

CHINA'S TRANSITIONAL REVIEW MECHANISM

Questions and Comments from Japan to China

The following communication, dated 30 September 2005, is being circulated at the request of the Delegation of Japan.

1. Japan welcomes that, in the fourth year after accession, implementation by China of its commitments on TBT has progressed and entered into a cruising phase. 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 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 TBT Committee, the responses and relevant information to the following questions and comments.

I. CCC SYSTEM

3. Japan has some concerns about the CCC system, and requests that China take action to improve in the following areas, in order to eliminate potential trade barriers.

- (i) Article 13 of the Regulations of the People's Republic of China on Certification and Accreditation allows only Chinese certification bodies to engage in CCC certification activities. This does not seem to be consistent with the China's commitment in Paragraph 195 of the Report of the Working Party. Japan would like to know China's plan to accredit foreign conformity assessment bodies (CABs).
- (ii) The Certification and Accreditation Administration (CNCA) has designated only Chinese domestic facilities as testing laboratories for the CCC marking. Japan would like to know China's plan to designate foreign facilities as testing laboratories.
- (iii) All factories manufacturing products to which the CCC system is applied are subject to inspection by CABs once a year. Japan would like to know whether China has a plan to decrease the number of inspections for factories producing low-risk goods.

- (iv) For the CCC mark labeling companies are required to purchase stickers with the CCC mark from CNCA or apply to CNCA for permission to print/impress the CCC mark on their products. However, it is possible for CNCA to identify the factory manufacturing the products also by introducing the system whereby a certified factory labels its products the CCC mark and the factory's identification number itself. Japan would like to know whether China intends to introduce such a self-marking system in the future.
- (v) Japan has a concern that the time period for the CCC certification is becoming longer. Certification procedures for the factories located in China came to be completed within 90 days. However, it takes a longer period (sometimes 6 to 12 months) for factories located abroad to obtain the CCC certification because they need to send samples for type testing conducted in China, or wait for a visit of Chinese auditors for initial factory inspection. Japan would like to know what steps China intends to take in order to shorten the time period needed for overseas factories to obtain the CCC certification.
- (vi) There seem to be some cases where a sufficient transitional period is not provided for products complying with the existing GB (Guojia Biaozhun) standard when a new or revised GB standard is established/published. Japan would like to know what kind of measures China is considering to improve this situation.
- (vii) The "First Catalogue of Products Subject to Compulsory CCC Certification" issued by the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) and CNCA, does not exactly match the HS codes used by the customs authority, and there are certain products for which it is difficult to judge whether they are subject to the CCC system or not. Therefore, this uncertainty sometimes causes delays in customs clearance of goods. Japan would like to know what kind of measures China is considering to improve this situation.
- (viii) Under the current system, factories which previously manufactured products subject to the CCC system still need to undergo periodic factory inspections, even when they no longer manufacture the products in question. Japan would like to ask China to explain the purpose of these post-production inspections, as well as the period for which they are conducted. In addition, Japan would like to request that China consider eliminating these inspections in the future.
- (ix) The information on the CCC system is on web pages only in Chinese. Japan cordially requests China to provide such information on the websites in English as well.

II. AUTOMOBILES

4. 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 auto's fuel consumption should be enacted based on the compulsory requirements of technical regulations on energy saving".

5. In connection with this, Japan has the following requests when the Government of China prepares any technical regulations or standards, particularly on such items as fuel efficiency regulations, safety technical regulations and type approval regulations:

- (i) Japan requests China to clarify the content and purpose of the regulation proclaiming automobile's fuel consumption in accordance with Article 2.5 of the TBT Agreement.

- (ii) Japan would like to know when China intends to publish a notice of the proposed technical regulations in a publication, and make a notification of it in accordance with Article 2.9 of the TBT Agreement.
 - (iii) Japan would like to know what kind of measures China intends to take in order to ensure that its administrative process related to the regulations of proclaiming automobile's consumption does not have trade-restrictive effects in accordance with Article 2.2 of the TBT Agreement.
6. In addition, Japan also requests that China allow enough time and opportunity for any interested parties to submit comments and discuss these issues.

III. DIGITAL CAMERAS

7. Japan understands that a standard for digital cameras is being prepared in China. Please provide Japan with the information as to whether this standard will be based on the relevant international standards.

8. Japan expects China to publish the draft text of the proposed standard at an early appropriate stage and to allow enough time for comments from interested parties in accordance with the TBT Agreement and relevant decisions and recommendations adopted by the TBT Committee. Japan requests China to provide Japan with the concrete schedule of the publication and the procedure for the collection of comments from interested parties on the draft text of the proposed standard for digital cameras.

IV. REGISTRATION OF INITIAL IMPORTS OF CHEMICAL PRODUCTS

9. In paragraph 196(a) of the Report of the Working Party; (1) 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; and (2) 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 any registration obligation, and that a uniform assessment procedure will be established for domestic and imported products under the new law and its regulations.

10. 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 within 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 their administrative rules, there are some unclear points in the details and several problems remain, which affect the fair implementation of the regulation.

- (i) First, the new regulation provides that the eco-toxicological data of new chemical substances shall include those obtained through biological tests performed in China using China's test organisms. On the other hand, in order to enhance rationality of assessment as well as to avoid unnecessary tests using vertebrate animals, OECD member countries mutually accept testing results using the GLP (Good Laboratory Practice) system, and it is of mutual benefit to member countries. The GLP system is open to both OECD members and non-OECD members. We understand that India has joined the system. Japan would like to know whether China has a

plan to join the GLP system or take measures to accept data obtained through biological tests performed by foreign facilities in terms of facilitating assessment. In addition, Japan has a concern about the fact that there are only a few organizations published as testing laboratories, which might affect the notification procedures. Japan would like to know whether China has a plan to increase the number of authorized domestic testing laboratories. Furthermore, Japan requests China to release information regarding specific testing services which each testing laboratory can provide.

- (ii) Second, since the revised inventory of existing chemicals has not been published after the sixth enlargement submission, for which applications were received by 31 December 2004, it seems that unnecessary tests have been conducted in China which burden not only foreign companies but also domestic companies with heavy costs. Japan would like to know when the inventory list will be published.
 - (iii) Third, according to international practices, notification procedures are generally simplified for imports of small amounts of new chemical substances. However, Japan understands that, 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 from all importers, regardless of import volume (e.g., import of final products including a particle of additives), would impose an excessive economic burden on importers of small amounts and might affect their importation. Japan would like to know whether China plans to introduce simplified notification for the importation of small amounts of new chemical substances, in accordance with international practices.
 - (iv) Fourth, certain polymers are exempt from the notification by submitting applications for exemption in China. However, in many countries, no procedure to apply for exemption of notification is required for exempted substances. Japan would like to know whether China plans to abolish such redundant procedure for exempted substances.
-