

COMMUNICATION FROM THE UNITED STATES

Transitional Review Mechanism Pursuant to Paragraph 18 of the Protocol on
the Accession of the People's Republic of China ("China")

The following communication, dated 19 September 2006, from the delegation of the United States is being circulated to the Members of the Council for Trade in Services.

Questions from the United States to China

I. DISTRIBUTION SERVICES: PROCESSED OIL AND CRUDE OIL

1. In the Services Schedule accompanying its Protocol of Accession, China committed to permit foreign service providers to engage in wholesale distribution and commission agents' services for processed oil and crude oil within five years after accession, i.e. by 11 December 2006. The United States is concerned about alleged draft regulations imposing limitations on the ability of foreign service providers to operate in China.

- (a) Please confirm that China will circulate draft regulations for public comment as soon as possible so that service providers can review and become acquainted with them before China's related GATS commitment enters into force.
- (b) What is China's timetable for finalizing the draft regulations?
- (c) Are there provisions within the current draft of the regulations that would require foreign companies to build a network of gasoline-distribution depots, or will foreign service providers be allowed to lease such facilities from Chinese owners?

II. DISTRIBUTION SERVICES: PUBLICATIONS

2. In the Services Schedule accompanying its Protocol of Accession, China committed that, within three years after accession (or by 11 December 2004), it would permit foreign service suppliers to supply wholesaling services, commission agents' services and retail services through wholly foreign-owned enterprises without any market access or national treatment limitations, with the exceptions of chemical fertilizers, processed oil and crude oil, salt and tobacco (and except with regard to certain chain stores). In April 2004, the Ministry of Commerce (MOFCOM) issued the *Measures on the Management of Foreign Investment in the Commercial Sector*. This measure lifted market access and national treatment limitations on wholly foreign-owned enterprises engaging in wholesaling services, commission agents' services and retail services and removed then-existing product exceptions for books, newspapers, magazines, pharmaceutical products, pesticides and

mulching films (but not for chemical fertilizers, processed oil, crude oil, salt and tobacco) as of the scheduled phase-in date of 11 December 2004. In addition, Article 39 of the *Administrative Regulations on Publishing* suggests generally that foreign entities are permitted to distribute publications, including books, newspapers and magazines, audiovisual products and electronic publications, within China without limitation. Similarly, the *Measures Governing Foreign-Funded Books, Newspapers and Magazines Distribution Enterprises*, issued by the General Administration of Press and Publication (GAPP) and the Ministry of Foreign Trade and Economic Cooperation (now MOFCOM) in March 2003, appeared to permit foreign-funded enterprises to engage in retailing of books, newspapers and magazines as of 1 May 2003 and wholesaling of books, newspapers and magazines as of 1 December 2004.

3. Despite these measures, other Chinese measures appear to impose market access or national treatment limitations on foreign service providers seeking to engage in the provision of wholesaling services, commission agents' services and retail services for publications, i.e., books, newspapers and magazines, audiovisual products and electronic publications. For some categories of publications, only Chinese-foreign joint ventures with minority foreign ownership are permitted to engage in distribution, and in others distribution is limited to Chinese state-owned enterprises. In addition, in some situations, foreign entities face restrictive requirements not imposed on domestic entities.

4. The *Catalogue for the Guidance of Foreign Investment Industries* lists "wholesale or retail business of books, newspaper and periodicals" and "distribution of audiovisual products (not including movies)" under the "restricted" category, which suggests that an investment requires special government approvals, although a footnote states that "wholly foreign-owned enterprises will be permitted no later than 11 December 2004, and can engage in the distribution of books, newspapers, [and] magazines." An Annex to this catalogue, however, states that "[d]istribution of audiovisual products (not including movies)" are permitted only for "equity and cooperative joint ventures controlled by Chinese parties." Moreover, Article 62 of the *Administrative Regulations on Electronic Publications* outright prohibits foreign entities from engaging in wholesale distribution of electronic publications within China

5. Further restrictions on foreign control/ownership of distribution entities appear to be established by the *Decision of the State Council Regarding Entrance of Public Capitals into Cultural Industries*. Section V of this measure states that while "[n]on-public capitals may be invested in the following cultural undertakings: . . . distribution of publications . . . distribution businesses of newspapers . . . [and] distribution . . . of movies . . . the state-owned capital shall have a controlling interest of at least 51 percent in such undertakings." This language seems to suggest that, to the extent that foreign investment is permitted with respect to distributing these materials, it cannot have more than 49 percent controlling interest.

6. Similarly, in Article 1 of the *Several Opinions on Canvassing Foreign Investment into the Cultural Sector*, it states that foreign investors can establish "Sino-foreign contractual equity [entity to] engage in the distribution of audio and video products, excluding movies," but adds that it is permitted only if "the Chinese party takes the dominant position." With regard to the distribution of movies, Article 4 of this measure is even more restrictive; it prohibits foreign investment in the distribution of movies. Article 4 prohibits foreign investment in the "master distribution" of all other publications, where "master distribution" is defined as the "exclusive sale of publications by an entity engaging in distribution of publications." This treatment appears to be confirmed by the *Catalogue for the Guidance of Foreign Investment Industries*, which lists "master distribution" of books, newspapers, periodicals, audiovisual products and electronic publications in the "prohibited" category.

7. With regard to electronic publications, Article 62 of the *Administrative Regulations on Electronic Publications* states that "[n]o wholly-foreign owned enterprise, Sino-foreign equity joint venture enterprise or Sino-foreign-cooperative joint venture enterprise shall engage in general

wholesale or wholesale of electronic publications.” In other words, it appears that foreign entities are not permitted to engage in wholesale distribution of electronic publications within China.

8. With regard to “books, magazines, and newspapers published and printed in China by publishing enterprises that have been approved by the State Council administrative office responsible for publications,” the *Administrative Regulations on Management of Foreign-Invested Book, Magazine and Newspaper Distribution Enterprises* require in Article 7 that foreign-invested wholesale distribution enterprises must have a registered capital of at least RMB 30 million, and in Article 8 that foreign-invested retail distribution enterprises must have a registered capital of at least RMB 5 million. Both of these articles also specify that such enterprises must not have operating terms that exceed 30 years. These restrictions are in contrast to those that apply to Chinese distribution enterprises. According to Article 8 of the *Administrative Regulations on the Publication Market*, domestic wholesale distribution enterprises need only have a registered capital of RMB 2 million, while Article 10 indicates that domestic retail distribution enterprises have no registered capital requirement at all. Domestic distribution enterprises also do not have operating term limits.

9. Finally, the *Administrative Measures on Subscription of Imported Publications*, issued by the GAPP in September 2004, appear to restrict the ability of foreign entities to distribute imported publications on a subscription basis. Specifically, this measure appears to reserve the internal distribution of imported newspapers and magazines by subscription to state trading enterprises described in the *Administrative Regulations on Publishing*.

10. With respect to the above description of the various Chinese law related to the distribution of publications:

- (a) Can China confirm that it only allows foreign service providers to distribute books, newspapers and periodicals through Chinese-foreign joint ventures in which the Chinese partner has majority ownership and control? If so, please describe China’s plans for bringing the relevant measures into conformance with the commitments that China made in its Services Schedule.
- (b) Can China confirm that it does not allow foreign service providers to engage in wholesale distribution of electronic publications in China and only allows foreign service providers to engage in retail distribution of electronic publications through Chinese-foreign joint ventures in which the Chinese partner has majority ownership and control? If so, please describe China’s plans for bringing the relevant measures into conformance with the commitments that China made in its Services Schedule.
- (c) Can China confirm that it only allows foreign service providers to distribute audiovisual products through Chinese-foreign joint ventures in which the Chinese partner has majority ownership and control? If so, please describe China’s plans for bringing the relevant measures into conformance with the commitments that China made in its Services Schedule.
- (d) Can China confirm that it does not allow foreign service providers to distribute movies in China but rather confines distribution to certain state-owned enterprises? If so, please describe China’s plans for bringing the relevant measures into conformance with the commitments that China made in its Services Schedule.
- (e) Can China confirm that it does not allow foreign service providers to engage in the “master distribution” of books, newspapers, periodicals, audiovisual products and electronic publications? If so, please describe China’s plans for bringing the relevant measures into conformance with the commitments that China made in its Services Schedule.

- (f) Please justify the discriminatory registered capital requirements and term limits applicable to foreign versus domestic entities with regard to the distribution of books, newspapers and magazines published and printed in China by publishing enterprises that have been approved by the State Council administrative office responsible for publications in light of China's GATS obligations.
- (g) Please clarify the scope of the *Administrative Measures on Subscription of Imported Publications*. Does this measure only apply to a foreign entity seeking to both import and distribute publications in China on a subscription basis? Does this measure apply to situations where a foreign entity seeks to distribute publications in China on a subscription basis only after they have been imported or after foreign content has been printed in China? Please explain how China justifies this measure in light of the commitments that China made in its Services Schedule.

III. DISTRIBUTION SERVICES: SALES AWAY FROM A FIXED LOCATION

11. The United States welcomed China's issuance of regulations in August 2005 governing sales away from a fixed location, or direct selling, although the United States is disappointed that China did not make a draft of the regulations publicly available for comment in advance of their release. The United States appreciates China's concerted efforts to research direct selling regulations worldwide and supports China's efforts to protect the public from fraud while opening its market to direct selling. These efforts, however, need not limit the growth of legitimate domestic and foreign direct selling operations. The United States is disappointed that, in the nine months since the direct selling regulations became effective in December 2005, only eight of the more than 30 companies that applied for direct selling licenses (with only two American companies among them) have received them.

- (a) What are China's plans for speeding up the processing of domestic and foreign applications for direct selling licenses? Will China be able to adhere to the 90-day time period set forth in the direct selling regulations? If not, please explain.
- (b) To advance consumer protection, the direct selling regulations provides that a direct seller in a particular province must operate a provincial office in the provincial capital and a "service center" in each district where a direct seller sells products to consumers. What steps is the central government taking to ensure consistent regional interpretation and implementation of the service center requirements as set forth in the direct selling regulations? Does China anticipate that the *Administrative Procedures on Service Centers* (released in draft form on 22 August 2006) will add clarity to the original direct selling regulations? Please explain.
- (c) The United States is concerned about Article 2.3 of the draft *Administrative Procedures on Service Centers*. The United States recommends that Article 2.3 be amended to make clear that no business license requirements are placed on service centers, and to provide that no more than one service center per district is required to comply with the direct selling regulations. Will China consider these changes?
- (d) The United States is concerned that Article 7.2 of the direct selling regulations requires that foreign-invested companies have three years of direct selling experience in other markets to apply for a direct selling license in China, but does not impose the same requirement on domestic companies. The direct selling regulations also include a compensation cap for salespeople of 30 percent of sales revenue. Based on international compensation practices, this cap would unnecessarily limit direct selling companies from sufficiently motivating their sales representatives. Except for Korea, which has a compensation cap higher than that proposed by China, no country limits

the income received by direct sellers. Korea's cap is also more narrowly defined than China's, thus allowing greater economic reward for direct sellers. Will China change the provision in question so that the same domestic experience requirements apply to both domestic and foreign companies? Also, will China increase or eliminate the compensation cap? If not, why not?

- (e) The regulations also do not allow for compensation based on services rendered. This effectively denies payment for marketing services, and is a significant departure from international practice, including the United Nations' Consumer Product Code under which persons engage in direct selling may earn compensation from the sales of both products and services. Will China consider amending its compensation restrictions to come into compliance with internationally accepted practices regarding direct selling?

IV. DISTRIBUTION SERVICES: FRANCHISING

12. During prior transitional reviews before this Council, the United States has expressed concerns regarding certain provisions of MOFCOM's *Rules on the Administration of Commercial Franchising*, issued on 31 December 2004. Please describe the status of China's review of these rules.

V. DISTRIBUTION SERVICES: FERTILIZER

13. In the Services Schedule accompanying its Protocol of Accession, China committed to permit foreign service providers to engage in wholesale distribution and commission agents' services for chemical fertilizers within 5 years after accession, i.e. by 11 December 2006, with no limitations on market access or national treatment.

- (a) Will China use its existing distribution services application and review process to permit foreign chemical fertilizer service providers to engage in distribution services?
- (b) If not, please explain what new or additional rules or procedures will be put in place to meet China's commitment, and describe China's timetable for finalizing them.

VI. EXPRESS DELIVERY

14. The United States understands that China has begun circulating an 8th draft of a new Postal Law. Is that correct? If so, when will China make the draft publicly available for comment?

15. What is the State Council's timetable for issuing the final draft of the Postal Law to the National People's Congress?

16. At last year's transitional review before this Council, China explained: "As the State Council had approved the plan of the postal system reform, China Post had begun to undertake reforms vigorously and steadily, including separating the regulatory and operational functions, and setting up the National Postal Regulatory Authority." Please provide an update on the status of these efforts. Please also explain how the Express Mail Service (EMS) will be affected by these changes.

17. The United States understands that the postal system reform plan was approved by the State Council in July 2005. The plan reportedly contains details on important issues such as the amount of a universal services fund tax required from operators, how the operating divisions of China Post will be managed and other details of interest to foreign companies. When will China publish its postal system reform plan?

18. The 8th draft of the Postal Law reportedly imposes a minimum weight restriction on addressed letters weighing less than 150 grams. Please explain the rationale for this restriction and how it is

compatible with the horizontal commitment set forth in the Services Schedule accompanying China's Protocol of Accession providing that market access will not be restrictive than as of the date of China's accession to the WTO in terms of foreign companies' scope of activities, ownership and operating conditions as set forth in licenses establishing or authorizing such operation or supply of services.

19. The 8th draft of the Postal Law reportedly excludes foreign service providers from the domestic express delivery market. Please explain how this restriction is consistent with the commitments that China made in the Services Schedule accompanying its Protocol of Accession with regard to courier services.

20. Please provide details on China's plans for a universal services fund tax that has been included in both the postal reform plan and the draft Postal Law. What would the amount of this new tax be? What types of firms would it be imposed on, and how would this tax be calculated? If this tax would be imposed on private express delivery services companies, please explain China's rationale for doing so.

21. Does China have any plans to abolish entrustment certificates? Please explain.

VII. TELECOMMUNICATIONS

22. Article 5 of the *Regulation on the Administration of Foreign Invested Telecommunications Enterprises*, issued by the State Council in Decree No. 333 on 11 December 2001 (effective 1 January 2002), provides that, for foreign-invested telecommunications enterprises engaged in national or cross-provincial basic telecommunication services, registered capital must not be less than RMB 2 billion (US\$241.2 million). As the United States has previously commented, this capital requirement is excessively high, both when viewed in relation to the norms in other economies and in the specific context of China's telecommunications market. Despite China's responses on this issue at last year's transitional review before this Council and subsequent bilateral consultations, the United States has heard no compelling rationale for such a requirement, and the fact that there has been little or no new entry in the basic telecommunications sector suggests that this requirement is functioning as a market entry deterrent, for both Chinese and foreign operators. We understand that China is currently reviewing these requirements with a view to making them less burdensome, an initiative we welcome. Does China expect revisions to these requirements to be implemented this year?

23. In paragraph 314 of the Working Party Report accompanying China's Protocol of Accession, China agreed to permit foreign applicants in any sector subject to joint venture requirements to freely chose a joint venture partner, even from outside the sector being applied for. To date, there have been no cases of China issuing licenses in the basic telecom sector where the Chinese joint venture partner was not also an existing basic telecom licensee. Can China confirm that the choice of partner commitment extends to the basic telecommunications sector, and thus that a foreign company is free to chose a Chinese joint venture partner which neither possess a pre-existing license, nor has experience in the sector, and could still be eligible for a basic telecom license? Can China also confirm that, to the extent that relevant experience is a precondition for obtaining a license, the foreign company's experience (not necessarily in China) would satisfy such a requirement?

24. In paragraph 309 of China's Working Party Report, China agreed that, upon its accession to the WTO, the organizations regulating services industries in China would be independent of the services suppliers they regulate. Section 5 of the Basic Telecommunications Reference Paper also specifically calls for an independent telecommunications regulator that is separate from, and not accountable to, any supplier of basic telecommunications and makes decisions on an impartial basis. What structural mechanisms within the Ministry of Information Industry (MII) ensure that MII's role in industrial promotion (e.g., for TD-SCDMA) does not conflict with its obligation to be impartial? What role does MII consider appropriate for itself regarding industry structure (e.g., decisions on

market consolidation) and corporate management (e.g., personnel decision), and how does that affect MII's ability to be independent and impartial?

25. China has repeatedly stated its commitment to licensing wireless technologies in a technology-neutral manner, letting operators choose technologies solely on commercial considerations. Does this welcome commitment extend to all wireless technologies, or only established "3G" technologies?

26. The United States remains concerned because, during past transitional reviews before this Council, China has maintained that MII is the independent regulator of the telecommunications sector in China. Please explain how MII will be shielded from industrial promotion and market management functions, which could be inconsistent with the role of an impartial regulator.

27. Please provide an update on China's draft telecommunications law. Is it still being circulated in draft form among China's ministries and agencies? When will this draft law be circulated for public comment? How will China provide a reasonable period for written comments to be submitted on the draft law?

28. At last year's transitional review before this Council, the United States asked the following questions regarding licensing and value-added services but did not receive responses. Could China please provide responses to these questions?

- (a) Since China's accession to the WTO, how many applications has MII received from foreign carriers seeking to provide telecommunications services in the Chinese market? How many of these applications have been approved or denied in the basic services sector? How many of these applications have been approved or denied in the value-added services sector? What criteria are used to evaluate these applications?
- (b) China has reportedly licensed numerous new domestic value-added service suppliers. Do these suppliers offer services beyond the illustrative list of services that China set forth in the Services Schedule accompanying its Protocol of Accession? If so, will China extend national treatment to foreign suppliers interested in offering similar services, not expressly noted in the illustrative list, which fall under China's domestic definition of value-added services? Is China planning on updating its domestic definition of value-added services? If so, what is the timetable? Please explain why MII's Catalogue omits "code and protocol conversion" from the list of value-added services, particularly when China's Services Schedule identifies it as an example of a value-added service.

VIII. MEDIA SECTOR

29. The United States welcomed the October 2004 State Administration of Radio, Film and Television (SARFT) regulations officially permitting foreign and Chinese media partners to establish joint venture companies to produce and distribute radio and television programs. However, the February 2005 SARFT notice establishing guidelines related to the implementation of these regulations seemed unnecessarily restrictive, and the United States remains concerned about the slow progress China has made in issuing licenses under these regulations. The August 2005 media sector opinions on foreign participation in a variety of media fields are even more troubling. The United States has not yet seen an official copy of these media sector opinions, but it understands that they may cut back on prior market access liberalization and may contravene commitments set forth in the Services Schedule accompanying China's Protocol of Accession by requiring the Chinese joint venture partner to have operational control.

- (a) Please describe the ways in which the August 2005 media sector opinions are more restrictive than the October 2004 regulations. Does China have any plans to withdraw the new restrictions found in the August 2005 media sector opinions?
- (b) When does China plan to release the August 2005 media sector opinions publicly? To the extent that China has been enforcing them, please explain how China justifies doing so in light of the commitment that it made in paragraph 2(C)(1) of its Protocol of Accession, which provides that "China undertakes that only those laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange that are published and readily available to other WTO Members, individuals and enterprises, shall be enforced."

30. The United States notes the new proposals SARFT circulated 21 June 2006 in the draft *Revised Measures on Further Improving Assessments and Rewards for the Distribution and Exhibition of Domestic Films*. One of the proposals in this draft measure would seem to require distributors and exhibitors to ensure that the annual box office for domestic films is not less than 50 percent. If accurate, this could have serious adverse effects on the ability of U.S. and other foreign film makers to take full advantage of China's commitment to provide a set number of films to the China market annually. Please explain this proposal and identify steps that SARFT intends to take to ensure that foreign film makers' access to the Chinese market is not impaired.

31. Please explain China's censorship process for video and TV broadcasting products. When will China begin reducing or removing restrictions on foreign content in television programming?

IX. CONSTRUCTION SERVICES

32. In September 2002, Ministry of Construction (MOC) and the Ministry of Foreign Trade and Economic Cooperation (now MOFCOM) issued the *Rules on Administration of Foreign-Invested Construction Enterprises* and *Rules on the Administration of Foreign-Invested Construction Engineering and Design Enterprises*, known as Decrees 113 and 114. These Rules provide a schedule for the opening up of construction engineering design services to joint ventures with majority foreign ownership and to wholly foreign-owned enterprises, although to date the necessary implementing rules have not been issued. Decree 114 creates concerns for U.S. and other foreign firms by imposing new and more restrictive conditions than existed prior to China's WTO accession, when they were permitted to work in China on a project-by-project basis pursuant to MOC rules. In addition, Decree 114 for the first time requires foreign enterprises to incorporate in China, and it imposes high minimum registered capital requirements and foreign personnel residency requirements that are difficult for many foreign-invested enterprises to satisfy.

33. In an effort to mitigate industry adjustment difficulties under Decree 113, MOC issued Circular 159 in September 2004, allowing foreign construction firms to continue to operate on a project-by-project basis using licenses issued under Decree 32. Project-by-project licenses were suspended on 1 July 2005, when Decree 113 entered into effect to regulate foreign invested firms' compliance with China's construction Qualification Grade System. The requirements set forth include high registered capital holdings in China, along with the proviso that firms could not use global assets to meet these requirements, maintenance of a staff of 200-300, and certain foreign staff local residency requirements.

34. The United States welcomes recent steps taken by MOC, including the issuance of Circular 76 in March 2006 and the release of public comments on various rules and regulations over the past year. However, there remain significant concerns over the continued inability of foreign-invested enterprises to provide construction, engineering and design, and project management services in the China market.

35. When China responded to questions from the United States at last year's transitional review before this Council, it explained that it was working on implementing rules for Decree 114 and it was reviewing the requirement relating to the proportion of foreign staff. China also explained that it had no plans to revise Decree 114, even while acknowledging that the market access requirements set forth in Decree 114 did distinguish between domestic and foreign enterprises with regard to the number and the duration for foreign service providers. The United States remains concerned over the national treatment implications of these requirements for foreign service providers trying to compete in the Chinese market. The United States is also concerned that these requirements place new and more restrictive conditions than existed prior to China's WTO accession.

- (a) Decree 114 places an unfair burden on foreign-invested enterprises, effectively only allowing Chinese companies the right to receive all classes of licenses to operate. Will China consider revising Decree 114 to allow foreign and domestic companies the right to receive all classes of licenses?
- (b) Without finalized implementing rules for Decree 114, foreign-invested enterprises are effectively restricted from submitting license applications. When does China intend to issue proposed Decree 114 implementing rules for public comment? What is China's timetable for issuing finalized Decree 114 implementing rules?
- (c) While the United States appreciates that some foreign firms have begun to receive general contractor and public works construction licenses under Decree 113, there exist continued concerns that Decree 113, through its onerous capitalization and staffing requirements, limits the ability of small and medium-sized foreign-invested enterprises to compete in the China market. Would China consider using international practices, such as performance bonds, for construction licensing requirements in lieu of high registered capital holdings?
- (d) Under Decree 113, foreign-invested enterprises are limited in the kinds of projects they can apply to undertake, raising national treatment issues since domestic enterprises face no such restrictions. Does China intend to broaden the scope of projects that foreign-invested enterprises can undertake?
- (e) When does China intend to issue finalized implementing rules for Circular 200 on project management in the construction sector and on the conditions applying to cross-border supply of integrated engineering services, including construction project management? Will these implementing rules remove the requirement that the right to engage in project management is premised on holding another construction enterprise qualification? Will these implementing rules clarify overlapping rules set forth in Decree 29, issued by the National Development and Reform Commission on 4 March 2005?

X. LEGAL SERVICES

36. While the United States acknowledges the steps China has taken toward opening the legal services sector, foreign firms continue to face onerous restrictions regarding market access and national treatment in China. Despite China's explanation at last year's transitional review before this Council, the United States remains concerned over China's imposition of a three-year waiting period before a foreign law firm can open each additional office in China, particularly because it includes an application process that could take as long as nine months and requires that market need be demonstrated. Please describe whether China has plans to address these concerns.

XI. TRANSPARENCY

37. In China's Protocol of Accession and accompanying Working Party Report, Members recognized the overriding importance of transparency through a host of provisions. Since China's accession, China has made notable improvements in the transparency of its trade regime, particularly through the many notifications that it has made to the WTO's councils and committees as well as through its use of numerous official journals, other publications and the Internet to publicize new or modified trade-related laws, regulations and other measures. Nevertheless, there remains much to be done to further improve transparency in China, as China itself has acknowledged. Transparency is a critically important area, both from a governmental perspective and from a business perspective.

38. In Section 2(C) of its Protocol of Accession, China specifically committed to establish or designate an official journal dedicated to the publication of all trade-related measures, including, *inter alia*, "all laws, regulations and other measures pertaining to or affecting trade in . . . services." The term "laws, regulations and other measures" is defined broadly as "laws, regulations and other measures of the central government as well as local regulations, rules and other measures issued or applied at the sub-national level."

39. During past transitional reviews, China has stated that its official journal was the *China Foreign Trade and Economic Cooperation Gazette*, now published by MOFCOM and known as the MOFCOM Gazette. Until March 2006, however, only trade-related measures issued by MOFCOM, either on its own or jointly with other ministries or agencies, were published in the MOFCOM Gazette; trade-related measures issued by other ministries and agencies were not published in the MOFCOM Gazette. In March 2006, China's State Council issued a notice directing all central, provincial and local government entities to begin sending copies of all of their trade-related measures to MOFCOM for immediate publication in its Gazette.

- (a) Please provide an update on the progress being made by central, provincial and local government entities in fulfilling the State Council's directive to send measures pertaining to or affecting trade in services to MOFCOM for publication in the MOFCOM Gazette. As part of that update, please identify the government entities that regularly send their services measures to MOFCOM for publication in the MOFCOM Gazette. Please also describe the types of services measures (e.g. laws, regulations, rules, measures, notices, decisions, etc.) regularly being sent to MOFCOM for publication in the MOFCOM Gazette.
 - (b) With regard to measures pertaining to or affecting trade in services, please describe any progress that China has made during the past year in implementing the commitment that it made in Section 2(C) of its Protocol of Accession to provide a reasonable period for public comment on new or modified measures before implementing them, except in certain specified instances.
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