

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

Questions from the European Communities to China

The following communication, dated 7 November 2005, has been received from the delegation of the European Communities.

The EC welcomes progress made by China in the implementation of many of its commitments under its Accession Protocol. It welcomes the positive trend in informing foreign parties and the industry ahead of introducing legislation. It also notes with satisfaction the setting up of bilateral dialogues on various topics that allow for increased sharing of views and experience early in the process of reform and legislative drafting, and should help avoid the creation of obstacles to trade.

At the same time, the EC attaches a great importance to the transitional review mechanism, and considers that it is of utmost importance to ensure a proper and meaningful functioning of this mechanism. The EC has raised a number of questions during the reviews in the committees that report to the Council for Trade in Goods. The EC wishes here to concentrate on those questions of utmost concern and for which no detailed responses were given, notwithstanding the fact that for all questions raised in the committees it would very much welcome answers from China.

1. Chinese exports restrictions

The EC refers to its 2004 communication in which it had reminded China of its commitments

- to eliminate, upon accession, export restrictions unless they could be justified under WTO rules (§ 165 of the Working Party Report) and
- to notify any possible export restrictions to the WTO.

Justification requested for the existing export restrictions by the EC since the TRM exercise of 2002 has not been provided by the Chinese authorities nor was it transmitted to the WTO.

The EC thus remains concerned about the WTO compliance of a number of the export restrictions maintained by China. China is therefore urged to comply with its accession related commitments and to bring its export regime of raw materials into conformity with WTO rules.

The EC attaches particular importance to and refers to earlier bilateral exchanges on coke and rare earths. It urges China:

- to notify in line with Part I-Section 8 (b) of the Protocol of accession the quantities associated with the export restrictions imposed on the products listed in the Chinese document of 17 October 2003 (and on any other product that may not be included in this list); and
- to transmit to the WTO the justification for these export restrictions; or
- When no such justification exists, correctly notify to the WTO when and how it intends to bring its coke export regime in line with WTO rules and also to transmit all necessary information when this will be the case for rare earths.

The EC is also concerned that a number of export restrictions maintained by China may affect the supply of raw hides and skins for European tanners.

In this context, the EC would like to urge China:

- to clarify and notify the products subject to export restrictions and taxes;
- to transmit to the WTO the justification for these export restrictions.

2. Automobiles

The EC refers to its concerns regarding the New Automobile Policy (hereafter “NAP”) already voiced in last year’s transitional review, especially with a view to the wide scope of state intervention and the uncertainty about the implementing regulations that will supplement the new policy. Given the experience of how the NAP was developed, the EC wishes to stress the transparency obligations under WTO rules with regard to the outstanding implementation regulations of the NAP. Publishing drafts of these implementing regulations well in advance would allow other WTO Members to comment on them.

As indicated in the Committee on Market Access, the EC has particular concerns regarding the Administrative measures for the import of automobile components fulfilling the characteristics of a whole vehicle.

These measures are:

- likely to invalidate some of China’s WTO accession commitments (abolition of local content requirements and TRIMs, national treatment obligation);
- in violation of WCO classification criteria (as reclassification of car parts as whole vehicles leads to a payment of double import tax).

The measures will have a major negative economic and technical impact on the EC manufacturers and on the development of the Chinese automotive industry itself.

The EC therefore urges China to review its new legislation regarding WTO and WCO aspects and to be open for a constructive in-depth discussion on this matter in order to develop solutions that are both, promoting China’s goals of further localization of parts production and facilitating business for EC automobile manufacturers.

3. Subsidies Notifications

Despite the assurances given by China to the SCM Committee that it would do its best to provide a New and Full Subsidy Notification, to date, nearly four years after China's accession to the WTO, there is still no such notification. The EC reiterates its dissatisfaction that China has so far not fulfilled this obligation resulting from its accession to the WTO and strongly urges China to provide a subsidy notification as soon as possible.

4. Government Procurement

In paragraph 341 of the Report of the Working Party on the Accession of China to the WTO, China committed "to initiate negotiation for membership in the Government Procurement Agreement by tabling an Appendix 1 offer as soon as possible". Nearly four years after China accession to the WTO, the EC would be grateful if China could communicate a calendar and indicate measures it is taking to do so.
