WORLD TRADE ORGANIZATION

WT/BOP/W/25
3 November 2003

(03-5835)

Committee on Balance-of-Payments Restrictions Original: English

COMMUNICATION FROM CHINESE TAIPEI

The following communication, dated 31 October 2003, is being circulated at the request of the Delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

TRANSITIONAL REVIEW MECHANISM PURSUANT TO PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA ("CHINA")

Questions from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu to China concerning Balance-of-Payments Restrictions

1. We understand that China has been enjoying remarkable trade surplus during the past years and has thus accumulated sizable foreign exchange reserve. It is therefore not likely for China to resort to BOP restriction articles in the near future. Nevertheless, my delegation would like to raise the following questions regarding the administration of foreign exchange, especially when it comes to foreign-invested enterprises.

2. Paragraph 28 of the Report of the Working Party on the Accession of China[1] indicates that China achieved current account convertibility in 1996. Paragraph 33 of the same Report mentions that there are no restrictions on current account transactions or transfers by foreign-invested enterprises established in China. According to China's *Regulations Governing Foreign Exchange Settlements, Sale and Purchase of Foreign Exchanges*, however, it seems that foreign-invested enterprises may only retain their foreign exchange earnings up to a limit approved by the State Administration of Foreign Exchange. Above this limit, enterprises must convert foreign exchange into Renminbi.

3. For withdrawals from a foreign exchange deposit account or the purchase of foreign exchange for making current-account related payments, enterprises are required to provide relevant documents. Moreover, except in the case of repayment of loans or margins on stand-by credit, enterprises are not allowed to purchase foreign exchange before the dates specified in the contracts.

Question 1

Does China intend to lift the restrictions on the retention of foreign exchange earnings and the settlement of current account transactions?

[1] WT/ACC/CHN/49.

4. According to China's *Regulations for Foreign Exchange Management of Border Trade* of September 2003, enterprises and individuals engaged in border trade may use convertible currencies, currencies circulating in neighbouring countries or the Renminbi, as their means of pricing and settlement. However, the *Regulation Governing Small Value Trade between Taiwan and China* stipulates that the only means allowed for the settlement of small value bilateral trade transactions is convertible currencies.

Question 2

Would China please explain the rationale behind the regulation?

5. According to paragraph 33 of the Report of the Working Party on the Accession of China, China extends national treatment to foreign-invested enterprises. However, China's *Regulations Governing Foreign Exchange Settlements, Sale and Purchase of Foreign Exchange* seem to stipulate that a foreign-invested enterprise is only allowed to open a foreign exchange deposit account in its place of registration. For a domestic enterprise, however, there is no such restriction.

Question 3

Could China please clarify whether, in the same manner as a domestic enterprise, a foreign-invested enterprise in fact is allowed to open a foreign exchange deposit account in a place other than where it is registered.

6. China's *Regulations Governing Foreign Exchange Settlements, Sale and Purchase of Foreign Exchanges* state that foreign-invested enterprises are free to remit their earnings or dividends out of the country. They may make withdrawals from their foreign exchange deposit accounts or purchase foreign exchange as long as they provide a certificate of taxes paid and the agreement relating to the distribution of their earnings by the board of directors.

7. However, according to the *Notice to the Authorized Banks Dealing with the Outward Remittances Related to Profit, Equity Earnings and Dividends,* issued by the State Administration of Foreign Exchange in September 1998, foreign-invested enterprises are required to provide additional documents, such as proof that their registered capital as stated in the investment contract has been fully brought into China, and that earnings have been distributed in compliance with the ratio in the contract.

Question 4

Does China have plans to simplify the qualification procedures applied to foreign-invested enterprises in respect of outward remittance of their earnings or dividends?