

WORLD TRADE ORGANIZATION

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Committee on Agriculture

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CHINA'S TRANSITIONAL REVIEW MECHANISM

Questions to China from Canada in the context of the Transitional Review Mechanism under Paragraph 18 of the Protocol of Accession of the People's Republic of China

The following communication, dated 5 September 2002, has been received from the Permanent Mission of Canada, with the request that it be circulated to Members, for the purposes of the Transitional Review to take place at the Committee's meeting on 26 September 2002.

Canada welcomes the opportunity to review China's implementation of its accession commitments under the Transitional Review Mechanism (TRM). We believe that China's participation in the TRM will be an important demonstration of its commitment to the principle of transparency in trade policy, a principle that is central to the World Trade Organization.

We appreciate the great efforts that China has undertaken to reform its agricultural trade policies since its accession to the WTO. We recognize that trade is taking place in many agricultural products. We understand the central importance of agriculture to the Chinese economy. However, we have a number of concerns about China's agricultural trade policies that we have raised before, both bilaterally and multilaterally, that have not yet been satisfactorily resolved.

We note that Article IV.1 of Annex 1A of China's Protocol of Accession calls for information on TRQ administration for all products to be submitted to the Committee on Market Access. We would also request that identical information be submitted to the Committee on Agriculture since agricultural products are covered by China's TRQs.

We have specific concerns about China's new TRQ system for agricultural imports and we question whether several provisions of China's implementing regulations, and some aspects of the administration of these TRQs, are consistent with the provisions of China's Protocol of Accession. Following significant delays in the initial allocation of TRQs earlier this year, we are concerned that the reallocation requirements were not publically available until 23 August, three weeks after the agreed date of 1 August. We have a concern about the consistency of China's applied tariffs with its scheduled bound tariffs, and about China's VAT policies. Questions on these topics are posed below.

In addition, China's import regulations on genetically modified organisms have been implemented in a way that is disruptive to trade and have introduced considerable uncertainty into trade in genetically modified products. We have raised this issue in the Committees on Sanitary and Phytosanitary Measures and on Technical Barriers to Trade.

Tariff-Rate Quota (TRQ) Administration

1. Regarding the role of regional offices of the SDPC in gathering applications (described in Article 11 of SDPC's TRQ regulations), must a company apply for quota in the region where its head office is located, or are companies free to apply to any office of the SDPC anywhere in China, including directly through the SDPC in Beijing?
2. Article 14 of SDPC's TRQ regulations states that certain criteria will be considered in awarding TRQ allocations to applicants, but it does not specify the mechanism for weighing these different criteria. What is the precise formula by which TRQ allocations were granted in April 2002, by product?
3. China's implementing regulations for the TRQ system divide the quota into two categories, one being for domestic consumption and the other being for processing for re-export. Article 21 of the SDPC's regulations on TRQs state that products imported for processing and re-export are not allowed to be sold on the domestic Chinese market, and that if they are, Chinese customs is to levy the out-of-quota tariff on those products. This is clearly inconsistent with China's commitment to allow a certain, scheduled quantity of access to the Chinese market at the in-quota tariff. The policy reduces the ability of importers to react to changing market conditions and may therefore inhibit TRQ fill. The ability of the Chinese government to change the relative sizes of the two import categories is worrying since it undermines the fundamental principle of predictability which is the objective of a WTO-consistent TRQ system.

China's response to Canada's March 25 question on this subject in the WTO Agriculture Committee was unsatisfactory. There is no subdivision of quota specified in China's TRQ Schedule. If China wishes to encourage imports for processing and re-export, nothing prevents it from importing these goods at the in-quota rate (for example, through the use of supplementary import permits). However, such quantities of imports should be in addition to the quantities of access to the Chinese market specified in the schedule. China should not seek to encourage exporting industries through the management of its in-quota import quantities, the purpose of which is to provide a minimum, predictable level of market access.

When will China remove the TRQ subdivision provisions from its regulations?

4. The headnote to China's tariff-rate quota schedule states that, "Inquiries on the entities which received the allocation can be made to the State Development Planning Commission which shall provide the information within 10 days." Canada requested this information in writing on April 22. We have not yet received a response. There is a similar headnote statement by which China should provide information on fourth-quarter TRQ reallocations.

This was a very important commitment by China because it was a demonstration of transparency. This information is publicly available from other countries, including Canada. By allowing traders to identify potential business partners, publication of this information can facilitate TRQ use.

In response to the question posed by Canada at the June 28 Agriculture Committee, China explained that publication of the names of quota holders would violate commercial confidentiality. We note that paragraph 333 of the Working Party Report states that, "The representative of China confirmed that none of the information required by the WTO Agreement or the Draft Protocol to be disclosed would be withheld as confidential information ... unless it would demonstrably prejudice the legitimate commercial interests of particular enterprises, public or private." We call upon China to demonstrate how the commercial interests of enterprises would be compromised by the release of this information. We fail to see the justification for this.

When will China provide us with the names and addresses of those companies that have received quota allocations for wheat and canola oil?

5. The headnote to China's agricultural TRQ schedules state that, "Applications for reallocation of the tariff-quota will be accepted by the SDPC from 1 September to 15 September and new allocations shall be assigned by 1 October. Specific conditions for applying for reallocation of tariff quotas will be published in the official journal one month in advance of the application period. ..."

Could China confirm that unused and uncontracted TRQ will be reallocated by 1 October?

Tariffs

6. China's 2002 Customs Tariff includes specific tariffs for poultry products under HS 0207.12.00, 0207.14.11, 0207.14.19, 0207.14.21, 0207.14.29, and beer under HS 2203.00.00. We would note that upon accession to the WTO, China agreed to convert these specific tariffs into *ad valorem* tariffs. *Ad valorem*-equivalent tariffs based upon Chinese imports of these products from January to June 2002 reported by China's General Administration of Customs are higher than the scheduled tariffs.

Total Imports into China, January-June 2002, agricultural goods subject to specific tariffs

HS	Description	Quantity – tonnes or litres	Value – RMB million	Average RMB/kg	2002 MFN applied tariff, RMB/kg	Ad valorem equivalent of specific tariff	2002 scheduled ad val tariff
02071411	Cuts and offal, frozen chicken with bone in	55,045	376.69	6.84	1.2	17.5%	14%
02071419	Other cuts and offal, frozen chicken with bone in	62	0.80	12.91	2.7	20.9%	14%
02071421	Offal: wings (other than wingtips)	35,385	334.35	9.45	2.3	24.3%	14%
02071429	Other offals: wings (other than wingtips)	155,520	863.15	5.55	1.0	18.0%	14%
220300	Beer made from malt	22,803,535	232.04	10.18	3.5	34.4%	28%

Source of Data: China Customs

Could China explain why the changes have not been incorporated in its 2002 Customs Tariff, and when this will be done?

Value-Added Tax (VAT)

7. The Government of Canada has seen reports that China gives special tax treatment to domestically produced wheat and corn, i.e. maximum 3% VAT, while imports of both commodities are subject to 13% VAT. We would note that paragraph 11.2 of the Protocol of Accession states, "China shall ensure that internal taxes and charges, including value-added taxes, applied or administered by national or sub-national authorities shall be in conformity with the GATT 1994." Could China explain how its VAT regulations are consistent with the principle of National Treatment on internal taxation outlined in GATT Article III.2?