

Dear Sir or Madam from USA WTO TBT Enquiry Point,

We appreciate the United States' attention to and comments on China's *Environmental Control Standards for Imported Solid Wastes as Raw Materials*.

China would like to reiterate that solid wastes are different from raw materials in general and inherently pollutive. Solid waste disposal is a common environmental problem faced by all countries around the world. Apart from improving the solid waste disposal scheme at home, China, as a developing country with the largest population, must make the inevitable choice of restricting and prohibiting solid waste imports in order to protect its eco-environment safety and population health.

#### **1. WTO Notification Procedures**

China wishes to point out that Article 2.12 of *the Agreement on Technical Barriers to Trade* does not require technical regulations and standards to be published 6 months prior to their entry into force. Instead, it merely states that WTO members should allow a "reasonable interval", so that relevant enterprises of the exporting members have time to adapt to the new requirements. The draft of *the Environmental Control Standards for Imported Solid Wastes as Raw Materials* was made available to the general public for comments on August 10, 2017. During the public consultation period, we have received comments from the United States, the European Union, and other WTO members. We have carefully studied and considered those comments, and made some adjustments accordingly, such as deferring the entry into force of the new standards to March 1, 2018. The Chinese government made this decision in consideration of the fact that the relevant industries need transitioning and make adjustments to adapt to the new standards, while the risks of pollution resulting from

the accumulation of large quantities of solid waste imports during the transitioning period must also be avoided. After comprehensively taking into account all factors, China set an appropriate transition period for the relevant industries by not implementing the new standards until March 1, 2018. The interval between the publication of the draft standards for public comments and the entry into force of the new standards is thus more than 6 months, which is in accordance with the relevant requirements of the WTO rules.

## **2. National Treatment of Covered Products**

Amending *the Environmental Control Standards for Imported Solid Wastes as Raw Materials* is one of the many measures that the Chinese government has taken to address the issue of environmental pollution of solid wastes. It is aimed at controlling the environmental pollution and risks to human health resulting from importing solid wastes to the maximum extent possible. As border measures applicable only at the importation phase, these standards do not affect the domestic distribution, sale, and/or disposal of lawfully imported solid wastes. Hence, it does not violate China's national treatment obligation. For solid wastes that are lawfully imported in a way consistent with these standards, China will abide by the national treatment principle by providing the same treatment to those imported solid wastes as to domestically generated solid wastes. The disposal of solid wastes from all sources will be subject to the same environmental protection standards and unified regulation scheme. For instance, the voluntary standard *Waste Paper Recycle Requirements (GB/T20811-2006)*, which your letter also referred to, applies not just to domestically generated waste paper, but to imported waste paper as well.

### **3. United States' Approach to Non-Hazardous Scrap Materials**

The principles of “waste producers responsibility” and “disposal to the nearest” are commonly recognized by the international community. In your letter, you explained the regulatory system in place for recycling and reprocessing non-hazardous municipal solid wastes, and also mentioned that there are relevant domestic industries in the United States equipped with high-level technologies capable of recycling and processing these wastes. We believe that the United States has the ability to comply with the principles of “waste producers responsibility” and “disposal to the nearest”, to properly handle the solid waste produced in the country and not to export to other countries.

Over decades, enterprises from other countries including the United States have exported large quantities of solid wastes to China and derived huge financial gains. We earnestly hope that these enterprises could also actively fulfil their international social responsibility and contribute to the alleviation of the environmental and health problems in China. In addition, we believe that our recently promulgated measures will lead to increasing quantities of solid wastes generated in the United States to be kept within the borders of the United States, thereby spurring a new round of investment in the relevant processing industries. Apart from solving environmental problems faced by both countries, this could also bring more employment opportunities to the US recycling industry and create a win-win situation.

### **4. Scope**

The definition and identification of solid wastes in China follows *the Law of the People's Republic of China on Prevention and Control of Environmental Pollution*

*Caused by Solid Wastes*, which is fundamentally consistent with the definitions in the *Basel Convention*. Currently, there is not any globally recognized standard for scrap materials and recyclable materials. China therefore adopts the universally applicable HS code in defining the applicable scope of *Environmental Control Standards for Imported Solid Wastes as Raw Materials*.

## **5. Voluntary Standards, Technical Specifications, and Scientific Evidence**

China's *Environmental Control Standards for Imported Solid Wastes as Raw Materials* are different from the relevant standards of the United States and the European Union, such as subordinate legal basis, regulatory focus, content of concern, and etc. China has set the carried waste index from the perspective of environmental pollution control, with a focus on possible radioactive pollution and foreign carried wastes. The *Environmental Control Standards for Imported Solid Wastes as Raw Materials* currently in force was amended and implemented in 2005, among which, the carried waste index in *the Environmental Protection Control Standard for Imported Solid Wastes as Raw Materials – Waste and Scrap of Plastics* has always been set at a level of 0.5% since the beginning. As our past experience with implementing the standards and inspecting waste imports over more than ten years has shown, imported wastes can meet China's standards if they are properly categorized or pretreated at their sources. Therefore, this standard is not intended to impose any *de facto* import restriction.

China amended *the Environmental Control Standards for Imported Solid Wastes as Raw Materials* in order to prevent the environmental and health risks resulting from solid wastes to the maximum extent possible. Current scientific studies indicate

that the residues resulting from recycling and disposal of solid wastes and their carried waste may pose various risks to human health and the environment.

Since it is pre-fixed with “GB”, *the Environmental Control Standards for Imported Solid Wastes as Raw Materials* that China notified to the WTO is a compulsory standard.

Please don't hesitate to contact us if you have any questions.

Best regards,

WTO/TBT National Notification & Enquiry Center of China