

SPECIFIC TRADE CONCERNS (Retirado do documento G/TBT/M/37)

## **New Concerns**

### **Japão e UE x China - Administration on the Control of Pollution Caused by Electronic Information Products**

*The People's Republic of China – Administration on the Control of Pollution Caused by Electronic Information Products (G/TBT/N/CHN/140)*

The representatives of Japan and the European Communities raised concerns about relevant regulations and standards for the implementation of the above mentioned measure. They noted that comments would be submitted and requested China to give them full consideration.

The representative of the People's Republic of China took note of the comments made.

### **China x EUA - DTV Tuner Requirements**

*United States - DTV Tuner Requirements (G/TBT/N/USA/128)*

The representative of the People's Republic of China raised concerns on the above mentioned notified regulation, circulated on 8 July 2005. He noted that the notification provided Members with a comment period of 19 days, which was too short. It did not allow enough time for the Chinese regulatory authorities and interested industries to translate, distribute, study and make comments on the notified regulation. China's TBT Enquiry Point had requested the United States to extend the comment period, but the request had been refused. He believed that the proposed regulation was not an emergency measure and asked the US to explain the reason why the Committee's decision to provide Members with at least 60 days for comments had not been followed.

The representative of China requested the United States to take into account his delegation's comments. In particular, he requested the United States not to advance the original time schedule for the inclusion of digital tuners to new TV receivers from 1 July 2007 to 31 December 2006. He believed that the revision of the rule would bring about additional costs, and noted that, while the international price level of colour TV market was rather low, the price of spare parts had not decreased rapidly as the US had expected. The inclusion of a tuner in TV receivers would inevitably increase its cost, especially those of 13 inches or under in size, and in certain cases the cost of the tuner might exceed the cost of the TV receiver itself. He recalled that China was the biggest producer and exporter of TV receivers, especially those of 13 inches or under. If the date on which all new television receiving equipment had to include a tuner to receive over-the-air DTV broadcast signals was advanced by half a year, the trade of TV receivers with the US would be significantly affected.

It was pointed out that the United States had envisioned that only when ground DTV users had reached 85 per cent of total TV users, would the analog television service be ended. However, the users of DTV products in America only claimed a minor part of total TV users, and more than 80 per cent of American TV users watched DTV programs through cable or satellite television services. That had prevented the US government from specifying the date of termination of the analog TV broadcast. Under such circumstances, the representative of China believed that it was

not necessary to advance the date to require all new television receivers to include a DTV tuner. At present, the US ATSC standards did not apply to DTV service, and the TV suppliers did not adopt the ATSC ground wireless standards in their mobile DTV experiments.

The notified US draft regulation would increase the cost for the manufacturers, and, as a consequence, the price of the relevant products. These costs would ultimately be transferred to consumers. The United States was requested to refrain from advancing its original time schedule for the inclusion of a digital tuner in new TV receivers, and that this requirement should not apply to TV receivers of a size of less than 13 inches.

The representative of the United States wondered whether China had been able to submit comments in response to the notification and, if so, whether it was possible to receive a copy.

The representative of China confirmed that comments had been sent to the US Federal Communication Committee.

**China x UE - Directive 2005/32 of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council**

*European Communities – Directive 2005/32 of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council*

The representative of China noted that the above Directive on energy using products ("EuP Directive") had been published on 22 July 2005 and had entered into force 20 days later. According to the Directive, EU Member States should bring into force the laws, regulations and administrative provisions necessary to comply with it by 11 August 2007. He noted that the Directive covered a large range of products and required that the CE marking be affixed to energy-using products. While he recognized the right of the European Communities to introduce the Directive, as well as the right of the Member States to implement it so as to promote energy saving and to protect the environment, he believed that the measure would create a significant impact on exports from third countries, including China, of energy-using products. China was concerned that difficulties for trading partners might arise because the 25 Member States of the European Communities might not interpret the Directive consistently. He pointed out that the Directive had not been notified and encouraged the European Communities to do so, even if the Directive was of a framework nature. He also encouraged the European Communities to submit a communication paper containing a summary of the Directive to WTO Members, allowing them an opportunity to provide comments. His delegation hoped that comments from Members could be summarized by the European Communities and transmitted to the Member States before they changed their laws, regulations or administrative provisions on the basis of the Directive.

The representative of China further suggested that the European Communities should conduct an impact assessment of the EuP Directive and its related implementation legislation on developing countries and, moreover, should take into account the results of such assessment *before* implementing the measure. In addition, he stressed the EC commitment to notify the proposed detailed technical requirements following the Directive. Finally, it was also suggested that the

European Communities could provide technical assistance to developing Members, for instance by means of seminars, or training of specialists and that a longer period for adaptation should be provided, in accordance with the Decision of the Ministers at the Fourth Ministerial Conference.

The representative of the European Communities explained that the Directive 2005/32/EC was a framework directive, which did not contain detailed technical regulations. Thus, it had not met the requirements necessary to be notified in accordance with Article 2.9.2 or 5.6.2 of the TBT Agreement. While comments from China were welcome, the already adopted Directive could not be notified. Nevertheless, he assured the Committee that any implementing measure based on the EuP Directive would be notified, and Members would be given 60 days to provide comments. He further explained that the European Commission would assess all transposition measures, to ensure that the Directive was consistently implemented in all 25 Member States. He pointed out that an impact assessment had been conducted, and would be further conducted for the implementing measures. Finally, on the possibility to provide technical assistance, he would report back China's comments to the experts responsible for this issue.

### **China x Japão - Handling of comments on notifications**

#### *Japan – Handling of comments on notifications*

The representative of China was concerned with the way Japan handled the comments received on notifications. He recalled that, in 2005, China had submitted comments on six notifications made by Japan, but had received feedback on only one. For the other five notifications (G/TBT/N/JPN/143, 144, 148, 150 and 151) Japan had indicated that the comments would be transmitted to the competent authorities. However, no feedback had been received. Had the comments been taken into account? And if not, why not? Had the notified regulations been adopted? He further recalled that Japan had notified, under the SPS Agreement, their Positive List System (G/SPS/N/JPN/145) and in that case also China had submitted comments. However, he was disappointed that Japan had later stated that the comments had not been received, and that this might be due to some technical problems. China requested Japan to reply to comments in a timely manner, through the Enquiry Points or the competent authorities, and to take the comments into account.

The representative of Japan was not in a position to reply on the concern regarding the SPS notification. On the TBT notifications, he was willing to further discuss the matter bilaterally.

### **UE x Colômbia - Labelling of footwear**

#### *Colombia – Labelling of footwear (G/TBT/N/COL/45)*

The representative of the European Communities was concerned that several Members, when drafting regulations on the labelling of footwear, included the manufacturer's or the importer's fiscal or registration number among the particulars to be indicated on the good. The above notification had been submitted in 2003 and the notified text provided that, in addition to information on the materials used for the parts of the shoe, the label should also contain the manufacturer's and/or importer's registration number issued by the Colombian Supervising Authority. He recalled that the European Communities had submitted comments, and that in June 2005 Colombia had notified an

amendment to its original regulation, as a third addendum to the original notification (G/TBT/N/COL/45/Add.3). Also in this case, comments had been sent in writing to Colombia.

The representative of the European Communities was of the view that this was a case, and not the only one, where manufacturers were confronted with excessive labelling requirements. The requirement to indicate the manufacturer's and/or the importer's fiscal or registration number was irrelevant for consumers; there was no need to include such information on the good itself. If Colombia considered this necessary, then the legitimate objective could be achieved in a less trade restrictive manner, for instance by applying stickers on the *packaging* of the goods.

The representative of Colombia informed the Committee that a response to the EC questions had recently been provided through the Colombian Enquiry Point. She added that the prerequisite of the fiscal or registration number on the label was required in Colombia for monitoring reasons, but that her authorities were considering eliminating it. Once this was defined more clearly, she would be in a better position to provide a final answer to the European Communities. She took note of the concerns expressed and would forward them to the competent authorities in capital.

#### **UE e EUA x África do Sul - Labelling requirements for textiles, clothing, shoes and leather goods**

*South Africa - Labelling requirements for textiles, clothing, shoes and leather goods (G/TBT/N/ZAF/49)*

The representative of the European Communities raised similar concerns on the above mentioned notification. It was noted that the draft regulation required that the importer registration code issued by South African authorities be "permanently applied to the good". As in the case of Colombia, he considered that this requirement was irrelevant for consumers.

The representative of South Africa informed the Committee that, following the comments received from the European Communities, the South African authorities had decided not to implement the regulation on 1 September 2005, as was stated in the notification. She explained that further technical and legal inputs were being sought, with a view to addressing the concerns raised.

The representative of the United States recalled that her delegation had also sent comments to the South African authorities and had similar concerns to those expressed by the European Communities. Her delegation had also suggested that South Africa should find less trade restrictive alternatives, such as stickers to place after the product had been imported. She welcomed the fact that South Africa had not implemented the regulation, and understood that it was also considering withdrawing it.

#### **EUA x Peru - Infant food**

*Peru - Infant food (G/TBT/N/PER/11)*

The representative of the United States noted that, on 16 January 2005, Peru had issued a Supreme Decree regarding infant food, due to come into effect six months later. She recalled that her delegation had invited Peru to notify the Decree, and appreciated that they had subsequently done so. Comments had been provided, but no feedback had been received from Peru. She hoped that

these comments would be taken into account, and that sufficient time would be allowed for industries to comply with the regulation.

### **EUA x China - Health Food Regulation**

*China - Health Food Regulation (G/TBT/N/CHN/160)*

The representative of the United States recalled that her delegation had brought to the attention of the Chinese Enquiry Point that the above mentioned regulation should have been notified. In fact, the United States had provided comments on it before the notification was made. She thanked China for subsequently making the notification, and hoped that the comments made by her delegation would be taken into consideration.

The representative of the China welcomed the US comments.

### **Concerns Previously Raised**

#### **EUA (Canadá, Chile, China e México) - Regulation on the Registration, Evaluation and Authorisation of Chemicals (REACH)**

*European Communities – Regulation on the Registration, Evaluation and Authorisation of Chemicals (REACH) (G/TBT/W/208 and G/TBT/N/EEC/52 and Add.1)*

The representative of the United States reiterated her concerns on the proposed EC regulation on chemicals. She understood that discussions of the proposal were at a critical juncture in the European legislation process, with a vote by the European Parliament expected after its first reading in mid-November 2005 and a vote by the European Council expected by the end of November 2005. She pointed out that the regulation, as originally proposed, was overly expensive and burdensome, and would be difficult to implement effectively. She hoped that changes to the proposal would result in a more streamlined, science-based and cost effective approach.

She recalled that at a previous meeting of the Committee, the European Communities had noted that it had provided written statements and made a presentation to the Committee, in order to explain the proposed regulation. This had been in response to the potential trade concerns that had been raised by a broad range of WTO Members. She believed, given the on-going debate, that it was premature to assert, as the European Communities had done in their response, that there would be no trade problems, and that the proposed regulation would not be inconsistent with WTO rules. She welcomed the intention of the European Communities to update its notification to the TBT Committee in view of the changes to the proposed regulation, and the opportunity to further engage in substantive and constructive dialogue on those changes.

The representative of Canada remained concerned about the workability of the proposal in certain sectors, and with its impact on trade. He urged the European Communities to consider the recommendations outlined in Canada's position paper which had been distributed at the TBT Committee meeting in June 2005. He sought confirmation of the status of requested exemptions, including on minerals, ores, concentrates, pulp, paper, lumber and recyclables. He also sought further clarification about the treatment of alloys, and a possible extension of the three-year timeline for registration of metals. He believed that the cost of conducting assessments on concentrates

would be disproportionate to the risk, and was of the view that concentrates should be a low priority. He urged the European Communities not to overlook the aspect of regulatory co-operation, including data sharing and mutual recognition, through bilateral or multilateral routes. The EC representative was asked to provide an update on the REACH legislative process.

The representative of Chile recalled that her delegation had raised concerns both bilaterally and at TBT Committee meetings. In particular, concerns remained regarding minerals and metals, considering that polymers could be their substitutes, and they might not be within the scope of REACH. She believed that the REACH system could be very bureaucratic and costly, and informed the Committee that Chile was engaging in an analysis of its impact on exporters of chemicals to the European Union. Small and Medium sized Enterprises (SMEs) exporting products of big volume, but of a low value, could be specially affected. Her delegation was also concerned about possible substitutions, involving importers who did not register substances coming from third countries and might start substituting them. She requested the European Communities to simplify the regulation and to consider the effects of REACH on third countries. She hoped that the exception applied to polymers could be applied to minerals and metals as well.

The representative of China shared the views expressed by the United States and Chile, and recalled that China had also submitted comments.

The representative of Mexico echoed the concerns expressed. In particular, his delegation was concerned about the creation of an agency which would deal with REACH. His understanding was that there could still be other options in REACH where it would be the Member States, and not the agency, implementing the system.

The representative of Japan and Korea shared the concerns expressed by previous speakers and hoped that the European Communities would continue to have a dialogue with its trade partners on this issue.

The representative of the European Communities explained that it was too early to know what the specific modifications to the text of REACH would be. He informed Members that all Committees in the European Parliament had discussed the proposal and proposed various amendments, and that the Environment Committee had been the last one to vote on possible amendments. He pointed out that the first reading of the European Parliament was scheduled for 14 November 2005, and the agreement of the European Council was expected on 29 November 2005. He confirmed that the European Communities would update the notification to the TBT Committee once a new text containing the amendments was ready. He was not in a position to reply to the specific questions posed by Canada, and assured Members that all the institutions involved in the legislative process took the concerns expressed into account. The reiterated concerns would again be transmitted to the experts.