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Committee on Customs Valuation

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**PRESHIPMENT INSPECTION
NOTIFICATIONS UNDER ARTICLE 5 OF THE
AGREEMENT ON PRESHIPMENT INSPECTION**

CHINA

*Replies from China to the Questions from the United States
contained in document G/VAL/W/353*

The following submission, dated 19 October 2020, is being circulated at the request of the delegation of China.

Question 1

Will China please submit to the Secretariat all laws and regulations relating to preshipment inspection under Article 5 of the Agreement on Preshipment Inspection immediately? Article 5 requires Members to notify these measures "immediately after their publication." In particular, will China please submit all laws, regulations, and other measures that implement Article 2 of the Agreement relating to Non-discrimination, Government Requirements, Site of Inspection, Standards, Transparency, Protection of Confidential Business Information, Conflicts of Interest, Delays, Price Verification, Appeals Procedures, and Derogations with respect to preshipment inspection activities.

Answer:

According to Article 5 of the Agreement on Preshipment Inspection, China already notified the Secretariat laws and regulations relating to preshipment inspection in 2019, including the Amended Law of the People's Republic of China on import and export commodity inspection, Regulations of the People's Republic of China on the implementation of the law on import and export commodity inspection (revised in 2019), Measures for the Inspection, Supervision and Administration of Imported Old Mechanical and Electrical Products, and Measures for the supervision and administration of inspection and quarantine of imported solid waste which can be used as raw materials. All laws and regulations relating to preshipment inspection are published on the website of the General Administration of Customs of China. By implementing those laws and regulations, China has fulfilled its multilateral obligations under the Agreement on Preshipment Inspection. Whenever we have new laws and regulations relating to preshipment inspection pursuant to Article 5 of the Agreement on Preshipment Inspection, we will submit them to the Secretariat.

Question 2

We understand General Administration of Customs Announcement No. 48 of 2018 refers to "Preshipping Inspection Procedures of the PRC." Will China please submit all of its preshipment inspection procedures and any General Administration of Customs Announcements pertaining to preshipment inspection to the Secretariat?

Answer:

General Administration of Customs Announcement No. 48 of 2018 is for guiding the preshipment inspection institutions in the filing management and related supervision and does not involve substantive preshipment inspection procedures to be followed by importers. The announcement was published on the website of the General Administration of Customs of China.

Question 3

Article 22 of the second measure, Regulations of the People's Republic of China on the implementation of the law on import and export commodity inspection (revised in 2019), provides that in order to import "solid waste that can be used as raw materials" and "old mechanical and electrical products" importers must submit a preshipment inspection certificate and make the import available for inspection by the entry-exit inspection and quarantine agency. Why are both procedures necessary? What does the preshipment inspection fail to identify that the agency inspection can uncover?

Answer:

Preshipment inspection measures are designed to reduce environmental safety risks at source. These measures have effectively reduced the cross-border movement and transport of the above-mentioned unqualified solid wastes and products, providing front-line protection while assisting the private sector to avoid unnecessary costs. Customs inspection is a normal port control function of the Customs to exercise the sovereignty of the state, and is the last line of defence to prevent overseas hazardous wastes, wastes that do not conform to China's environmental protection control standards and products that do not conform to China's technical requirements from entering China. Preshipment inspection and arrival inspection and quarantine are mandatory, and they cannot replace each other. In case of any discrepancy between the results of arrival inspection and the preshipment inspection, the arrival inspection and quarantine result at the port shall prevail.

Question 4

Article 36 of the second measure provides for the designation of foreign inspection agencies that meet the prescribed qualifications. What is the process for designating such foreign inspection agencies? Is it the same process for preshipment inspection companies as it is for other conformity assessment bodies? Where is the list of designated foreign preshipment inspection companies published?

Answer:

Article 36 of the Second Measure only applies to the designated inspection institutions which are entrusted by the import-export inspection and quarantine authorities to undertake the inspection of import and export commodities. This article has no relationship with the preshipment inspection institutions.

Regarding the solid waste that can be used as raw materials, the list of registered preshipment inspection institutions has been published on the website of the General Administration of Customs of China. Regarding the Old Mechanical and Electrical Products, According to the Paragraph 2 of Article 7 of "Measures for the Inspection, Supervision and Administration of Imported Old Mechanical and Electrical Products" notified to Secretariat by China, the General Administration of Customs of China will not designate inspection institutions to conduct preshipment Inspection of old mechanical and electrical products.

- Measures notified by China related to the import of scrap materials

- 1. The United States would also like to reiterate its continuing concern with the measures China notified related to the import of scrap materials. As repeatedly expressed in other WTO meetings, the United States has significant concerns about China's measures that ban or severely limit the import of scrap materials. Since 2017, China has issued successive measures that outright ban or effectively ban the import of a number of scrap materials with little or no prior notice or**

comment period. Furthermore, the 2019 revisions of its draft Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes, continue to define "solid waste" to include all scrap materials, and expressly ban these imports despite concerns raised by the United States and other stakeholders. To be clear, scrap materials (1) have been separated from the waste stream for recycling as a raw material and (2) are saleable items traded within a distinct global marketplace (i.e., they have an underlying economic value). These qualities make the inclusion of scrap materials as "waste" inaccurate.

- 2. We are concerned both with the overly broad scope of China's import control measures related to scrap materials and with what appear to be different requirements for foreign and domestic commodities. We reiterate our request that China immediately halt implementation of its ban and revise the relevant measures in a manner consistent with existing international standards for trade in scrap materials, which provide a global framework for transparent and environmentally sound trade in recycled commodities.**

Answer:

China is vigorously promoting ecological progress, actively implementing the concept of sustainable development and green development, to meet people's growing demand for a beautiful ecological environment and strive to resolve prominent environmental problem. Advancing the reform of the solid waste import management system is one of the important measures taken by the Chinese government to thoroughly implement the new development concept, safeguard the country's ecological environment safety and protect people's health.

In the process of adjusting relevant policies, China has taken full account of the demands of the domestic and international communities, adjusted the catalogue gradually, reserved sufficient transitional periods for relevant industries, and fulfilled the obligations of transparency in accordance with WTO rules. In July 2017, China notified the WTO TBT Committee that it would ban the import of 24 types of solid waste, including plastics waste, unsorted paper waste, raw textile materials waste and vanadium slag etc. by the end of 2017, with a transitional period of up to six months reserved for relevant industries and enterprises. In January 2019, China submitted to the Committee on Market Access two notices of quantitative restrictions, 2016-2018 and 2018-2020, which included measures to prohibit and restrict the import of solid waste, including relative information of tariff line, legal basis and implementation date etc.

Listening to the statements by delegates in various WTO meetings, it is fair to say that the danger of solid waste has been noticed and acknowledged by most members. According to the Basel Convention and other internationally accepted principles, every country has the obligations to properly handle and dispose of its domestically produced solid wastes. China, as a developing member with the largest population, has suffered the pollution of solid wastes imported from other members for decades. We do hope the exporting members could actively shoulder their international responsibilities to handle and dispose of their own solid waste, rather than reaping commercial benefit at the cost of other members' environment and human health.

The definition of solid waste varies from member to member and there is no unified international understanding and standard. The newly revised and implemented Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste has a clear definition on solid waste, which is basically consistence with that of the Basel Convention. At the same time, the law stipulates that raw material will not be classified as solid waste if it has undergone harmless treatment, meets the national mandatory quality standards and does not endanger public health or ecological safety. This means that raw material products meeting the aforementioned criteria will be treated as general goods, and the relevant rules apply to both domestic and international trade.

All members shall follow the basic principle of properly handling and disposing of their domestically produced solid wastes. Only based on this principle can members reach consensus and find solutions to the global challenge of solid waste pollution. In the meantime, adhering to this principle is conducive to promoting global green, low-carbon and circular development and promoting the building of a clean and better world.