

**CHINA'S TRANSITIONAL REVIEW MECHANISM**

Communication from Japan

The following communication, dated 6 September 2006, is being circulated at the request of the Delegation of Japan.

Questions and Comments of Japan on the Implementation by China  
of its Commitments on Market Access

Japan welcomes that, in the fifth year after accession, the implementation by China of its commitments on market access has made progress and entered into a cruising phase. In a transitional period of evolution of regulation, the importance of regulatory transparency, predictability, stability and consistency is paramount. The value of market access commitments and the efforts to implement them could be easily clouded by the insufficiency of such elements either in the regulations themselves or in their application. The Transitional Review Mechanism could be useful to make those transitional efforts more efficient and productive, and Japan is delighted to make a positive contribution to this process.

In this context, China is further invited to take the necessary steps to ensure a regular and effective application of public comments procedures, an early publication of laws and regulations, a predictability of regulatory changes, and a clear demarcation of departmental responsibilities among the different departments involved, as well as between central and provincial authorities, etc.

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 more efficient and effective, Japan requests China to provide in advance of the meeting of the Committee on Market Access, the responses and relevant information to the following questions and comments.

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

- (a) The "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.
- (b) In this context, Japan would like China to clarify whether the 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 very

interested if China clarifies that it will not impose the higher tariff on imported auto parts until 2008.

- (c) Even if China has fully postponed its implementation, Japan is concerned that undue circumstances still exist that force auto manufacturers to raise the local content ratio before 2008. Therefore, Japan strongly urges China to fully repeal “decree 125” and all other related regulations.

## **2. Tariff rates on photographic products**

- (a) At the time of its accession to the WTO, China committed to the schedules of tariff concessions of photographic products (HS37) based on *ad valorem* duties. However, for 37 items of photographic products, China has imposed specific duties (levied on a yuan/square metre basis) far exceeding the committed concession rates.

Japan and China have had several bilateral meetings to exchange views on the duties. Although China has maintained its use of specific duties in 2006, the tariff of several photographic items had been lowered. But some items, more specifically, the half-finished products of photographic items, are subjected to a specific duty of 3.7 yuan/m<sup>2</sup> which is equivalent to more than twice the assumed committed rate (1.7 yuan/m<sup>2</sup>), using the calculation method which China has explained. Therefore, Japan raised the following requests in the meeting of Japan-China Economic Partnership in July 2006.

First, China should adopt *ad valorem* duties as China has committed. If it is difficult to adopt them immediately, China should adopt the system of “ceiling” or “cap” on the level of duty applied, whereby the duties actually applied would not exceed the *ad valorem* duties in the Schedule, in order to ensure compliance with GATT Article II. Second, China should submit to the WTO Secretariat its complete trade data for the IDB.

To the first request, China insisted that the adoption of specific duties is consistent with its commitment to the WTO since it is based on the feature of the goods. It also explained that it is difficult to adopt the system of “ceiling” or “cap” because of its potential repercussions on the statistics and the administration cost of the Customs. To the second request, China insisted that it had already submitted its trade data to the WTO Secretariat.

Japan thinks that China’s explanation is not satisfactory.

- (b) In this context, Japan would like to urge China
- to adopt *ad valorem* duties. Because other countries, like the EU, have actually applied it on photographic products, Japan requests China to adopt *ad valorem* duties.
  - if it is difficult to adopt it immediately, to adopt the system of “ceiling” or “cap”., which China has already adopted for other items.
  - to provide import data of photographic products in 2004.

## **3. Import prohibition of used goods**

- (a) China implements an across-the-board prohibition on imports of used goods including second-hand clothing on the grounds of the necessity “to protect human, animal or plant life or health.” However, Japan is greatly concerned about the consistency of the import prohibition with the WTO rules, especially GATT Article XI.

- (b) Second-hand clothing exported from Japan has not caused any hygiene-related problems with any other importing countries because recycling companies check and sort it. The appropriate trade of such second-hand clothing contributes toward the sustainable use of resources and, the protection of the global environment. Therefore, Japan considers that the import prohibition measure imposed by China is not justified under the WTO rules, including GATT Article XX.
- (c) In this context, Japan would like to urge China to abolish such an import prohibition measure. Japan would like to know China's view, if any, on what measures exporters should take concretely before exporting second-hand clothing.

#### **4. Export Restrictions**

- (a) Japan understands that China implements export licensing on exports of cokes. Because not enough licenses were issued two years ago, the export price of Chinese cokes soared and has left the market disrupted. Japan is greatly concerned about the issuance plan. Since this measure is not made effective in conjunction with restrictions on domestic production or consumption, Japan considers that it is not consistent with GATT Article XI and cannot be justified under GATT Article XX (g) regarding the conservation of exhaustible natural resources.
  - (b) China explained the measures to restrict domestic production and consumption of cokes. However, it is unclear whether those measures have effectively reduced the production and consumption of coal, which is an ingredient of cokes. Japan requests China to show us the quantitative effect of those measures on the domestic production and consumption of coal. If there are any plans to reform the export licensing measure, we would like to know the details.
-