

**CHINA - MEASURES AFFECTING THE PROTECTION AND ENFORCEMENT
OF INTELLECTUAL PROPERTY RIGHTS**

Communication from China and the United States concerning
Article 21.3(c) of the DSU

The following communication, dated 8 May 2009, from the delegation of China and the delegation of the United States to the Chairman of the Dispute Settlement Body, is circulated at the request of these delegations.

The Dispute Settlement Body ("DSB") adopted its recommendations and rulings in the dispute *China – Measures Affecting the Protection and Enforcement of Intellectual Property Rights* (DS362) on 20 March 2009. In a letter to the DSB dated 15 April 2009, China notified the DSB that it intends to implement the recommendations and rulings of the DSB in this dispute and stated that it would need a reasonable period of time for implementation.

Article 21.3(c) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") provides that, in the absence of an agreement between the parties on a period of time, the reasonable period of time shall be determined "through binding arbitration within 90 days after the date of adoption of the recommendations and rulings." In order to allow sufficient time for the parties to discuss a mutually agreed period, China and the United States (i) agree that, in the event an arbitration under Article 21.3(c) of the DSU is requested, it shall be completed no later than 60 days after the date of the appointment of an arbitrator, unless the arbitrator, following consultation with the parties, considers that additional time is required; and (ii) hereby confirm that any award of the arbitrator (including an award not made within 90 days after the date of adoption of the DSB recommendations and rulings) shall be deemed to be an award of the arbitrator for the purposes of Article 21.3(c) of the DSU in determining the reasonable period of time for China to implement the recommendations and rulings of the DSB.

For People's Republic of China

For the United States of America

H.E. Mr. Sun Zhenyu
Ambassador

H.E. Mr. Peter F. Allgeier
Ambassador
