

**CHINA'S TRANSITIONAL REVIEW MECHANISM**

Questions and Comments from Japan to China

The following communication, dated 1 October 2004, is being circulated at the request of the Delegation of Japan.

1. Japan welcomes that, in the third year after accession, implementation by China of its commitments on TBT has progressed and entered into a cruising phase. 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 be easily clouded out by a shortness of such elements, either in regulations themselves or in their application. The transitional review mechanism could be useful for making those transitional efforts more efficient and productive, and it is a pleasure for Japan to contribute to this process.

2. In this context, China is further invited to take necessary steps to ensure regular and effective application of public comments procedures, timely publication of laws and regulations, avoidance of abrupt regulatory change, clear demarcation of departmental responsibilities, improvement 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 cooperation to render the TRM process most efficient and effective, Japan requests China to provide in advance of the meeting of the Committee on TBT responses and relevant information to the following questions and comments.

**I. GENERAL COMMENTS**

4. China has promised the active participation in the development of international standards and the periodical review of the technical regulations and standards in order to harmonize them with relevant international standards, according to paragraph 180 and 184 of the Report of the Working Party on the Accession of People's Republic of China.

5. In enacting, revising and implementing technical regulations and standards, Japan would like China to continue to ensure transparency under the Agreement on Technical Barriers to Trade.

**II. SPECIFIC COMMENTS**

**1. Automobiles**

6. Article 10 of the "Auto Industry Development Policy", which was published and came into effect on 1 June 2004, states that "prior to 2010, the regulation of proclaiming product's fuel consumption should be enacted based on the compulsory requirements of technical regulations on energy saving."

7. In connection to this, when the Government of China prepares any technical regulation or standard, such as fuel efficiency regulation, safety technical regulation and type approval regulation, Japan requests that China notify them to other Members or publish a notice on them under the TBT Agreement and relevant decisions and recommendations adopted by the TBT Committee. Japan also requests that China allow enough time and opportunities for any interested parties to submit comments and discuss the issues.

## **2. Digital cameras**

8. Japan understands that a technical regulation for digital cameras is being prepared in China. Please provide us with the information as to whether this technical regulation will be based on the relevant international standard. Japan would like to request that a notification will be made at an early appropriate stage, when a draft text of the proposed technical regulation is available and when amendments can still be introduced and taken into account under the TBT Agreement and relevant decisions and recommendations adopted by the TBT Committee.

## **3. CCC Certification Scheme for electrical products**

9. Japan welcomes China's efforts to implement the unification of the former two certification schemes into one scheme, "CCC certification scheme", under paragraph 196(b) of the Report of the Working Party.

10. However, there are some concerns about implementation of the CCC certification scheme.

### *(i) Problem with the reduction of time period for certification*

11. Although China made a commitment to shorten the time period to no more than three months for CCC certification, as in the third tiret of paragraph 196 (b), by the unification of the duplicate certification schemes (i.e., CCIB and Great Wall marking), it still takes more than three months for overseas manufacturers to obtain the CCC certification in some cases.

12. In order to solve this problem, Japan requests that China take measures to accept data obtained from tests and inspections performed by foreign agencies that meet certain technical requirements, as some of them are required to be performed by the designated testing laboratories/inspecting bodies in China.

### *(ii) Problem with discrepancy of certification product lists*

13. The delay in customs clearance has been caused for some imported products due to the discrepancy between the "First Catalogue of Products Subject to Compulsory CCC Certification"<sup>1</sup> issued by AQSIQ (State General Administration of the People's Republic of China for Quality Supervision and Inspection and Quarantine) and CNCA (Certification and Accreditation Administration of the People's Republic of China) and the HS code used by the customs authority.

14. Japan requests that the list of products subject to the CCC certification, used by the testing laboratories for granting CCC certification, should be used by the customs authorities as well.

---

<sup>1</sup> The catalogue referred to by designated test laboratories for granting CCC certification: "Joint Announcement No. 33: 2001 issued by AQSIQ/CNCA: First Catalogue of Products Subject to Compulsory Certification" and "Implementation Rules issued by CNCA."

*(iii) Problem accompanying the establishment or revision of GB standards*

15. Under the current CCC certification scheme, there is no established rule on transitional treatment for products complying with the existing GB (Guojia Biaozhun) standards when a new or revised GB standard has been published.

16. Therefore, Japan would ask China to allow a reasonable transitional period according to the TBT Agreement in the case of the establishment or revision of GB standards.

**4. Registration of Initial Imports of Chemical Products**

17. Japan appreciates that China enforced the Provisions on the Environmental Administration of New Chemical Substances on 15 October 2003, and later issued detailed administrative instruction. However, Japan has some concerns about the implementation of the regulation, and requests that China improve the following problems in order to prevent potential trade barriers.

- (i) First, the new regulation has a provision that the eco-toxicological data of new chemical substances shall include those obtained through biological tests performed in China using China's test organisms. Japan has a concern about the fact that there are only a few organizations published as the testing laboratories, which might affect the notification procedures. Japan would like China to designate many organizations in terms of facilitating assessment.
- (ii) Second, the revised inventory of existing chemicals has not been published after the fifth enlargement submission, for which applications were received until March 2004. It will impose an unreasonable procedural burden on some importers if the revised inventory is not published promptly. There is information that the inventory will be published at the end of the year, but Japan would be grateful if China could make sure that the inventory is published as soon as possible.
- (iii) Third, Japan understands that the simplified notification is approved only in the case of importing chemical substances for the purposes of research and technological development. However, requiring the same range of data from all importers regardless of import volume would impose an excessive economic burden on importers of small amounts and might affect their importation. Japan would like China to consider promptly expanding the scope of the simplified notification to include importation of small amounts of new chemical substances.
- (iv) Fourth, certain polymers are exempt from the notification. Generally, any procedure to apply for exemption of notification is not required for exempted substances. Japan would ask China to explain why such procedure is required for those polymers.
- (v) Fifth, a holder of the registration certificate who manufactures or imports new chemical substances is required to submit records of flow, within five days of distributing them across borders between prefectures. However, it is impossible to submit those records within five days, considering the actual way of chemical substances distribution. Japan asks China to reconsider this point.
- (vi) With regard to the Import and Export Registration Regulations of Dangerous Chemicals, Japan would like to know what progress has been made in the consideration of the comments by interested parties. Japan would like China to make the revised draft based on the comments by interested parties, and to sincerely address this issue through due procedures including a WTO/TBT Notification.

### III. BACKGROUND

18. In paragraph 196(a) of the Report of the Working Party, China has committed to enact and implement, within one year after its accession, a new law and relevant regulations regarding assessment and control of chemicals for the protection of the environment, in which complete national treatment and full consistency with international practices will be ensured. In paragraph 196(a), China has also committed to ensure that chemicals listed in the “inventory chemicals” annexed to the above new law and its regulations will be exempted from a registration obligation, and that a uniform assessment procedure will be established for domestic and imported products under the new law and its regulations.

19. To establish a new system, China drafted and published an initial version of the Import and Export Registration Regulations of Dangerous Chemicals in September 2002, and an initial version of the Provisions on the Environmental Administration of New Chemical Substances in December 2002 to collect tentative comments from interested parties in and outside of China. Japan understands that the final version of the draft of the Import and Export Registration Regulations of Dangerous Chemicals has not yet been published. On the other hand, the Provisions on the Environmental Administration of New Chemical Substances were enforced on 15 October 2003, and the detailed administrative rules (tentative) were published on 9 December 2003. With regard to the Provisions and its administrative rules, there are some unclear points in the details, which affect the implementation of the regulation.

20. With regard to the Provisions on the Environmental Administration of New Chemical Substances, problems including the following remain:

- The revised inventory of existing chemicals has not been published after the fifth enlargement application, for which applications were accepted until March 2004.
  - Regarding the eco-toxicological data of new chemical substances, it is required that the eco-toxicological data of new chemical substances shall include those obtained through biological tests performed in China by the application of China’s test organisms. However, there are a few organizations published as the testing laboratories, and Japan has a concern about capacity of conducting tests in China.
  - The simplified notification is approved only in the case of importing chemical substances for the purposes of research and technological development. Requiring the same range of data of all importers regardless of import volume would impose an excessive economic burden on importers of small amounts of new chemical substances and might affect the their importation.
-