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Subject:	
Comments on USA Notification G/TBT/N/USA/340 An Act Relating to the Disposal of Electronic Waste, S256	

Comments on USA Notification G/TBT/N/USA/340

An Act Relating to the Disposal of Electronic Waste, S256

Dear Sir or Madam,

We appreciate the opportunity to submit comments on the regulation under the notification proposed by State of Vermont.

Enclosed please find comments in English and Chinese.

Please acknowledge receipt of the comments by e-mail to tbt@aqsiq.gov.cn.

Thank you very much in advance for State of Vermont consideration of our comments.

Formal reply from State of Vermont will be appreciated.

Best regards

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Comments from China on USA Notification

G/TBT/N/USA/340

An Act Relating to the Disposal of Electronic Waste, S256

China appreciates U.S. for fulfilling WTO transparency obligation, to notify Notification G/TBT/N/USA/340. After careful study, we hereby put forward the following comments on the notified regulation.

1. China thinks the registration fee referred in Article 7303-(a) of the notified regulation lacks science, which is likely to result in unfairness, and will create unnecessary obstacles to the trade. The article is not in consistency with Article 2.2 of TBT Agreement, "Members should ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade." Therefore, China suggests canceling or revising the article of the regulation. Specific reasons are as follows:

a) In Article 7303-(a) (2) of the notified regulation, "The registration fee for the initial program year during which a manufacturer's video display devices are sold is \$5,000.00. Each year thereafter, the registration fee is equal to a base of \$2,500.00, plus a variable recycling fee calculated according to the formula in subdivision (3) of this subsection."; as well as in Article 7303-(a) (6) of the notified regulation, "The registration fee for the initial program year and the base registration fee thereafter for a manufacturer who produces fewer than 100 video display devices for sale annually to households is \$1,250.00."

The manufacturer pays the "variable recycling fee" according to provisions of the proposal, and both registration fee for the initial program year and the base registration fee thereafter added based on this are unreasonable. Difference in the market sales amounts results in difference in unit cost increase of the manufacturer, which is obviously unfair. Therefore, we don't think it is scientific for the determination of above registration fees.

b) What's more, similar proposals involved in the notifications of US confederation member states Missouri and Virginia, G/TBT/N/USA/332, G/TBT/N/USA/333, G/TBT/N/USA/342, all don't provide for payment of registration fee.

c) In Article 7303-(a)-(3)(E) of the notified draft, E (the estimated per-pound cost of recycling used to calculate the variable recycling fee) is set at 0.5 dollar per pound, which may obviously increase the cost of the video display devices sold to households. Take CRT display devices as an example, it is estimated that the cost will

increase by 10~30%. Please provide detailed scientific basis for such determination of the value, taking account of reducing the value as much as possible.

d) In Article 7303-(a)-(3) (C) of the notified regulation, it is provided that, “C = the number of pounds of recovered electronic devices recycled by a manufacturer from households during the previous program year, as reported to the agency under section 7305 of this title”, it is lack of science and operability to determine the data, which is likely to create unfairness. Reasons are in below:

- i. For small manufactures newly entering into the market of the state, compared with large and local manufactures in the terms of recovery and collection channels or recovery technology control and use, they are obviously in an inferior position, which may likely result in more cost for them to obtain pounds for equivalent recovery designated electronic devices.
- ii. The value relies on statistics and feedback of the recycler, while there isn't any provision relating to obligation of the recycler to provide true and comprehensive recovery data in the regulation, which is likely to result in incorrect value statistics as well as bad operability.

2. Effective date and approval timelimit

a) It is stipulated in Article 7302-(b)-(5) that, “A registration is effective upon receipt by the agency and is valid until July 1 of each year”. We think it is inappropriate to fix the effective date of registration to a fixed date, and it is suggested for U.S. to revise this article.

b) It is suggested to clearly define the acceptance and approval timelimit of the agency of natural resources after the manufacturer applies for registration with the agency.

3. It is suggested to consider adding in Article 7305-(b): the recycler should cooperate with the manufacturer in the inspection and tracking, and provide the evidence indicating the recycling and disposal of covered products by the manufacturer and whether the product of the manufacturer is recycled without permission or sold after simple repair.

4. The responsibility of the collector throughout the recycling link is not stated in the regulation. It is suggested that the responsibility of the collector be added in the article.

Comments in Chinese are as follows:

中国赞赏美国履行 WTO 透明度义务，对 G/TBT/N/USA/340 进行通报。经

过审慎研究，对该通报法规提出如下评议意见，请予以考虑。

一、通报法规的 7303-(a) 条款中涉及的注册费，中方认为缺乏科学性，容易造成不公平，会对贸易造成不必要的障碍。该条款的制定不符合 TBT 协定 2.2 条款“各成员应保证技术法规的制定、采用或实施在目的和效果上均不对国际贸易造成不必要的障碍”的规定。因此中方建议取消或修订该条款。具体理由如下：

1. 通报法规的 7303-(a)(2) 条款中“制造商开始销售视频显示设备的初始计划年度的注册费为 5,000.00 美元。以后每年的注册费用为 2,500.00 美元的基本费加上按照本小节第 (3) 部分规定的计算模式得出的可变回收费。”；以及通报草案中 7303-(a)(6)：“用于家庭销售的视频显示设备，年销售不足 100 台的制造商，其初始计划年度的注册费用以及以后每年的基本注册费用为 1,250.00 美元。”

制造商按议案规定缴纳“可变回收费”，在此基础上增收的初始年度注册费、每年基本注册费是不合理的。由于市场销售量的不同，导致制造商单台成本增加的不一致，明显不公平。因此，我方认为上述注册费用的确定，缺乏科学性。

2. 而且，美国邦联成员州——密苏里州、福吉尼亚州通报 G/TBT/N/USA/332、G/TBT/N/USA/333、G/TBT/N/USA/342 所涉及的类似议案，均未规定缴纳注册费。

3. 通报草案 7303-(a)-(3)(E) 条款中 E(用于计算可变回收费的每磅回收预计成本)定为 0.5 美圆/磅，会明显增加家用视频显示设备的成本。以 CRT 显示设备为例，估计成本增加 10~30%。请美方提供确定该数值的详细科学依据，并尽可能考虑降低该数值。

4. 通报法规 7303-(a)-(3)(C) 条款中规定“C = 根据本标题部分第 7305 节

要求，制造商前一年向自然资源局上报的其从家庭中回收的指定电子设备磅数；
该数据的确定缺乏科学性和可操作性，容易造成不公平。理由如下：

(1) 新进入美国该州市场的小型制造商，因其在对回收和收集渠道或回收技术控制和使用等因素上和大型、本土制造商相比，明显处于劣势。容易造成其为获得等量的回收指定电子设备磅数需要支付的成本更大。

(2) 该数值依赖于回收者的统计和反馈，而议案中并未规定对回收者如实地全面提供对应制造商的回收数据的义务，容易造成数值统计的不准确，可操作性不强。

二、有效期及批复时限

1. 议案 7302-(b)-(5) 条款中规定“注册在自然资源局认可后生效，有效期到每年的 7 月 1 日。”我方认为注册有效期统一为某一固定日期不妥，建议美方修改该条款。

2. 建议在本法案中明确制造商向自然资源局申请注册后，自然资源局的受理时限、批准时限。

三、建议议案 7305-(b) 条中考虑增加：回收者应配合制造商对其进行的检查和跟踪，提供证据表明制造商的产品回收处理情况，以及制造商的产品是否未经许可被再次利用或简单修复后进行销售。

四、法案中整个回收环节中的收集者的职责未给予说明。建议美方考虑增加对收集者的职责条款的制定。