European Communities considers that compliance with the Chinese plant regulatory import system is unjustifiably difficult. Many of the import requirements go beyond the IPPC recommendations and the SPS Agreement. The European Communities looks forward to an acceleration of procedures for protocols by China.

C. MICROBIOLOGICAL CRITERIA

10. The European Communities is concerned about the enforcement of food controls in China that place excessive reliance on end-product testing, which often creates a significant barrier to trade. In particular, reference is made to certain microbiological criteria such as for *E. Sakazakii* and others. The zero tolerance level applied also for products not intended for infants is not in line with the Codex, and is unnecessarily trade restrictive within the meaning of Article 5 of the SPS Agreement. This creates serious problems for trade in dairy products. The European Communities is fully aware of the gravity of the current situation in China as regards milk products but wishes to note that the deviation from Codex standards remains unacceptable.

11. In this respect the European Communities would like to request China:

- To present the scientific evidence that leads their authorities to deviate from the Codex standards and to explain the reason for the lack of notification of its national legislation, regulation and standards.
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