

**NOTIFICATIONS OF LAWS AND REGULATIONS UNDER
ARTICLE 18.5 OF THE AGREEMENT**

PEOPLE'S REPUBLIC OF CHINA

Supplement

The following communication, dated 9 January 2007, is being circulated at the request of the Delegation of the People's Republic of China.

**Rules of the Supreme People's Court on Certain Issues Related to Application
of Law in Hearings of Antidumping Administrative Cases**

(Adopted at the 1242nd Session of the Trial Committee of the
Supreme People's Court on 11 September 2002)

Pursuant to *the Administrative Procedure Law of the People's Republic of China* and other relevant laws, these rules shall be enacted and construed for People's Court to justly hear antidumping administrative cases in accordance with law.

Article 1 People's Court shall, in accordance with law, accept an administrative action against any of the following administrative acts in antidumping proceedings:

- (1) A final determination on dumping and dumping margin, or injury and the extent of injury; "
- (2) A decision on whether to impose an antidumping duty, retroactive imposition of an antidumping duty, reimbursement of an antidumping duty or, imposition of an antidumping duty on new exporters;
- (3) The results of an administrative review on the retention, revision or termination of an antidumping duty or a price undertaking;
- (4) Other actionable administrative acts in antidumping proceedings according to the law and regulations.

Article 2 An interested party, as defined to be an individual or organization having legal interests in a specific administrative act in antidumping proceedings, may commence an action in People's Court pursuant to the administrative procedure law and other relevant law and administrative regulations.

For the purpose of the preceding paragraph, "an interested party" means any applicant who files a written application to the administering authority under the State Council for an antidumping investigation, any exporter or importer involved in the corresponding antidumping proceedings, or any other natural person, legal person and other organization having legal interests thereon.

Article 3 The defendant of a specific antidumping administrative case shall be an administering authority under the State Council, who conducts the contested administrative acts in the corresponding antidumping proceedings.

Article 4 Other administering authorities under the State Council may, with their legal interests in the contested administrative acts in antidumping proceedings, intervene into the action as the third party.

Article 5 The following People's Courts have jurisdiction as the courts of the first instance over an antidumping administrative case:

- (1) An Interim People's Court designated by a specific Superior People's Court whose territorial jurisdiction covers the location of the defendant;
- (2) A Superior People's Court whose territorial jurisdiction covers the location of the defendant.

Article 6 People's Court shall, in hearing an antidumping administrative case, review the legality of any factual finding and legal conclusion upon which the contested administrative act in antidumping proceedings is based. For the purpose of such a review, People's court shall base on the administrative procedural law and other antidumping law and administrative regulations, and shall also take as reference the regulations and rules of the ministries and commissions under the State Council.

Article 7 The defendant shall have the burden of proof for the contested administrative act he has undertaken in antidumping proceedings. For this purpose, the defendant shall furnish the supporting evidence and regulatory documents on which his administrative act in this regard is based.

For the purpose of reviewing the legality of the contested administrative act in antidumping proceedings, People's Court shall rely on the evidence on record furnished by the defendant to undertake the contested act. Any factual material not on record is not admissible, and shall not be relied on by People's Court to hold lawful the contested act.

Article 8 The plaintiff shall have the burden of proof for the facts he has asserted. Where the evidence offered by the plaintiff is found by People's court to be relevant, legitimate and authentic through legal procedure, such evidence may be deemed admissible.

People's Court shall deem inadmissible any evidence submitted by the plaintiff in the action if, in the preceding antidumping investigation and upon request by the defendant through legal procedure, the plaintiff rejects to offer such evidence under no justifiable grounds, fails to offer the authentic one, or severely impedes the process of the investigation in other way.

Article 9 The evidence, available to the administering authorities under the State Council, shall be deemed sufficient for them to establish a factual finding for an antidumping investigation where, upon request by the defendant through legal process, the interested parties reject to offer certain evidences under no justifiable grounds, fail to offer the authentic ones, or severely impede the process of the investigation in other ways.

Article 10 For the purpose of hearing antidumping administrative cases. People's Court shall, under the varying conditions, render the following judgments respectively:

- (1) A judgment to sustain the contested administrative act in antidumping proceedings, under which the supporting evidence is sufficient and conclusive, the law and regulations are accurately applied, and the legal procedure is fully complied with.
- (2) A judgment to annul or partially annul the contested administrative act in antidumping proceedings, or remand it for the defendant to make a new determination, should the contested act be under any of the conditions as below:
 1. inadequacy of essential evidence;
 2. erroneous application of the law or administrative regulations;
 3. violation of legal procedure;
 4. absence of authority;
 5. abuse of executive power.
- (3) Any other judgment rendered in accordance with the law and judicial interpretations.

Article 11 For the purpose of hearing an antidumping administrative case, People's Court may take, as reference, the provisions concerning the foreign-related civil procedures.

Article 12 These rules shall be effective as of 1 January 2003.
