

**TRANSITIONAL REVIEW MECHANISM IN CONNECTION WITH PARAGRAPH 18
OF THE PROTOCOL ON THE ACCESSION
OF THE PEOPLE'S REPUBLIC CHINA**

Questions and Comments from JAPAN to CHINA

The following communication, dated 19 October 2009, has been received from the delegation of Japan.

1. Export Licensing Measures

Japan remains concerned about China's export licensing (E/L) measures on certain materials such as fluorite, coal, coke and non-ferrous metals (rare-earths, tungsten, antimony, tin, silver, bauxite, indium, molybdenum and zinc). Japan understands that, for most of the materials mentioned above, China's total amount of exports limited by the issuances of the E/L has been declining over the past few years.

In response to Japan's question, China explained in the Trade Policy Review on 21-23 May 2008, responding to Japan's question, that "China adopts necessary export restriction on resource-intensive products in consistent with Article 20 "General Exception" of GATT 1994, that is to say, China implements stringent restriction on domestic production and consumption of resource-intensive products while the export restriction is in place.". However, actual data regarding domestic production and consumption on the above-mentioned products, has not been provided by China.

- (a) Please explain how China justifies its use of export licensing measures on each material under Article 20 of the General Agreement on Tariffs and Trade 1994.
- (b) Please provide the data on domestic production and consumption of each material in which export licensing measure is applied.
- (c) Please provide some information about whether there is a ceiling on domestic production of each material in which export licensing measure is applied.
- (d) Please clarify the extent of difference between the volume of export restriction and the restriction on domestic production.
- (e) Does China have any plans to eliminate or review the export licensing measures? Please explain?

2. Export Taxes

Japan remains concerned about China's imposition of export taxes on certain raw materials and products, including chemical fertilizers and their raw materials, non-ferrous metals, coal and coke. The imposition of export taxes on some of these products has been raised several times.

As for the recently raised/introduced export duties on chemical fertilizers and their raw materials, Japan understands that China has levied a 100% export taxes on 32 items effective from April 29 to the end of last year. Six other products including phosphate rock have also been subject to a 100% export tax since May last year. In addition, on August 29, 2008, China officially announced an increase of the export taxes on nitrogen fertilizers and ammonia to 150% effective September 30 to December 31, 2008. It also levied export taxes on steam coal and anthracite since August last year.

In Section 11.3 of Part I of its Protocol on the Accession, China committed to eliminate all taxes and charges applied to exports unless specifically provided for in Annex 6 of this Protocol. However, most of the above products are not listed in Annex 6 of the Protocol and the duties for other few items such as phosphate rock are above the export duty rate that China committed in Annex 6.

- (a) Please explain the purposes of China's imposition/increase of export taxes on chemical fertilizers and their raw materials, non-ferrous metals, coal and coke, respectively.
- (b) Please explain how China justifies its imposition/increase of export taxes in light of the commitments that China made in Section 11.3 of Part I of its Protocol of Accession.
- (c) Does China have any plans to eliminate or review the export taxes measures?

3. Export Prohibition

Japan remains concerned about China's export prohibition on natural sand. China explains that the purpose of the prohibition is to conserve natural resources, and that the production and consumption of natural sand is restricted in parallel with the export prohibition.

- (a) Please explain how China justifies its export prohibition on natural sand under Article XI of the General Agreement on Tariffs and Trade 1994.
 - (b) Please explain in detail China's restrictive measures on domestic production and consumption of natural sand.
 - (c) Please provide the data on the latest trend in domestic production and consumption of natural sand.
 - (d) Does China have any plans to eliminate or review the export prohibition on natural sand?
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