

WORLD TRADE ORGANIZATION

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Committee on Market Access

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CHINA'S TRANSITIONAL REVIEW MECHANISM

Communication from Japan

The following communication, dated 18 September 2009, is being circulated at the request of the Delegation of Japan.

Questions and Comments of Japan on the Implementation by China of its Commitments on Market Access

Japan appreciates China's efforts to answer some of the questions asked by members, but China has not fully answered questions with regards to export restrictions. It would thus be appreciated if China could clarify the following points.

Export Restrictions and Export Taxes on Non-Ferrous Metals

- (a) Japan understands that China implements an export licensing system on various kinds of non-ferrous metals: rare-earths, tungsten, antimony, tin, silver, magnesium, bauxite, indium, molybdenum, and zinc. Among these non-ferrous metals, indium and molybdenum became in June 2007 subject to quantitative trade restrictions, and the amount of the other non-ferrous metals which received export licenses, has been declining. Please explain how China justifies its export licensing on these non-ferrous metals under the GATT.
- (b) Japan would like to know if there are restrictions in China on domestic production and/or consumption of these metals, with specific quantitative data.
- (c) China levies export taxes on many types of non-ferrous metals, and has increased them, six times since November 2006, while China committed to eliminate export taxes for all items except for those listed in Annex 6 to its Protocol of the Accession. Please explain the policy objectives of these export taxes and how China justifies them under its commitment upon accession.
- (d) Please describe China's plans for eliminating export licensing measures and export taxes.

Export Taxes on Chemical Fertilizers and their Raw Materials

- (a) Japan understands that China has been levying a 100% export tax on 32 chemical fertilizers items and their raw materials, from 20 April to 30 September 2008. In addition from May 2008, 6 items including phosphate rock have been added to the list of items subject to the 100% export tax. Furthermore, on 29 August 2007, China officially announced a raise of 150% of the export taxes on nitrogen fertilizers and ammonia taking place from 1st September to 31 December 2008 and it extended to 31 December 2008 the expiration date of the export

taxes on the other chemical fertilizers items. The export taxes on some chemical fertilizers and on their raw materials ended in July of this year (2009). However taxes on some products such as potassium chloride and ammonium phosphate have still been levied. As some products among them are not listed in Annex 6 to China's Protocol of the Accession as products subject to export duty, this might not be consistent with China's commitment upon accession to the WTO.

- (b) Please explain China's plans for eliminating the export taxes on these items. Please also describe how China justifies its use of export taxes on these items under its commitment upon accession.

Export Restrictions and Export Taxes on Coal

- (a) Japan understands that China has been implementing an export licensing on coal exports. While a sufficient number of export licenses used to be issued in terms of China's export amount of coal, the number of issuance has been decreasing in the last few years. Therefore Japan is concerned that this trend might hamper the trade flow of coal. Since China's domestic production and consumption of coal seem to be expanding, it is unclear that the export licensing measures on coal has been adopted in conjunction with restrictions on domestic production and/or consumption as stipulated in GATT Article XX (g). Thus Japan considers that such measures are not consistent with GATT Article XI. Please explain how China justifies the export licensing on coal under the GATT.
- (b) In addition, Japan understands that China has raised export taxes on coking coal and since August of this year it has newly levied taxes on steam coal and anthracite, while China is committed to eliminate export taxes for items except for those which are listed on Annex 6 in China's Protocol to the Accession. Please explain how China justifies its export taxes under its commitment upon accession.
- (c) Please describe any plans to review the export licensing measures and imposition of export taxes on coal.

Export Restrictions and Export Taxes on Coke

- (a) China implements an export licensing on cokes. Japan is concerned about the negative effects of the recent decreases in the number of export licenses issued on the trading of cokes.
- (b) Japan considers that this measure cannot be justified under GATT Article XX (g) regarding the conservation of exhaustible natural resources, and thus it is not consistent with GATT Article XI because this measure is targeting only export and has no effect on domestic production or consumption. Although China offered some information about restriction of domestic production and consumption of cokes, it is still unclear whether those measures have effectively reduced the production and consumption of coal, which is an ingredient of cokes. Japan would like China to provide some information about whether or not there is an upper limit on domestic product in China corresponding to export restrictions
- (c) We note that the WTO regime including panel's decision would require an even-handed position between the export restriction and the domestic product restriction. Please clarify the difference between the export restriction and the domestic product restriction.
- (d) China levies export taxes on cokes which have been raised several times since November 2006, while China committed to eliminate export taxes for items except for those which are listed in Annex 6 to China's Protocol of the Accession or imposed pursuant to

GATT Article VIII. Please explain how China justifies its export taxes under its commitment upon accession and the reason why it increases its export taxes in consistency with the GATT Article VIII.

- (e) Please describe any plans to review the export licensing measures and imposition of export taxes.
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