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Council for Trade in Goods

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TRANSITIONAL REVIEW MECHANISM UNDER PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

Information required by Annex 1A

Communication from the People's Republic of China

The following communication, dated 24 November 2004, is being circulated at the request of the Delegation of the People's Republic of China.

II. ECONOMIC POLICIES

2.1 Non-Discrimination

- (a) **the repeal and cessation of all WTO inconsistent laws, regulations and other measures on national treatment.**

In 2004, China advanced further the trade-related legislative work, in which consistency with the national treatment principle of the WTO was highly emphasized. As the fundamental law regulating China's foreign trade, the revised Foreign Trade Law of the People's Republic of China, coming into force on 1 July 2004, explicitly stipulates in Article 6 that the national treatment principle shall be observed. During the three years after accession, China has been engaging in bringing into consistency with the WTO national treatment principle the laws, regulations and administrative measures that are related to trade in goods, trade in services and trade-related aspects of intellectual property rights, including those discussed in China's accession negotiations, through enactment, amendment or repeal. The national treatment principle is now well observed in the legislation of China relating to trade.

- (b) **the repeal or modification to provide full GATT national treatment in respect of laws, regulations and other measures applying to internal sale, offering for sale, purchase, transportation, distribution or use of: after sale service, pharmaceutical products, cigarettes, spirits, chemicals and boiler and pressure vessels (for pharmaceutical products, chemicals and spirits there is a reservation of the right to use a transitional period of one year from the date of accession in order to amend or repeal relevant legislation)**

The repeal or modification in respect of the administrative measures relating to after sale service, pharmaceutical products, cigarettes, boiler and pressure vessels products, in which full WTO national treatment was embodied, were submitted to the Council for Trade in Goods in Annex 1A information of the past two years.

For chemicals, the *Decision on Abolishment of the First Batch of Items subject to Administrative Examination and Approval*, issued by the State Council on 1 November 2002, included the *Environmental Administration Registration of Initial Imports of Chemical Products*, which was a concern of many WTO Members during the negotiations on China's accession. After that, *Provisions on Environmental Administration of New Chemical Products* was drafted by the State Environment Protection Administration based on broad public comments and came into force on 15 October 2003. This new administrative measure takes fully into account the international practices in environmental administration of new chemical products, and is in line with the requirement of WTO national treatment principle.

For spirits, the amendment of the *Administrative Measures on Imported Spirits in the Domestic Market* is still going on due to the many aspects involved in the issue and the huge amount of domestic coordination work, and the WTO national treatment principle is fully taken into account in the process.

IV. POLICIES AFFECTING TRADE IN GOODS

4.5 Export Restrictions

- (a) any restrictions on exports through non-automatic licensing or other means justified by specific product under the WTO Agreement or the Protocol.**

China maintains export administration of a small number of products for the purposes of protecting public interest, avoiding shortage in domestic supply, conserving the exhaustible natural resources, or undertaking obligations under international treaties or intergovernmental agreements. This is in conformity with Article XX of GATT 1994.

In 2004, commodities subject to export administration include: live cattle (to Hong Kong, China and Macau, China), live swine (to Hong Kong, China and Macau, China), fowls (to Hong Kong, China and Macau, China), beef, pork, chicken meat, tea, wheat, maize, rice, cotton, licorice and its products, Chinese iris and its products, bauxite, light (dead) burned magnesium, talc lump (powder), fluorspar lump (powder), rare earth, coal, coke, crude oil, processed oil, paraffin wax, artificial corundum, tungsten and its products, heavy water, silicon carbide, sawn timber, cocoon and silk products, silver, platinum (through processing trade only), zinc and zinc alloy, tin and tin alloy, antimony and antimony products, motorcycle and motorcycle engine, electric fan, bicycle, computers, substances depleting ozonosphere, chemicals under supervision and control, chemicals used for narcotics production. Many of the products listed above obtain export licensing automatically. Besides, China also maintains export prohibition on the following products: horn-cores and tiger bones, bezoars, musk, certain chemicals used for narcotics production, certain substances depleting ozonosphere, wood, wood charcoal, and platinum. China will in a couple of days time submit to WTO a full notification of quantitative restrictions of the year 2004, which will reflect detailed information on these export administrative measures, including quota volume (if applicable).

4.9 State Trading Entities

- (a) progressive abolishment of state trading in respect of silk measures, increasing and extending trading rights, granting the right to trade to all individuals no later than 1 January 2005**

With regard to the administrative measures for cocoon and silk products, the Ministry of Commerce (MOFCOM) and the General Administration of Customs on 1 November 2004 jointly issued Announcement No. 64 of 2004, abolishing the state trading of cocoon and silk products from

1 January 2005 as well as export quota and licensing for 7 cocoon and silk products in eight-digit HS code.

As regards the trading rights, the 8th Session of the Standing Committee of the 10th National People's Congress adopted the amendment of the *Foreign Trade Law of the People's Republic of China* on 4 April 2004, which stipulated the liberalization of the availability of the rights to import and export, i.e. the trading rights. On 25 June 2004, MOFCOM issued the *Rules for Registration of Foreign Trade Operators* in its Decree No. 14 of 2004 which was drafted based on broad public comments. The *Rules* came into force on 1 July 2004 and the provisions in the *Foreign Trade Law of the People's Republic of China* are implemented.

(b) access to supplies of raw materials in the textiles sector at conditions no less favorable than for domestic users, and not adversely affected access to supplies of raw materials as enjoyed under existing arrangements

Access to supplies of raw materials in textile sector for foreign users remains in the same conditions as for domestic users, and has not been adversely affected in this area.

(c) progressive increases in access by non state trading entities to trade in fertilizer and oil and the filling of quantities available for import by non state trading entities

After WTO accession, China implemented a registration system for non-state trading enterprises for importation of crude oil, processed oil and chemical fertilizers for the purpose of expanding the market access for non-state trading enterprises of these products. On 1 August 2002, the former Ministry of Foreign Trade and Economic Cooperation (MOFTEC) in its Announcement No. 19 of 2002 published the conditions, materials needed and procedures for application for the qualification registration of non-state trading enterprises for importation of crude oil, processed oil and chemical fertilizers. After that, in its Announcement No. 50 and No. 51 of 2002, MOFTEC published two batches of lists of non-state trading enterprises having registered for importation of crude oil, processed oil and chemical fertilizers. On 13 August 2004, in its Announcement No. 46 of 2004, MOFCOM published the third batch of the list of non-state trading enterprises having registered for importation of crude oil and processed oil. On 26 August 2004, MOFCOM further issued Announcement No. 52 of 2004, publishing another five non-state trading enterprises for importation of chemical fertilizers. Compared with the situation at the time of China's accession, the number of non-state trading enterprises for importation of crude oil, processed oil and chemical fertilizers has increased substantially.

According to the former State Economic and Trade Commission (SETC) Announcement No. 50 and No. 51 of 2002, the volume permitted for importation of crude oil in 2003 by non-state trading enterprise was 9,520,000 tons, and the volume permitted for importation of processed oil in 2003 by non-state trading enterprise was 5,300,000 tons. According to SETC Announcement No. 73 of 2002, the 2003 TRQ volume for importation of chemical fertilizers by non-state trading enterprises were as follows: urea 180,000 tons, DAP 1,190,000 tons and NPK 600,000 tons.

According to MOFCOM Announcement No. 38 and No. 39 of 2003, the volume permitted for importation of crude oil in 2004 by non-state trading enterprises was 10,950,000 tons, and the volume permitted for importation of processed oil in 2004 by non-state trading enterprises was 6,100,000 tons. According to MOFCOM Announcement No. 55 of 2003, the 2004 TRQ volume for importation of chemical fertilizers by non-state trading enterprises were as follows: urea 230,000 tons, DAP 1,560,000 tons and NPK 780,000 tons.

According to MOFCOM Announcement No. 58 of 2004, the volume permitted for importation of crude oil in 2005 by non-state trading enterprises is 12,600,000 tons, and the volume

permitted for importation of processed oil in 2005 by non-state trading enterprises is 7,000,000 tons. According to MOFCOM Announcement No. 62 of 2004, the 2005 TRQ volume for importation of chemical fertilizers by non-state trading enterprises are as follows: urea 280,000 tons, DAP 1,970,000 tons and NPK 990,000 tons. Therefore the volume available for importation of these products by non-state trading enterprises has been on a constant increase.

In 2003 and 2004, the volume permitted for importation of crude oil, processed oil and chemical fertilizers by non-state trading enterprises were fully allocated. However, as holders of the volume permitted for importation by non-state trading enterprises may also consign state trading enterprises to import, it is technically not feasible at this stage for the Customs authorities to have statistics on the imports of the non-state trading enterprises and therefore the import performance by non-state trading enterprises is difficult to be confirmed with Customs statistics.

4.10 Government Procurement

(a) Laws, regulations and procedures

Law of the People's Republic of China on Government Procurement took effect on 1 January 2003, and the drafting of implementing regulations of the law is under way.

(b) Procurement in a transparent manner and application

To ensure the transparency in government procurement, the competent authorities of the Chinese Government has taken a series of measures as follows:

(i) The scope of information on government procurement to be published is expanded. At present, information on laws, regulations and administrative measures relating to government procurement, procurement opportunities, results of the contract award and advance examination on qualification of suppliers etc. should be published in *the government procurement website of China* (www.ccpq.gov.cn), *China Financial and Economic News* and *China Government Procurement* magazine, which are designated by the Chinese Government.

(ii) All the procurement projects open to foreign suppliers are required to be implemented through tendering to provide foreign suppliers with equal opportunities.

(iii) In the process of drafting regulations and administrative measures, public opinions and comments on the drafts are required to be solicited.
