

**TRANSITIONAL REVIEW MECHANISM PURSUANT TO SECTION 18 OF THE  
PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA**

Questions and Comments from the United States to China

The following communication, dated 20 October 2008, is being circulated at the request of the delegation of the United States.

**I. INTRODUCTION**

1. The United States continues to have concerns in a number of areas that have been addressed in recent transitional reviews before this Committee, including, for example, technology bias in licensing telecommunications carriers and favouritism toward home-grown 3G telecommunications standards, certifications required for electronic information products and transparency. In connection with this year's transitional review, the United States would like to focus on two areas, i.e., information security testing and certification, and conformity assessment procedures.

**II. INFORMATION SECURITY TESTING AND CERTIFICATION**

2. The United States continues to have strong concerns about 13 proposed technical regulations related to information security, notified to this Committee by China in August 2007 (see document G/TBT/N/CHN/278-290). These regulations, which mandate a government testing and certification scheme for information security for 13 categories of information technology products, go substantially beyond global norms by mandating testing and certification of information security in commercial information technology products, not just products for government use or those used in national security applications. In other countries, mandatory testing and certification for information security is only required for products used in sensitive government and national security applications.

3. In Announcement No. 2008-7, *Announcement for the Compulsory Certification of Information Security Products*, issued by the National Certification and Accreditation Administration (CNCA) on 3 March 2008, China indicated that compliance with the 13 proposed technical regulations described above would become mandatory on 1 May 2009. Subsequently, CNCA officials indicated that they envision a one-year transition period between the eventual publication date of the 13 technical regulations in final form and the date by which compliance would become mandatory.

4. Despite its serious concerns, the United States notes and appreciates the willingness of officials from CNCA and China's Ministry of Commerce to maintain an open line of communication with government officials and industry groups from the United States and other countries on this important issue. The United States also welcomes the commitment that China's Vice Premier Wang Qishan made in September 2008 to the effect that China will delay publication of final technical

regulations while Chinese and foreign experts continue to discuss possible approaches to the regulation of information security.

5. The United States continues to urge China to refrain from adopting any measures that mandate information security testing and certification for commercial products and seeks the following clarifications regarding the status of the 13 proposed technical regulations and China's future plans:

- (a) Can China confirm that it will delay its planned 1 May 2009 certification requirement for the covered products? If so, does China plan to revise CNCA Announcement 2008-7 or issue a new announcement reflecting China's commitment to hold off on publication of the regulations in final form? Given the intense international interest in China's proposed technical regulations, will China notify such an announcement to the TBT Committee?
- (b) Has China analyzed the practices followed in other countries with regard to the regulation of information security in the commercial sector? If so, can China explain the results of its analysis?

### III. CONFORMITY ASSESSMENT PROCEDURES

6. On 24 June 2008, China notified to this Committee a *Draft Amendment to Regulations on Compulsory Product Certification* (see document G/TBT/N/CHN/399), which involves the China's CCC Mark system.

- (a) Can China provide an explanation of the intent of the draft measure and describe the substantive changes that this draft measure would make to the current CCC Mark system?
- (b) Does China have any additional plans for substantive changes to the CCC Mark system in the coming year, including with regard to product scope? If so, please explain.

7. This Committee developed an *Indicative List of Approaches to Facilitate Acceptance of the Results of Conformity Assessment* (see G/TBT/1/Rev.9, Annexes to Part 1, Section A), which includes several approaches for accepting the results of internationally recognized laboratories. Does China have any plans to allow foreign laboratories to be accredited to conduct testing for mandatory CCC Mark certification? If not, why not?

8. This Committee recently held a workshop specifically on the use of a Supplier's Declaration of Conformity. Is China considering the adoption of a Supplier's Declaration of Conformity for any products covered under the existing CCC Mark system? Please explain.

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