

**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 Union to China  
concerning Sanitary and Phytosanitary Measures

The following communication, received on 4 October 2011, is being circulated at the request of the Delegation of the European Union.

**I. GENERAL COMMENT**

1. This is the last transitional review of the efforts of the People's Republic of China (hereinafter referred to as "China") to implement the commitments it has made in its Protocol of Accession to the WTO in the SPS Committee. The transitional review has proved to be an important and useful mechanism, which has served both the interests of China and the interests of other WTO Members to allow Members to convey to China their views, expectations and concerns regarding China's efforts to comply with its WTO SPS obligations. The European Union would like to take this opportunity to give its comments and questions in the last review of this kind to China concerning China's Sanitary and Phytosanitary Measures.

2. The European Union notes with satisfaction the increased communication between China and the European Union on SPS issues. The European Union believes that our bilateral consultations are essential to build mutual trust and the better understanding indispensable to forging strong relationships.

3. The European Union acknowledges that, with the increase in trade this work is growing and encourages China to continue to dedicate even more resources to these tasks consistent with the responsibilities that have followed from membership of the WTO/SPS Agreement and the incredible amount of work which China has put in place during the last years to revise its food safety standards, which also affects trade.

4. As a general remark, the European Union would need to point out that China has not fulfilled its obligation as regards transparency towards trading partners while developing its legislation in the area of food safety, animal and plant health. The access to legislation and procedures remains limited, as well as possibilities to comment on the draft legislation, as China has not made laws and other measures affecting trade available in one or more WTO languages, despite its commitment in China's Working Party Report (paragraph 334).

5. Given the draft legislation and SPS notifications coming from China in huge volumes (as an example almost 100 notifications in one month) during the last two years, it has been, in practice, impossible to follow and give comments on all new legislation affecting trade, especially as

translations have not been available into a WTO language. It is not always clear if the comments given by trading partners have been taken into account before finalising the legislation and regulations.

6. The European Union would like to recall that China should allow a reasonable interval between the publication of a sanitary and phytosanitary regulation and its entry into force in order to allow time for other trading partners to adapt to the Chinese requirements and to follow the transparency requirements as laid down in the WTO SPS Agreement in Article 7 and in Annex B.

Question: Could China elaborate how it will in the future follow the transparency requirements as laid down in the SPS Agreement in this respect?

## **II. EU SPECIFIC CONCERNS ON THE APPLICATION OF THE SPS AGREEMENT**

7. The European Union also notes that China has not yet aligned its legislation to several international standards. Alternatively, a scientific justification should be submitted to support the sanitary and phytosanitary measures applied, as described in Article 2.2 of the SPS Agreement.

8. Among the specific areas of this kind are in particular the following.

### **A. FOOD ADDITIVES AND PROCESSING AIDS**

9. The Chinese list of authorized food additives and processing aids differs significantly from the list of substances used worldwide and considered safe by international standard-setting bodies, which creates unnecessary trade barriers.

10. The European Union asks China to further collaborate in a transparent manner when developing and implementing new standards and to continue the cooperation with other trading partners in this respect.

Question: When will China align its legislation and regulations, or alternatively submit a scientific justification in cases where China applies a lower limit than the international standard-setting body or in cases where China has not authorized a substance allowed by other trading partners and considered safe by international standard setting bodies?

### **B. BEEF (BSE)**

11. The European Union would like to remind China that the World Organisation for Animal Health (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. Moreover EU member States have been classified by the OIE either as "controlled risk" or "negligible risk" countries. Despite these OIE guidelines and classification, EU beef and other bovine products are still banned.

12. The European Union has comprehensive measures in place aimed at assuring the highest level of consumer protection. Among these are a strict feed ban, strict controls on Specified Risk Materials and active surveillance. Although the European Union offers the highest health guarantees to its trade partners, China has not allowed the trade of these products.

13. Therefore the European Union would like to request China to open its market to EU exports of 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 EU member States.

Question: When will China allow the imports of beef and other products from EU member States, in line with the OIE, or alternatively justify, by scientific reasons, the restrictions on the products that under the OIE list can be safely traded?

C. H1N1

14. The European Union followed closely the developments of the pandemic influenza virus H1N1 and considered it important that governments responded appropriately and proportionately to the risks imposed.

15. The European Union notes that China continues imposing additional trade requirements on live pigs from EU member States. These requirements take the form of requirements of disease-free areas from where live pigs are exported to China. The European Union considers these measures unnecessary and unjustified and not in line with the statements made by the main relevant international organizations such as OIE, WHO and FAO. There is no scientific justification for imposing such requirements, especially as WHO has declared the pandemic over.

Question: When will China revise its import rules for live pigs in this respect, to align its requirements with the international standard-setting bodies?

D. OTHER CONCERNS/ UNDUE DELAYS

16. The European Union also wish to express concerns on several other matters on principles and approaches to facilitate trade which have been raised in our bilateral contacts. We firmly believe that countries should work closely together and build working relations that facilitate trade flows through appropriate mechanisms. The slow progress of negotiations of SPS protocols and the slow progress for inspections seriously limit market access of EU products to China, especially for meat, and for fruit and vegetables.

17. The audit and inspection approach by China, which does not follow the Codex Alimentarius standard on inspections/audits, results in unjustified delays and thus is not in line with the principles of the WTO SPS Agreement, especially as set out in Annex C.

18. The European Union wishes to see progress on these issues. The European Union is ready to further discuss bilaterally at technical level to find a solution to accelerate these negotiations in order to avoid undue procedural delays.

Could China elaborate on how it intends to avoid undue procedural delays for approval processes as mentioned in Annex C of the SPS Agreement and when it will start applying inspections following the Codex Alimentarius standard on inspections/audits?

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