

WORLD TRADE ORGANIZATION

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Committee on Market Access

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CHINA'S TRANSITIONAL REVIEW MECHANISM

Communication from Japan

The following communication, dated 8 September 2003, has been received from the Permanent Mission of Japan.

1. Japan welcomes that, in its second year after accession, China's implementation of its commitments on Market Access has progressed and is now entering a cruising phase. Japan appreciates China's efforts for developing and improving the necessary regulatory framework and for smoothly implementing its phase-in commitments. In a transitional period of evolving regulations, the importance of regulatory transparency, predictability, stability and consistency is paramount; the value of market access commitments, and the efforts to implement them, could easily be obscured through the lack of such elements, either in the regulations themselves or in their application. The Transitional Review Mechanism could thus be useful for enabling such transitional efforts to be more efficient and productive, and it is a pleasure for Japan to be able to contribute to this process.

2. In this context, China is further invited to take the necessary steps to ensure a regular and an effective application of public comments' procedures, to make well-in-advance publications of laws and regulations, to avoid any abrupt regulatory change, to make a clear demarcation of departmental responsibilities, to make improvements in inter-departmental and central-provincial coordination and consistency, etc.

3. In accordance with Paragraph 18 of the Protocol on the Accession of the People's Republic of China, which states that "China shall provide relevant information to each subsidiary body in advance of the review", and in the spirit of the cooperation to render the TRM process most efficient and effective, Japan requests China to provide, in advance of the meeting of the Committee on Market Access, responses and any relevant information to the following questions and comments.

1. Tariffs

(i) Tariff rates on photographic products

(1) In the tariff concessions provided by China when it joined the WTO, there is mention of a commitment to reduce tariffs on photographic products (HS37) to 0-53.5% in the form of *ad valorem* (levied on yuan/yuan) duties as of 2002. However, for 35 items of photographic products (including ordinary photographic film), the government of China has failed to apply the concession rates in the form of the *ad valorem* duties committed to at the time of accession to the WTO. Instead, it has imposed specific duties (levied on a yuan/square metre basis) by using far more excessive tariff rates (for example, the concession rate for a finished 35 mm color negative film is 42%, while the specific duty currently applied is converted to be the equivalent of over 100% in *ad valorem* terms). In China's

January 2003 tariff amendments, the specific duty remains in force across the board within the Chapter concerned.

Why does China keep this specific duty, when it has already committed its concession tariff rates in the form of *ad valorem* duties?

Is China ready to immediately reduce such excessive degrees of duty to the level of the concession rates in its Schedule?

(2) Could China provide a specific time schedule for its tariff amendments in order to apply its tariff concessions committed to at the time of WTO accession, with regard to the 35 items of photographic products?

2. Quantitative restrictions on imports

(i) Concerns about the implementation of import quotas on automobiles

(a) The actual automobile imports only registered \$3.85 billion from April 2002 to March 2003, a period subject to the quota for the first fiscal year, which was significantly lower than the import quota of \$7.94 billion. We would like to know why such a large disparity between these figures occurred. Furthermore, the customs-cleared imports in the second quarter in 2003 posted \$1.21 billion, as shown in the Exhibit attached hereto. Multiplying this figure four fold amounts to only \$4.84 billion, which again results in a significant disparity from the nominal quota for 2003 of \$9.125 billion. We are thus concerned about the implementation of the quota as agreed, and would like to know what measures the Government of China plans to take in order to improve this year's implementation.

(b) Annex 3 to the Protocol on the Accession of the PRC states that the items subject to the import quotas for 2003 are 44 under complete vehicles and only one item, bodies, under auto parts. We request the Government of China to confirm that there exist no other items subject to the import quotas for 2003 than these cited above.

(ii) Ensuring of the transparency of the current import quotas on automobiles

(a) In Paragraph 127 of the Report of the Working Party, it has been agreed that the allocation of quotas and the issuance of import licenses shall be operated in conformity with simple and transparent procedures pursuant to Article 13 of the GATT 1994 and the WTO Agreements, including Import Licensing Procedures. Furthermore, Article 2 (c) of Annex 1A-IV stipulates that China shall provide information about the status of the quota allocation and reallocation, which meet WTO requirements under the Agreement on Import Licensing Procedures and in accordance with the report of the Working Party.

(b) Japan requests the Government of China to provide information on the status of its quota allocation and reallocation for 2003 in light of ensuring a transparent system. More specifically, we would like the Government of China to present the actual quotas for 2003, not only item by item, but also by country of origin.

(c) Paragraph 130 (C) of the Report of the Working Party provides that for those quota holders not having imported their full allocation would receive a proportional reduction in their quota allocation in the subsequent year, unless the quantity was returned for reallocation by 1 September. In this connection, we would like to know the number of the quota holders to whom the Government of China applied this provision at the time of allocating quotas for FY 2003, as well as the total number of reductions in quotas.

- (d) We have the information that the Government of China controls the number of import licenses that are granted by category. In particular, the number of import licenses granted for cars of 2000cc or less displacement in the sedan category is small, which indicates that import licenses are not granted impartially, regardless of the engine displacement, and are enough to meet the demand for imported cars.

Is such information true about the method for granting import licenses ?

3. Prohibition of the sale in parallel of Chinese-made automobiles and imported automobiles to China

(1) It has been reported that the Government of China has a plan to establish a "Law Controlling the Monopolization of Automobile Brands" to prohibit dealers from selling both imported and domestic cars. We would like to know whether this is the case and, if so, ask China to provide details of such regulation. Depending on the contents, we believe that such regulation should not be introduced since, it could violate GATT Article III.

(2) It has been reported that with regard to the acquisition of the "management right to passenger vehicles" which is required of retail dealers in passenger vehicles, the Government of China plans to limit the scope of the management right, either to domestic cars or imported cars. We would like to know whether this is the case and, if so, ask China to provide details of such regulation. In addition, we request China to make public the criterion for the granting of a management right to passenger vehicles. Depending on its contents, we believe that such regulation should not be introduced since, it could be inconsistent with GATT Article III.

4. Import prohibition policy of used goods

(i) Import Prohibition on used goods

In China, there are many import prohibition measures on used goods. China prohibits imports of a number of used goods, including worn clothing and automobiles. Japan is concerned by the consistency of these measures with the WTO Agreement, including GATT Article XI. It is difficult to understand how China can justify such prohibition of certain used goods for health or environmental reasons, when all imports of such used goods are prohibited regardless of their physical condition. Japan would like to know how such import prohibition on used goods is consistent with the WTO Agreement, and whether it is possible to abolish these measures.

5. Trading Rights

(a) With regard to the phase-in commitments on trading rights (joint-venture enterprises with a minority share of foreign investment) that should be duly implemented within 1 year after accession, Japan would like to know why the revision of the relevant law, namely, the Foreign Trade Law of People's Republic of China, has been delayed, and whether there exists a schedule for revision.

(b) With regard to the phase-in commitments on trading rights (joint-venture enterprises with majority share foreign investment) that should be duly implemented within 2 years after accession, Japan would like to know the specific schedule and the related procedures for implementation.

Serial No.	HS No.	Description of Products	2002/04 2003/03		2003/04 2003/06	
			Quantity	Value	Quantity	Value
104	84079090	Spark-ignition reciprocation or rotary internal combustion piston engines not elsewhere specified or included	732,047	63,151,026		
105	84082010	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines) for the propulsion of vehicles of Chapter 87, with an output 132.39KW (180H.P.) or more	15,701	154,919,387		
106	84082090	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines) for the propulsion of vehicles of Chapter 87, with an output less than 132.39KW (180H.P.)	8,426	24,794,154		
248	87012000	Road tractors for semi-trailers (truck tractors)	1,167	58,477,276	370	18,779,036
250	87021020	Coaches for transport of passengers at aerodrome, diesel	5	1,316,211	-	0
251	87021091	Buses with seats \geq 30, diesel	217	13,817,371	11	709,571
252	87021092	Buses with 20 \leq seats $<$ 30, diesel	44	1,706,040	-	0
253	87021093	Buses with 10 \leq seats $<$ 20, diesel	60	1,847,813	4	100,032
254	87029010	Other buses with seats \geq 30, nes	198	7,619,848	5	223,844
255	87029020	Other buses with 20 \leq seats $<$ 30, nes	427	15,139,704	9	407,153
256	87029030	Other buses with 10 \leq seats $<$ 20, nes	3,136	56,826,506	586	10,018,962
258	87032130	Saloon cars, \leq 1000 cc, spark-ignition reciprocating	11	70,017	49	238,877
259	87032190	Cars nes, \leq 1000 cc, spark-ignition reciprocating	16	108,303	2	13,169
260	87032230	Saloon cars, >1000cc but \leq 1500 cc, spark-ignition recip	3,229	23,863,951	208	1,924,395
261	87032240	Cross-country cars(4WD), >1000cc but \leq 1500cc, spark-ignition recip	35	278,972	14	116,200
262	87032250	Minibuses (seats \leq 9), >1000cc but \leq 1500cc,spark-ignition recip	17	197,960	16	224,163
263	87032290	Cars nes, >1000cc but \leq 1500 cc,spark-ignition recip	1	9,027	-	0
264	87032314	Saloon cars, >1500cc but \leq 2500 cc,spark-ignition recip	41,238	718,130,877	18,100	327,579,081
265	87032315	Cross-country cars(4WD),>1500cc but \leq 2500 cc,spark-ignition recip	13,368	230,131,057	2,557	45,121,683
266	87032316	Minibuses(seats \leq 9), >1500cc but \leq 2500 cc,spark-ignition recip	12,343	225,249,091	1,643	30,063,158
267	87032319	Cars nes, >1500cc but \leq 2500 cc,spark-ignition recip	77	1,373,471	21	331,257
268	87032334	Saloon cars >2500cc but \leq 3000 cc, spark-ignition recip	12,658	348,838,424	5,549	193,179,046
269	87032335	Cross-country cars(4WD), >2500cc but \leq 3000 cc, spark-ignition recip	12,248	274,155,578	3,895	98,330,119

Serial No.	HS No.	Description of Products	2002/04 2003/03		2003/04 2003/06	
			Quantity	Value	Quantity	Value
270	87032336	Minibuses(seats≤9), >2500cc but≤3000 cc, spark-igni recip	612	13,400,082	20	474,748
271	87032339	Cars nes, >2500cc but≤3000 cc, spark-igni recip	40	946,199	20	405,920
272	87032430	Saloon cars, >3000 cc, spark-igni recip	11,032	596,279,573	2,989	225,115,998
273	87032440	Cross-country cars(4WD), >3000 cc, spark-igni recip	17,249	543,176,293	3,507	129,015,620
274	87032450	Minibuses (seats≤9), >3000 cc, spark-igni recip	1,267	156,932,429	157	3,677,773
275	87032490	Cars nes, >3000 cc, spark-igni recip	14	357,633	1	83,220
276	87033130	Saloon cars, ≤500 cc, diesel	0	0	-	0
277	87033140	Cross country cars(4WD), ≤1500cc, diesel	0	0	-	0
278	87033150	Minibuses (seats≤9), ≤1500cc, diesel	0	0	-	0
279	87033190	Cars nes, ≤1500cc, diesel	0	0	-	0
280	87033230	Saloon cars, >1500cc but≤2500 cc, diesel	12	231,691	3	71,450
281	87033240	Cross country cars(4WD), >1500cc but≤2500 cc, diesel	15	239,352	3	59,030
282	87033250	Minibuses (seats≤9), >1500cc but≤2500 cc,diesel	27	361,817	6	91,034
283	87033290	Cars nes, >1500cc but≤2500 cc, diesel	7	174,005	-	0
284	87033330	Saloon cars, >2500 cc, diesel	9	201,500	1	14,042
285	87033340	Cross country cars(4WD), >2500 cc, diesel	49	1,286,217	8	123,772
286	87033350	Minibuses (seats≤9), >2500 cc, diesel	20	257,064	2	18,843
287	87033390	Cars nes, >2500 cc, diesel	7	627,629	-	0
288	87039000	Motor cars with seats≤9, nes	19	350,746	2	67,770
290	87042100	Trucks diesel, g.v.w. ≤5 t	24	401,646	5	25,000
291	87042230	Trucks diesel, 5 t < g.v.w.<14 t	441	4,741,865	100	2,014,267
292	87042240	Trucks diesel, 14 t ≤ g.v.w.≤20 t	276	6,800,272	55	574,722
293	87042300	Trucks diesel, g.v.w. >20 t	6,265	267,837,781	2,536	112,958,225
294	87043100	Trucks spark-igni, g.v.w.≤5 t	504	7,364,687	69	1,399,793
318	87071000	Bodies for passenger carrying vehicles	10,628	21,433,610	5,082	10,343,960
		TOTAL	905,186	3,845,424,155	47,605	1,213,894,933