

CHINA'S TRANSITIONAL REVIEW MECHANISM¹

Questions from the Separate Customs Territory of TAIWAN, PENGHU, KINMEN
AND MATSU to CHINA²

The following communication, dated 19 September 2003, has been received from the Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

1. We would like to address the following questions to China relating to its *Measures for the Administration of Licences for the Import of Goods*:

- (i) Article 11 of these *Measures* states that "one licence can only be used at one Customs Office". However, paragraph 129 of China's Working Party Report³ indicates that it will adopt a system that is transparent, timely and responsive to market conditions. The requirements of Article 11 appear to place restrictions on traders, which do not correspond with their real needs and therefore seem to go against the principle of trade facilitation. It would be appreciated if China could please explain how it intends to bring its Article 11 into compliance with the WTO Agreement on Import Licensing Procedures and with its obligations as stated in the Working Party Report.
- (ii) Article 11 of China's *Measures for the Administration of Licences for the Import of Goods* also requires that, in normal circumstances, an import licence may be used for one entry only. It also states, however, that an importer may apply for a licence for multiple entries (up to 12 times within a specified period of time). Please explain the circumstances in which a licence for multiple entries is granted.
- (iii) Article 3, paragraph 5 (e) of the WTO Agreement on Import Licensing Procedures states that "if the licence application is not approved, the applicant shall, on request, be given the reason therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing Member." We should be grateful if China would explain how the applicant can go about seeking the protection of his or her rights if this situation occurs, and if it would also identify for us the relevant existing laws and regulations.

2. The following questions relate to China's *Measures on the Administration of Automatic Import Licensing of Goods*:

- (i) The WTO Agreement on Import Licensing Procedures is designed to ensure that the automatic import procedures are simple and convenient, and it states that they "should not be administered in such a manner as to have restricting effects on imports." However,

¹ Pursuant to Section 18 of the Protocol of Accession of the People's Republic of China (WT/L/432).

² See Understanding on Procedures for the Review of Notifications (G/LIC/4).

³ WT/MIN(01)/3

Article 7.4 of China's *Measures on the Administration of Automatic Import Licensing of Goods* stipulates that "the applicant must submit the import contract." It would be appreciated if China could please justify and explain this requirement to submit an import contract in the case of automatic import licensing.

- (ii) Furthermore, Article 7.6 of China's *Measures on the Administration of Automatic Import Licensing of Goods* states that "other necessary documents" may also be required. Please explain the meaning of "other necessary documents" and how this would comply with the WTO Agreement on Import Licensing Procedures, which calls for procedures to be implemented in a transparent and predictable way.
 - (iii) Article 1, paragraph 6 of the Agreement on Import Licensing Procedures states that "application procedures and, where applicable, renewal procedures shall be made as simple as possible." However, Article 13 of China's *Measures on the Administration of Automatic Import Licensing of Goods* stipulates that "if automatic import licences need to be extended or changed, then the entire application must be made over again." We wonder whether this is in compliance with the WTO Agreement on Import Licensing Procedures.
3. China has agreed that it will provide any import licence as necessary in the procedure for granting a quota allocation (paragraph 138 of Working Party Report). Please describe what specific measures China plans to take in order to ensure that each quota-holder is indeed able to obtain the necessary import licence.
