

CHINA'S TRANSITIONAL REVIEW MECHANISM

Communication from the United States

The following communication, dated 14 September 2007, is being circulated at the request of the Delegation of the United States.

Export Quotas on Raw Materials

1. The United States remains concerned about China's export quotas (and related export licensing requirements) on numerous raw materials. For example, China maintains export quotas on (i) antimony, (ii) coke, (iii) fluorspar, (iv) indium, (v) magnesium carbonate, (vi) molybdenum, (vii) rare earths, (viii) silicon, (ix) talc, (x) tin, (xi) tungsten and (xii) zinc, despite the fact that China is the world's leading producer of each of these raw materials (except for molybdenum, for which China is the world's second leading producer), and despite the fact that China maintains no comparable restrictions on domestic sales of these raw materials. China's export quotas on these raw materials significantly disadvantage U.S. and other foreign producers, which use these raw materials to make a wide range of downstream products, such as steel, chemicals, ceramics, semiconductor chips, refrigerants, medical imagery, aircraft, refined petroleum products, fiber optic cables and catalytic converters, among numerous others. The export quotas create disadvantages for foreign producers by artificially increasing China's export prices for these raw materials, which also drives up the world prices. At the same time, the export quotas artificially lower China's domestic prices for these raw materials due to domestic oversupply, enabling China's domestic downstream producers to produce lower-priced products from these raw materials and thereby creating significant advantages for China's domestic downstream producers when competing against foreign downstream producers both in the China market and in export markets.

- (a) For each of the 12 raw materials identified above, please separately explain how China justifies its use of the export quotas under Article XI of the General Agreement on Tariffs and Trade 1994.
- (b) Please separately describe China's plans for eliminating the export quotas on each of the 12 raw materials identified above. If China does not have any such plans, please explain why it does not.
- (c) The United States understands that China has not notified to the WTO any of the export quotas on the 12 raw materials identified above, despite China's commitment in paragraph 8.1(b) of Part I of China's Protocol of Accession to notify all export quotas "listed separately by HS tariff line and with the quantities associated with the restriction . . . and the justification for maintaining the restriction or its scheduled date of termination." Is the United States' understanding correct? If so, please indicate when China will submit the required notifications.

Value-Added Tax Applied to Diammonium Phosphate

2. The United States continues to have concerns regarding the Circular about VAT Exemption Policy for Certain Farming Materials (No. 113/2001), jointly issued by the Ministry of Finance and the State Administration of Taxation on July 20, 2001, which exempts all phosphate fertilizers except diammonium phosphate (DAP) from China's value-added tax. DAP, which is produced in the United States, competes with similar phosphate fertilizers produced in China, such as monoammonium phosphate (MAP). This measure discourages use of DAP, for which China committed to permit access under the TRQ commitments set forth in the Goods Schedule accompanying its Protocol of Accession, in favor of products that are not imported.

- (a) Previously, the United States has requested that China provide data showing China's annual consumption of DAP and MAP, including the amounts sourced domestically versus imported amounts. To date, China has not provided any of this data. Please provide this data.
 - (b) During last year's Transitional Review Mechanism meeting before this Committee, China stated that it did not have any plans for revising Circular 113/2001. Does China currently have any plans to revise this Circular, particularly to eliminate the discriminatory treatment of DAP? If not, why not?
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