

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

Questions and Comments from Japan to the People's Republic of China

The following communication, dated 1 November 2007, 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. Export prohibition on natural sand

Japan remains concerned about China's export prohibition on natural sand. China has explained that the prohibition is aimed at protecting the environment and preserving its natural resources.

In light of such an objective, Japan would like to ask China if it has introduced any restrictions on domestic production or consumption of natural sand as well. If yes, please provide the details. Also, Japan would like to know the rationale why China needs the strict export prohibition while a restriction on domestic production or consumption may achieve its objective. If no, it would be difficult for China to justify this measure under WTO rules.

Furthermore, if there are any plans to amend the export prohibition measure, Japan would like to know the details.

2. Export restriction on fluorite

Japan is also concerned about China's export restrictions on fluorite.

As of September 2007, the Export License (E/L) quota of fluorite of 2007 was limited to 342,500 ton, which was less than half that of 2006. Japan would like China to explain the reason why China has been reducing E/L quota of fluorite extensively while the production volume of fluorite in China has been increasing.

At the Transitional Review Mechanism (TRM) of the Council of Trade in Goods held in 2006, China explained that "Export restrictions are mainly aimed at protecting the environment and

preserving natural resources, especially exhaustible natural resources. China believes that measures in this regard are consistent with Article XX of GATT. In order to achieve this goal, China both implements domestic production controls and export restriction measures.” However, it is unclear whether effective domestic production controls have been implemented, since China had not provided concrete data about them at the past TRM meetings. Please provide concrete data and information of the restriction on domestic production or consumption of fluorite.

3. Export restrictions on coke

Japan understands that China implements E/L control on exports of cokes. Since insufficient licenses were issued three years ago, the export price of Chinese cokes soared and has left the market disrupted. Japan is greatly concerned about the issuance plan of E/L. Since it is not clear whether this measure is implemented in conjunction with restrictions on domestic production/consumption or not, Japan is concerned about its consistency with GATT Article XI and GATT Article XX (g).

China explained that the measures were to restrict domestic production and consumption of cokes. However, it is unclear whether those measures have effectively reduced the production and consumption of cokes and coal which is an ingredient of cokes. Japan requests China to show the quantitative effect of those measures for reducing the domestic production and consumption of cokes and coal. Also, Japan would like to request the clarification of the legal basis of respective restriction, and of their consistency with GATT.

If there are any plans to reform the E/L measure, Japan would like to know the details.

4. Export restrictions on non ferrous metals

Japan understands that China implements an E/L system on various kinds of non-ferrous metals: rare-earths, tungsten, antimony, tin, silver, magnesium, bauxite, indium and molybdenum. Indium and molybdenum of these non-ferrous metals became subject to quantitative trade restrictions in June 2007, and the number of E/L on most of the other non-ferrous metals has been declined.

Japan would like to request China to clarify the policy objective of the quantitative restrictions by way of its E/L system on various kinds of non-ferrous metals: rare-earths, tungsten, antimony, tin, silver, magnesium, bauxite, indium and molybdenum. Also, Japan would like to request the clarification of the legal basis of the respective restriction, and of their consistency with GATT.

China has explained that a resource protection, an environmental conservation, and a trade surplus reduction are the reasons for its quantitative trade restrictions. In terms of a resource protection, Japan would like to request clarification whether there is a restriction in China for the domestic production or consumption of these metals, with some additional specific data on their domestic production, consumption and restriction. In terms of an environmental conservation and a trade surplus reduction, Japan would like to request clarification for the consistency of the quantitative trade restriction with GATT.

If China has already made reports on its concerned quantitative trade restriction measures to any other WTO committees, Japan would like to know to which WTO committee the Government of China has reported its measures.

Also, Japan would like to request clarification of the amount of E/L issued and its actual export volume of indium and molybdenum of 2007 which became subject to quantitative trade restrictions in June 2007.

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 TRM held in last November that “(a)t present, a working team of 21 Government Ministries or Agencies, including the Ministry of Finance and Ministry of Commerce, had been established to work on the initial offer for the accession negotiation”. However, until now, the initial offer has not been offered yet. 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.
