

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

Questions and Comments of Japan on the Implementation by China  
of its Commitments to the Council for Trade in Goods

The following communication, dated 7 November 2006, is being circulated at the request of the delegation of Japan.

Japan welcomes China's efforts to carry out the commitments under the Protocol of its Accession to the WTO.

Japan submits its questions and comments in advance so that the Chinese authorities are able to reply and submit necessary information at the next Council for Trade in Goods session.

**1. Customs duty regarding "Complete Automobile Feature"**

"Customs General Administration Joint Bulletin No. 38" dated 5 July 2006, announced that it had decided to postpone implementing the customs rule that would allow authorities to impose higher tariffs on imported auto parts if cars made in China contain a certain percentage or certain combination of these imported parts.

In this context, Japan would like China to clarify whether implementation of all provisions/requirements in "the Rules for the Administration of the Importation of Automotive Parts and Components Constituting Complete Vehicles (Decree No. 125, issued 28 February 2005)" have been fully postponed until 2008. In particular, Japan is much interested in whether China will not impose the higher tariffs on imported auto parts until 2008.

Even if China has fully postponed the implementation of the said Rules, Japan is concerned that there still exist undue circumstances that force auto manufacturers to raise local content ratio before 2008. Therefore, Japan strongly urges China to fully repeal "Decree No.125" and all other related regulations.

**2. Export restrictions on fluorite**

In the TRM of the Council of Trade in Goods held in 2004, China explained its export restrictions on fluorite was justified pursuant to GATT Article XX(g). In this regard, GATT Article XX (g) provides that concerned measures shall be made effective in conjunction with domestic production or consumption. However, contrary to gradual decrease of E/L quota, the production volume of fluorite in China has been increasing. Japan considers that China is regulating the export of fluorite in order to satisfy growing domestic demand.

Japan would like China to explain how export restriction is consistent with GATT Article XX(g) taking account of Japan's view above.

China published "China's mineral resources policy" in December 2003, in which China states as state policy, "With regard to mineral resources in which China has advantages, such as tungsten, tin, antimony, rare earths, fluorspar and barite, the government will improve the export structure, increase the added value of the export products."

Please provide detailed information on the specific measures that China has taken to (i) improve (and/or will improve) its export structure; and (ii) increase (and/or will increase) the added value of the export products.

Please explain whether the reduction of E/L quota of fluorite is based on the above-cited mineral resources policy.

In the TRM of the Council of Trade in Goods held in 2004, China explained that "China expects that quantity of domestic consumption and the export quantity of fluorite to decrease because of function of the market economy." Please explain why China continues to impose quantitative restrictions only on the export of fluorite. Japan considers that not only domestic consumption, but also export quantity should be adjusted accordingly to market mechanisms.

### **3. Export restrictions on coke**

Japan remains interested in China's implementation of licensing restriction on exports of cokes. In particular, Japan is concerned about the consistency of the measure with GATT Article XI, which stipulates the prohibition of quantitative restrictions, and also about the applicability of GATT Article XX (g), general exception for the conservation of exhaustible natural resources, which requires concerned measures to be applied in conjunction with restrictions on domestic production or consumption.

In this regard, China explained, at the previous TRM, that China implements various measures to restrict domestic production of cokes. However, it is still unclear whether those measures have effectively reduced the production of coal, which is an ingredient of cokes. Please explain in quantitative terms how those measures actually reduced domestic production of coal.

Furthermore, if there are any plans to reform the export licensing measure, we would like to know the details.

### **4. Distribution services**

With regards to "the Measures for the Administration of Foreign Investment in Commercial Fields", Japan believes licensing procedures in the Measures are unclear and requests China to make the procedures publicly available and to provide licenses to foreign capital enterprises that fulfils the procedures, as indicated in the paragraph 308(a) of the Working Party Report.

According to China's accession schedule of specific commitments on services (WT/ACC/CHN/49/Add.2), part of the reservations made in mode 3 of retailing services is as follows;

*Foreign service suppliers will be permitted to engage in the retailing of all products, except for the retailing of books, newspapers and magazines within one year after accession, the retailing of pharmaceutical products, pesticides, mulching films and processed oil within three years after accession and retailing of chemical fertilizers within five years after accession.*

*None, within three years after accession, except for:*

*retailing of chemical fertilizers, within five years after accession; and those chain stores which sell products of different types and brands from multiple suppliers with more than 30 outlets. For such chain stores with more than 30 outlets, foreign majority ownership will not be permitted if those chain stores distribute any of the following products: motor vehicles (for a period of five years after accession at which time the equity limitation will have been eliminated), and products listed above and in Annex 2a of the Protocol of China's WTO Accession.*

Japan would like to know whether it has become possible for chain stores with foreign majority ownership having more than 30 outlets to retail books, newspapers and magazines one year after accession, to retail pharmaceutical products, pesticides, mulching films, processed oil three years after accession, and to retail chemical fertilizers five years after accession.

Japan would like to know the progress in China of drafting of the laws and regulations regarding the establishment of branches in the distribution sector in relation to the third paragraph of the market access column in horizontal commitments, according to which “the establishment of branches by foreign enterprises is unbound, unless otherwise indicated in specific sub-sectors, as the laws and regulations on branches of foreign enterprises are under formulation.”

## **5. Government procurement**

At the Working Party for the WTO accession, China made clear its commitment to initiate negotiations for its membership in the Government Procurement Agreement (GPA) by tabling an Appendix 1 offer as soon as possible (see Report of the Working Party, para. 341).

China answered at the TPRM held in this April that “Chinese government plans to commence formal negotiations to join the GPA and submit its Appendix I GPA offer of coverage by no later than December 2007”. As almost five years have already passed by since China’s accession to the WTO, Japan is interested to know China’s view on the schedule of the coming negotiations for its accession to the GPA including the preparation process for the negotiations.

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