

Committee on Import Licensing

**REPORT TO THE COUNCIL FOR TRADE IN GOODS
ON CHINA'S TRANSITIONAL REVIEW**

1. The Committee on Import Licensing, at its meeting on 28 September 2005, carried out the third transitional review of China pursuant to Paragraph 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432).
2. Written comments and questions in connection with the transitional review of China's import licensing system were submitted in advance by the United States and the European Communities. These submissions were circulated in documents G/LIC/Q/CHN/16 and G/LIC/Q/CHN/17.
3. The information and notifications provided by China to the Committee on Import Licensing for its meeting on 28 September 2005, were circulated in documents G/LIC/W/25 and G/LIC/N/3/CHN/4.
4. The statements made at the meeting of 28 September 2005, where discussions under the transitional review took place, are reflected in the minutes of the meeting (G/LIC/M/22, paragraphs 3.1-3.20). The relevant paragraphs which reflect this discussion are annexed.

3. Fourth Transitional Review under paragraph 18 of the Protocol on the Accession of the People's Republic of China

3.1 The Chairperson recalled that the third transitional review of the implementation by China of the WTO Agreement and of the related provisions of the Protocol, under paragraph 18 of the Protocol of Accession of China (WT/L/432), had been carried out in 2004 by the subsidiary bodies of the WTO, including the Committee on Import Licensing, which had a mandate covering China's commitments under the WTO Agreement or China's Protocol of Accession. The Committee's report to the Council for Trade in Goods on that review had been circulated in document G/LIC/13. The Committee would conduct the fourth transitional review at the present meeting.

3.2 The Chairperson informed the Committee that since the last meeting, the Secretariat had received two submissions containing questions and comments on China's import licensing procedures: from the United States (G/LIC/Q/CHN/16) and from the European Communities (G/LIC/Q/CHN/17). The Secretariat had also received after the airgram convening this meeting was issued a communication from China containing information required by paragraph IV:3 of Annex 1A of the Protocol of Accession which had been circulated in G/LIC/W/25. In addition, replies to the Questionnaire under Article 7:3 of the Agreement, submitted by China the day before the meeting, would be before the Committee at its next meeting. Advance copies of this latest notification which would be circulated as G/LIC/N/3/CHN/4 were available, in English, in the meeting room.

3.3 The representative of the European Communities welcomed the updated information provided by China on its import licensing procedures. Noting that China had informed the Committee that all data except that for Tariff-Rate Quotas (TRQs) was available on its Ministry of Commerce (MOFCOM) website, she asked whether similar electronic means of publication were available for information on TRQs and, if not, in which form such data could be accessed. Her authorities had also noted that MOFCOM operated an English language version of its website and requested China to confirm that all information regarding import licensing was available, in English. She said that import licensing procedures of China remained of continuing concern as long as the new policy initiatives may result in new border formalities in their implementation. The new automobile policy and the steel industry policy were examples. Her authorities encouraged China to provide details on the implementation of these policies well in advance to allow other WTO Members to comment on them. They also looked forward to receiving replies to their detailed written questions circulated in document G/LIC/Q/CHN/17.

3.4 The representative of China said that he would make the following points in response to the comments and questions presented to his delegation prior to this meeting although, in his view, some of them did not necessarily fall within the mandate of the Committee on Import Licensing. First, on the *New Automobile Policy* and related issues, his authorities took note of the comments from the European Communities. However, they believed that the *Development Policy for Automobile Industry* which came into effect in 2004 did not include provisions of local content requirement, or other TRIMs and national treatment restrictions which were inconsistent with China's obligations in the WTO. The *Measures on Administration of Import of Automobile Components Fulfilling the Characteristics of a Whole Vehicle*, was one of the rules to implement the *Development Policy for Automobile Industry*. The *Measures* aimed at streamlining the importation and exportation of automobile components into and from China as well as strengthening law enforcement against tariff evasion and circumvention. During the enactment of the *Measures* and other rules implementing the *Development Policy for Automobile Industry*, including the *Implementing Methods for the Administration on Distribution of Branded Automobiles* and the *Methods for the Administration of Second-hand Automobiles*, the relevant authorities of the Government, consulted the entire automobile industry, including foreign-invested enterprises and other interested parties. Public comments were also solicited via internet or other means, where appropriate. Furthermore, a 30-day period from 28 February 2005, the date when the *Measures* were published, to 1 April 2005, the date when the

Measures came into effect was also provided consistent with China's accession commitment regarding transparency. China believed that the process with regard to the *Development Policy for Automobile Industry* and the rules implementing this policy were fair and transparent. Channels for communication and exchanges with Members were always open.

3.5 Regarding automatic import licensing on textiles, he said that the coverage of products was reflected in China's Quantitative Restriction notifications to the WTO since its accession. As far as he knew, there were no major changes since then. All products subjected to licensing requirement, including textiles, as well as other licensing requirements were published by way of MOFCOM announcements which were available on the MOFCOM website. Although he was not sure whether each one of them was available in English on the website, even if the announcement was available only in Chinese, it would not pose a problem since all the products were listed alongside HS numbers. As concerned the *Development Policy for Steel Industry*, he said that it was desirable for enterprises to use advanced technology in new projects and not to develop heavily polluting, resource- and energy consuming projects. The *Development Policy for Steel Industry* took this rule and sought to further clarify it as an industry policy. Taking into account the future development of the world steel industry and the present stage of development in domestic steel industry in China, the catalogues of outdated production capacity, techniques and products were determined with reference to such criteria as energy consumption level, resource consumption level, quality of the products, environmental pollution level, etc. Advanced and practical equipment referred to those which embodied the development trend of the steel industry with the characteristics of low level energy and resource consumption, high product quality, low level pollution, etc. The criteria and other conditions established in the *Development Policy for Steel Industry*, including those concerning granting or prohibiting imports, were mandatory in the sense that they would be implemented in the process of verification or approval of an investment project in this field as well as with Customs implementation of trade measures. He said that the policy would be implemented consistent with China's obligations in the WTO and, should there be any specific new trade measures adopted in the future as a result of this policy, his authorities would observe China's obligations in the WTO, including those relating to notification.

3.6 Regarding the automatic import licensing administration on iron ore, he informed the Committee that China's QR notification for the year 2005 to be submitted to the Committee on Market Access would contain all iron ore products subject to automatic import licensing at HS 8-digit level. His authorities were also about to notify to the Committee on Import Licensing pursuant to Article 8.2 of the Agreement the MOFCOM-GCA joint announcement No.9 of 2005 regarding the implementation of the automatic import licensing administration on iron ore. The announcement itself was already available on the MOFCOM website.

3.7 Regarding the qualifying criteria for enterprises, he stated that the automatic import licensing administration would be in accordance with the provisions of the *Measures of Administration of Automatic Import Licensing for Goods* and that, as far as he was aware, there was no provision in the *Measures* that set qualification criteria for enterprises applying for automatic import licences. However, he was informed that the China Steel Industry Association together with the Commercial Chamber for Metals, Minerals and Chemicals Importers and Exporters were consulting with their member enterprises to see whether, as an industry self-discipline, a set of rules regarding the qualification criteria such as production capacity and trade performance was necessary among the enterprises themselves.

3.8 The representative of the European Communities thanked the Chinese delegation for the detailed information provided and requested a written copy of the statement so as to be able to report to her authorities.

3.9 The representative of the United States thanked the delegation of China for the above information and for the documents submitted for this meeting. He reiterated the US interest in seeing China's notifications to this Committee on both iron ore and steel industry policy issues. There were gaps in the information available to the US authorities, hence their questions circulated in document G/LIC/Q/CHN/16 about the new requirements, qualifying criteria and fees.

3.10 The representative of China said that all the procedures and requirements relating to TRQ administration were available on the Ministry of Commerce (MOFCOM) and National Development and Reform Commission (NDRC) websites, the two Ministries responsible for TRQ administration in China. As concerned the availability of the English versions, he said that owing to huge resource restraints and language difficulties it was difficult for his authorities to have all procedures and requirements in English and make them available on the websites. However, to his knowledge, all import licensing procedures were clear and China had submitted notifications to the Committee on Import Licensing on all these requirements. In the case of iron ore, he said that this was a product subject to automatic import licensing which had been notified to the Committee. Iron ore products subject to the regime would be adjusted or some products added through public announcements of the Ministry of Commerce or the General Administration of Customs. The specific regulation regarding iron ore and other regulations revised in 2004 relating to China's import licensing procedures were translated into English and would be notified to the Committee shortly. As regarded the request of the EC delegation for written copies of China's statement made in the context of the transitional review he said that China's position was clear to all Members that his delegation was not in a position to provide the statement in written form.

3.11 The representative of Japan said that Japan shared the concerns expressed by the European Communities on the New Automobile Policy of China (G/LIC/Q/CHN/17) and the measures taken on imports of automobile parts fulfilling the characteristics of a whole vehicle. His delegation would raise this matter in the Market Access Committee for a detailed discussion about the consistency of these measures with WTO rules and with the Protocol of Accession of China.

3.12 The representative of the United States, noting China's statement that there were no qualifying criteria in effect for enterprises importing iron ore, sought clarification whether China had implemented qualifying criteria for other products.

3.13 The representative of China confirmed that the licensing procedure itself did not contain any qualifying criteria for enterprises and said that his authorities had been informed that some industry associations were consulting themselves to see if there was some arrangement being implemented among the enterprises. Whereas he did not have much information on this point he said that some of the information was perhaps available on the websites of these industry associations.

3.14 The representative of the United States said that it was useful to hear that there were no qualifying criteria *per se* in the licensing procedures that would call into question the automatic nature of the licence. He recalled that automatic licensing was purely for statistical purposes and applications for licences should be approved in all cases. In his view, if there were qualifying criteria of any kind such procedures would fall into the non-automatic licensing category and be of greater concern.

3.15 The representative of Australia said his authorities had been taking a close interest in this issue and thanked China for the information provided.

3.16 The Committee took note of the statements made.

3.17 The Chairperson suggested that a factual report on China's transitional review be submitted to the Council for Trade in Goods (CTG). As had been done previously, this factual report would refer

to the relevant paragraphs of the minutes of this meeting as well as the oral and written comments and questions submitted to China, and the information and notifications received from China. The relevant paragraphs of the minutes which reflected the discussion would be annexed to this report.

3.18 The representative of China suggested that the factual report only refer to the document symbol of the minutes of the meeting rather than attaching to it the relevant paragraphs.

3.19 The representative of the United States, supported by the representative of the European Communities, said that they preferred to continue with the past practice of attaching to the factual report on the review the relevant paragraphs of the minutes of the meeting.

3.20 The Committee so agreed. The report to the CTG on the fourth transitional review was circulated in document G/LIC/14.
