

CHINA'S TRANSITIONAL REVIEW MECHANISM

Questions to China from Japan 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 23 September 2002, has been received from the Permanent Mission of Japan, 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.

Question 1

1. China maintains importing state trade enterprises on the administration of the TRQ for some basic agricultural products, such as wheat, maize and rice, among others. However, factors surrounding these products considered, the fill rates of these TRQs may be insufficient to fill the quota quantity, as agreed in the Schedule, at the end of this year. Considering the special role given to the ISTE, does China not think that the ISTE should respect specific disciplines including GATT Article 17 in filling the quota quantity? Could China clarify how the ISTE system is currently managed to fully respect the GATT provisions, in particular Article 17(b) and (c) and thereby to maximize the fill rate in order to ensure complete tariff-quota utilization and to establish a tariff-quota system that is open, transparent, fair, responsive to market conditions, timely, minimally burdensome to trade and reflect end user preferences?

GATT Article 17(b)

2. The provision of subparagraph(a) of this paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Agreement, make such purchases or sales solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other contracting parties adequate opportunity, in accordance with customary business practice, to compete for participation in such purchase or sales.

GATT Article 17(c)

3. No contracting party shall prevent any enterprise (whether or not an enterprise described in sub-paragraph (a) of the paragraph) under its jurisdiction from acting in accordance with the principles of sub-paragraphs (a) and (b) of this paragraph.

Question 2

4. In the head-note of Part I, Section 1-B in the Schedule, it is indicated that if a quota-holder has not contracted for the total quantity by 15 September, it shall return the unused portion of the

tariff quota quantity to the SDPC (State Development and Planning Commission). Could China clarify the present situation of the return (by products, quantity and percentage of the unused portion)?

Question 3

5. In the Schedule, it is written that in the first year, allocations shall be based on either (1) first-come, first-serve system, or (2) the requests of the applicants and their historical import performance, production capacity, or other relevant commercial criteria for ISTE as well as for entities other than ISTE. Which method is respectively applied to rice, wheat, maize and soybean oil in this year's allocation? If the two systems are combined, what is the share of allocation? And also, please specify the quantity so far actually allocated and contracted under each of the two systems for all the products indicated above. Please provide information in terms of ISTE and non-ISTE respectively.
