

# WORLD TRADE ORGANIZATION

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Council for Trade in Goods

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

### Questions From the EUROPEAN COMMUNITIES to CHINA in anticipation of the Council for Trade in Goods

The following communication, dated 15 November 2006, is being circulated at the request of the delegation of the European Communities.

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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.

### Transparency

The EC welcomes the improvement that China has made in the transparency of its trade regime. In March 2006, the State Council instructed central, provincial and local government entities to start sending copies of their trade related measures for publication in the China Foreign Trade and Economic Cooperation Gazette issued by the Ministry of Commerce. Could China give details on how this process is being implemented?

The EC wishes to stress the importance of fully implementing China's commitment in its Protocol of accession to provide for a reasonable period for comment to the appropriate authorities before measures affecting trade in goods are implemented. Early consultation of parties potentially affected by trade related measures helps preventing potential trade irritants. Can China provide details on time allowed for commenting trade related measures before they are implemented?

### **Chinese exports restrictions**

The EC refers to its 2005 communication in which it had recalled China's 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. China did not respond in the Market Access Committee on this issue.

The EC thus remains very 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, rare earths and non-ferrous metals. 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 asks China to communicate a timeframe for the abolition of the export licence system on coke.

The EC urges China to present a comprehensive table on the export taxes and VAT reimbursement schemes and other export restrictions, in particular on non-ferrous metals and on chemical industry raw materials such as fluorspar and phosphorous. Attempts to obtain such information have met with failure and showed some deficiency current implementing provisions to fulfil WTO transparency requirements.

As far as the introduction of new export restrictions is concerned, the EC urges China to comply with the obligation of consulting countries having a substantial interest in trade of products concerned.

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.

## **China Compulsory Certification (CCC) Regulation**

The EC would also like stress to the Chinese authorities its concern about the growing difficulties encountered by European exporters owing to the China Compulsory Certification (CCC) regulation. Several sectors are affected by provisions that appear to be trade restrictive, impose a heavy cost on importers and are not proportionate to the objectives stated by the Chinese legislation. The EC urges China to develop and implement a certification system in a way avoid unnecessary barriers to trade.

## **Automobiles**

The EC refers to its serious concerns regarding the new Automobile Industry Development 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. Based on past experience on 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 and avoid potential trade irritants.

The EC would like to draw China’s special attention to the following issues

(i) **Joint venture ownership limitation**

The NAP imposes restrictions on foreign investors, which have contributed substantially to the rapid development of China’s automotive sector. Foreign joint venture partners are still not allowed majority ownership in automobile production. Moreover, participation of foreign joint venture partners in automobile manufacturing projects is limited to two for the production of passenger cars and two for commercial vehicles (“2+2”). Due to the global nature of the automotive industry and the brand strategies of local companies locked in 50/50% ventures with foreign vehicle makers such restrictions are counterproductive to the NAP’s objective of promoting international competitiveness.

In this context the EC urges China:

- to allow foreign majority investment; and
- to eliminate the “2+2” regulation.

(ii) **Type Approval/ Homologation Standards**

Vehicles/components produced in China are type-approved according to the China Compulsory Certification (CCC) regulation. Since the CCC rules are not internationally recognized these vehicles are marketable on the domestic market only. Moreover, vehicles importers have to carry considerable – and sometimes prohibitive – costs as vehicles already type approved according to EU Directives that conform to the internationally recognized homologation standards of the 1958 UN/ECE Agreement have to be approved again according to the CCC rules. The CCC regulation thus effectively constitutes a non-tariff market access barrier.

Against this background the EC recommends China’s accession to the 1958 UN/ECE agreement as soon as possible.

Adhesion to the Agreement would allow China both to recognize and to deliver homologation results obtained in accordance with the testing methods it prescribes. That would facilitate

the sales of China-made cars in other countries. In addition, China would be able to proactively participate in preparing internationally recognized homologation standards as they continue to evolve.

(iii) Revision of the Automotive Industry Development Policy

The EC takes note of China's reply in the TRIMS Committee that it has currently no plans to revise or amend the Automobile industry Development Policy. It urges China to fully consult members in case such revision would be envisaged.

**Steel Industry Development Policy**

The EC takes note of China's reply in the TRIMS Committee that, regarding article 18 of the Steel Industry Development Policy, the Chinese government had not enacted any implementation measures. Could China indicate what are the plans for enacting implementation measures and which ministries are responsible for preparing such implementation measures?

**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".

China indicated in the Trade Policy Review of April 2006 that it plans to initiate negotiations to join the GPA and submit its GPA offer by not later than December 2007. The EC would be grateful if China could provide information regarding its current preparation for the GPA accession negotiations.

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