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PROCEDURES FOR ON-THE-SPOT INVESTIGATIONS PURSUANT TO PARAGRAPH 6 OF ARTICLE 12

1. Upon initiation of an investigation, the authorities of the exporting Member and the firms known to be concerned should be informed of the intention to carry out on-the-spot investigations.
2. If in exceptional circumstances it is intended to include non-governmental experts in the investigating team, the firms and the authorities of the exporting Member should be so informed. Such non-governmental experts should be subject to effective sanctions for breach of confidentiality requirements.
3. It should be standard practice to obtain explicit agreement of the firms concerned in the exporting Member before the visit is finally scheduled.
4. As soon as the agreement of the firms concerned has been obtained, the investigating authorities should notify the authorities of the exporting Member of the names and addresses of the firms to be visited and the dates agreed.
5. Sufficient advance notice should be given to the firms in question before the visit is made.
6. Visits to explain the questionnaire should only be made at the request of an exporting firm. In case of such a request the investigating authorities may place themselves at the disposal of the firm; such a visit may only be made if (a) the authorities of the importing Member notify the representatives of the government of the Member in question and (b) the latter do not object to the visit.
7. As the main purpose of the on-the-spot investigation is to verify information provided or to obtain further details, it should be carried out after the response to the questionnaire has been received unless the firm agrees to the contrary and the government of the exporting Member is informed by the investigating authorities of the anticipated visit and does not object to it; further, it should be standard practice prior to the visit to advise the firms concerned of the general nature of the information to be verified and of any further information which needs to be provided, though this should not preclude requests to be made on the spot for further details to be provided in the light of information obtained.
8. Enquiries or questions put by the authorities or firms of the exporting Members and essential to a successful on-the-spot investigation should, whenever possible, be answered before the visit is made.

1.2 General

1. In *US – Anti-Dumping and Countervailing Duties (China)*, the Panel concluded that the term "questionnaires" in Article 12.1.1 refers to the initial comprehensive questionnaire (or set of questionnaires) issued by an investigating authority at or following the initiation of a countervailing duty investigation, and that the 30-day deadline to respond to questionnaires stipulated in Article 12.1.1 does not apply to responses to supplemental questionnaires. The Panel found contextual support for its interpretation in Annex VI:

"We now consider which particular documents constitute the 'questionnaires' to which the 30-day rule applies. In our view, the same contextual elements discussed above aid in answering this question. In particular, the reference in paragraph 6 of Annex VI to 'visits to explain the questionnaire' suggests that such a questionnaire is a substantial information request (to warrant a possible on-the-spot visit by the investigating authority to a foreign country purely for the purpose of explaining it). This provision further suggests that the questionnaire is sent to the respondent entity relatively early in the investigation (logically, an explanatory visit would only take place upon or after receipt of the questionnaire, and to be useful presumably it would need to take place well in advance of the due date for the response, and well in advance of any verification visit as referred to in paragraph 7). The provision in paragraph 7 of Annex VI that, because the main purpose of the on-the spot investigation is to 'verify information provided or obtain further details' normally that visit should take place 'after the response to the questionnaire has been received', provides a further indication both that 'the questionnaire' is a substantial and significant enough information request to warrant a verification visit, and that it is sent early in the investigation. The reference to the verification visit in the singular ('the on-the-spot investigation'), and the advance notice and agreement requirements related to such a visit, referred to in Article 12.6 of the SCM Agreement, and paragraphs 2, 3, 4, 5, and 7 of Annex VI, indicate, similarly, that the verification visit itself is substantial and significant, not something that can be done lightly, or that is likely to occur frequently over the course of an investigation.¹ These textual signals of the weightiness of a verification visit provide a further indication that 'the response to the questionnaire' which paragraph 7 identifies as a main focus of the visit also is substantial and significant, as otherwise such a visit would not be warranted."²

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¹ *(footnote original)* We do not mean to imply that the SCM Agreement prohibits multiple verification visits to a given entity during the course of an investigation, but rather to emphasize that due to the weightiness of the exercise an investigating authority would be unlikely to conduct multiple visits.

² Panel Report, *US – Anti-Dumping and Countervailing Duties (China)*, para. 15.28.