

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Explanatory Note on TN/MA/W/102

Communication from the People's Republic of China

Addendum

The following communication, dated 17 April 2008, is being circulated at the request of the delegation of the People's Republic of China.

China appreciates the comments made by members on China's NTB proposal on fireworks. Having taken due considerations of the comments raised by members in the NTB meeting on 17th March 2008, China would like to make further clarifications on the following concerned issues:

1. International Standards of Fireworks

At present, the standards of fireworks of some major importing members such as the US, the EU, Japan, Canada, Australia and Korea differ greatly in terms of classification, sampling, technical specifications, testing items and methods, etc. Taking the classification of fireworks for instance, some members' classifications are based on display site, some are based on motion model, some are based on effects of display function, some are even based on charge weight. Taking the fusing time for another example, for the same fireworks, some members specify a 2-6 seconds fusing time, some specify 3-9 seconds, some 9-12 seconds, and still some even 9-15 seconds. The diversified standard requirements in different members force manufacturers, when exporting to different target markets, to adjust their production to a variety of standards for the same kind of products, which not only creates great difficulties in their manufacture and management, but increases tremendously the risks of production and costs of trade.

In spite of the great efforts that China's fireworks enterprises have made, they still feel that it's hard to meet those various and different requirements of fireworks standards. Therefore, China proposes that the WTO urges relevant international standardization bodies to development as soon as possible international fireworks standards, so as to promote the production and trade of fireworks effectively and efficiently. This is also in accordance with article 12.6 of the TBT Agreement which stipulates that "Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies, upon request of developing country Members, examine the possibility of, and, if practicable, prepare international standards concerning products of special interest to developing country Members."

2. Conformity Assessment Procedures

At present, some WTO members require that, the firework samples must be sent to their designated domestic testing bodies for sample tests or type tests before importing, so as to testify that the samples conform to their technical regulations or standards. This exclusive requirement of designating their own domestic testing bodies creates discrimination to testing bodies within the territory of other members. In addition, this practice not only goes against the UN Requirements of the Rules of Transportation of Dangerous Goods (Fireworks being dangerous chemicals, there are huge risks in the overseas transportation of the unclassified fireworks samples), but also violates Article 5.2.6 of the TBT Agreement that “the siting of facilities used in conformity assessment procedures and the selection of samples are not such as to cause unnecessary inconvenience to applicants or their agents”.

To guarantee the safety in production, transportation and consumption of fireworks, Chinese enterprises and government authorities of the exporting Members such as China input tremendous personnel and financial resources in safety testing facilities, testing capacity building and the construction of testing standards, and has established preliminary laboratory networks necessary to self-testing by enterprises, and periodic testing by government authorities. Relevant laboratories have established their quality-control systems in light of Standard ISO/IEC 17025, and have strong testing capacities to meet the requirements in safety tests and type tests of fireworks.

In this regard, importing members should positively consider the possibilities of accrediting laboratories of exporting members which run under ISO/IEC 17025 standard within framework of the ILAC Agreements, and recognizing their testing results on this basis. Importing members are encouraged to make full use of the technical resources of exporting members (standards and laboratories) in the conformity assessment of fireworks, and conduct testing cooperation such as joint experiments and visual tests, etc.

The United Nations Economic and Social Council's Committee of Experts on the Transport of dangerous Goods (UN/TDG&GHS has prepared “Recommendations on the Transport of Dangerous Goods” and “Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria”, which stipulate fireworks classification in terms of 1.1G, 1.2G, 1.3G, 1.4G and 1.4S. To facilitate the conduct of fireworks international trade, in the light of Article 5.4 and 6.1 of the TBT Agreement, importing members shall accept fireworks hazard classification certificates issued by competent laboratories of exporting Member in accordance with UN Series 6 Test of the United Nations Recommendations on the Transport of Dangerous Goods.

Some importing Members set stringent registration or approvals requirements on fireworks, and these registration or approvals are often unduly delayed. As for the periods for registration, some Members are 1-2 months, some are 1-3 months, some others are 2-3 months, and some are even 7-12 months.

To improve efficiency, shorten the processing period and reduce unnecessary costs, taking account of the actual testing period. It's suggested to finish registration or approval and issue the registration code within 60 days and avoid undue delay.

Current conformity assessment procedures of fireworks of major importing members are considerable complicated. Firstly, sample test or type testing must be passed by designated organization to ensure the conformity with the requirements of technical regulations or standards. Secondly, export products are inspected lot by lot; Moreover, import samplings or market surveillances are reserved. Only in sampling, taking a common shipment of 500 firework products for example, the above triple tests consume 39-60 samples, which account for 8%-12% of the total shipment. These conformity assessment procedures overlap in requirements and are much too

complex, causing unnecessary delay and obstacles to international trade, and increasing export cost of fireworks significantly.

With respect to the principle of trade facilitating of the WTO, it's suggested that importing members simplify their conformity assessment procedures conditionally. Namely, those firework tested by exporting members' competent testing bodies should be exempt from pre-shipment inspection and port inspection.

3. Labelling

Presently, the labelling requirements of fireworks of members differ from each other greatly in terms of content, pattern, colour difference and position, etc. As for content, some Members require charge weights to be contained, some require fuse location, some require relevant standards, some others require the whole information of manufacturer or importer, and some even require labelling in more than one language. Manufacturers have to prepare a number of kinds of labels for the same kind of fireworks to meet the different requirements of importing countries, which brings to a significant increase of production and management cost.

Meanwhile, some importing countries revise their labeling requirement for contents periodically or aperiodically, which brings the result that the products with old version label can't be exported as expected. Re-labeling usually delays the shipment and causes overstock due to missing the selling season.

Therefore, with regard to the unnecessary barriers to the exporters created by the current complicated, divergent and unpredictable changing labeling requirements, China suggests to harmonize and stabilize the labeling requirements on fireworks. Specifically, the draft label format of fireworks and the elements thereof are contained in the annex.

4. Transparency

Exporting Members are now facing many difficulties to obtain information of firework technical regulations, standards and conformity assessment procedures of importing Members. For example, some Members don't notify to the WTO the modification on their technical regulations, some Members don't notify the alteration on labelling requirements, some don't notify their conformity assessment procedures, while some others' technical regulations refer to undefined standards which are confusing and not available.

These problems on transparency lead to a great deal of uncertainties and unpredictability in fireworks international trade, and create many unnecessary difficulties and economic loss to manufacturers and exporters. It's hard for firework companies and exporters to get the above mentioned information by means of current TBT notification approach. Therefore, it's suggested by China to strengthen the transparency requirements in firework technical regulations, standards and conformity assessment procedures, to fulfill the transparency provisions of the TBT Agreement in firework sector.

ANNEX : Elements and a format of fireworks label

To ensure the stability and security of fireworks, labeling should be simple, perspicuous and consistent. Consumers could be directly acquainted with characteristics and function requirements of fireworks items. Based on the labeling requirements of relevant importing countries, China has listed the elements of the fireworks label as follows and prepared a specific format.

ELEMENT	DESCRIPTION
name	The name of item for sale.
category	Category based on item structure and moving modality.
Safe area of function	According to classification of fireworks, the safe area of workable function could be determined as how many meters consumers should be apart from fireworks article ignited.
Caution or warning	Caution or warning includes common requirements and special instruction for function details of fireworks item.
Manufacture or dealer	The name and address of Manufacture or dealer

A format of fireworks label

(Name of item)	Volcano
(Category of item)	Fountain
(Safe area of function)	Safe area of function >1m
(Caution or warning)	Warning
	For outdoor use only. Keep away from flammable and explosive material. Use only under adult supervision. Light fuse and get safe area. Audience should be in safe area. Do not hold in hand. Place on hard and smooth surface.
(Manufacture or dealer)	company, area, country