

New Concerns

China x EUA - Measure on Refillable Lighters

United States: Measure on Refillable Lighters

The representative of China drew the Committee's attention to a US measure on refillable lighters. The US Consumer Product Safety Commission had made an announcement on its official website¹ to the effect that, starting 1 March 2004, refillable lighters with an import value of US\$2.25 or less would be required to be child-resistant. This was up from the original import value of US\$2 or less, established in 1993. The revised standard not only maintained the relationship between price and safety of the product as before, but also widened the scope of lighters covered by the regulation. This did not comply with the WTO principle of "minimizing restrictions on trade", and the principles of "fair trade". China therefore requested that the United States provide the scientific justification for setting a relationship between price and safety of lighters, and invited the United States to fulfill its obligation, under the TBT Agreement, to notify the measure.

The representative of the United States noted that as her delegation had not been given advanced information on the matter, she was not in a position to provide a substantive response. Nevertheless, the United States would look into the concerns raised.

EUA (UE, Japão e México) x China - Mandatory Chinese National Standards for Wireless Local Area Network (WLAN) Authentication and Privacy Infrastructure

China: Mandatory Chinese National Standards for Wireless Local Area Network (WLAN) Authentication and Privacy Infrastructure (WAPI)

The representative of the United States drew the Committee's attention to two Chinese technical regulations for wireless local area network (WLAN) computing which had come into force on 1 December 2003 and which had been the subject of a number of bilateral exchanges with the government of China. It was noted that these regulations had been first approved by the Chinese government on 12 May 2003, but had not been publicly announced until 9 July 2003. These had not been notified to WTO Members under the TBT Agreement and no opportunity for comment had been provided before being finalized. Furthermore, it was the US understanding that as of 1 June 2004, any foreign manufacturer or exporter to China of products containing WLAN technology would have to enter into co-production arrangements with a designated list of, currently, 24 Chinese companies in order to comply with the WAPI regulations and sell or use their products within China.

The US concerns ranged from compelled investment and technology transfer policies, to questions of unnecessary government interference in the marketplace. The Chinese government was the only government in the world mandating compliance with a specific WLAN encryption standard for general consumer use. Requirements for wireless LAN encryption had been otherwise left to the marketplace. Moreover, the Chinese WAPI standards substantially differed from the widely-adopted international standard IEEE 802.11 in the area of encryption techniques. The United States was therefore concerned that the mandatory imposition of these standards was overly restrictive and

would result in an unnecessary barrier to trade. The representative of the United States invited China to notify its draft technical regulations. China was further encouraged to participate in the revisions to the international standard IEEE 802.11, and to reconsider its policy of mandating a specific encryption standard for general consumer use.

The representative of the European Communities shared the concerns raised by the US delegation, in particular with respect to the non-notification of these measures under the TBT Agreement.

The representative of Japan was also concerned about the lack of transparency and requested China to provide more information on these measures. Japan was particularly interested to know whether China recognized the existence of relevant international standards on this issue. Members had the obligation to notify regulations that were not in conformity with international standards.

The representative of Mexico associated his delegation with the positions expressed by others and stated his concern about the non-compliance of the Chinese measures with the TBT Agreement.

The representative of China informed the Committee that the two national standards at issue had been developed on the basis of ISO/IEEE.802.11, with a view to protect the information security for the State and consumers, and so as to protect consumers' rights. However, due to security technical flaws of the Wired Equivalent Privacy (WEP) of ISO IEEE/802.11, WAPI was adopted as the security mechanism in Chinese WLAN standards. Before its adoption, WAPI had been submitted to IEEE Registration Authority and had been assigned "0x88B4" as the WAPI EtherType Field Number. Only two items in these standards, namely frequency management and cryptogram management, were mandatory. The representative of China further noted that the programmes for developing these two standards and their working groups were open, transparent and public. In July 2003, the Chinese government had sponsored a meeting to explain the two standards, and representatives of all interested circles, including US enterprises, had been invited to participate. In addition, the Chinese authorities had held several bilateral talks and discussions on the issues of concern to the United States and other Members. In particular, a meeting of technical experts was held in Xi'an, China. At that meeting, US experts had deemed WAPI a good WLAN security solution as IEEE 802.11i was in the stage of discussion. The Chinese Government attached great importance to the concerns expressed by Members and was willing to hold consultations with those interested.

UE x Coréia do Sul - Average Fuel Economy Standards for Passenger Cars

Korea: Average Fuel Economy Standards for Passenger Cars

The representative of the European Communities drew the Committee's attention to the draft Korean Average Fuel Economy standards for passenger cars, which were currently under preparation and due to be introduced on 25 March 2004. While the European Communities shared the objective of controlling and reducing the fuel consumption of passenger cars, there was concern about the measure envisaged to achieve this objective. It seemed, in particular, that the new draft would require significant improvements in fuel efficiency only from imported passenger cars and that other, less trade restrictive means to achieve the objective, had not been taken into account. The European Communities asked for a postponement of the adoption of the measure and requested the Korean delegation to notify the draft measure under the TBT Agreement.

The representative of Korea stated that he would transmit the concerns raised to his capital.