

**TRANSITIONAL REVIEW UNDER ARTICLE 18 OF THE
PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA**

Information Required in Annex 1A

The following communication, dated 18 November 2002, has been received from the Permanent Mission of the People's Republic of China.

Pursuant to Annex IA of Paragraph 18 of the Accession Protocol of the People's Republic of China, attached is the information provided by the government of China for the transitional review of the Council for Trade in Goods which is scheduled to be held on 22 November 2002.

II. ECONOMIC POLICIES

1. Non-discrimination

(a) *the repeal and cessation of all WTO inconsistent laws, regulations and other measures on national treatment*

To meet the needs of the WTO accession, the Chinese Government launched a massive program regarding the enactment, amendment and repeal of laws, regulations, and administrative rules, policies and measures which are relevant to or affecting trade in goods, trade in services and trade-related intellectual property rights. Since 1999, at the central government level, the National People's Congress and its Standing Committee has enacted or revised 14 laws; the State Council has enacted or revised 37 regulations and repealed 12; various ministries and other government agencies under the State Council have enacted, revised or repealed over 1,000 administrative rules, policies or measures. In September 2001, the State Council specially issued a circular requesting the local government to review local regulations, administrative rules, policies and measures in line with the principles of uniform application, non-discrimination and transparency.

Laws, regulations and administrative measures that contain provisions not conforming to the principle of national treatment have been modified or repealed during this course. For example, in the modification of the Law of the People's Republic of China on Sino-Foreign Equity Joint Venture, Law of the People's Republic of China on Sino-Foreign Contractual Joint Venture, Law of the People's Republic of China on Foreign Capital Enterprise and their implementation regulations, requirements of local content, foreign exchange balancing and export performance etc have been eliminated. Foreign-invested enterprises now have the same treatment as the domestic enterprises in the purchase of inputs and goods and services necessary for production. Information on modification or repeal of some specific regulations and administrative measures will be provided in detail in section (b).

(b) *the repeal or modification to provide full GATT national treatment in respect of laws, regulations and other measures applying to the internal sale, offering for sale, purchase,*

transportation, distribution or use of: after sales service, pharmaceutical products, cigarettes, spirits, chemicals and boiler and pressure vessels (for pharmaceutical products, chemicals and spirits there is a reservation of the right to use a transitional period of one year from the date of accession in order to amend or repeal relevant legislation)

Regarding the after sales service, on 11 March 2002, the Ministry of Foreign Trade and Economic Cooperation annulled its Decree No. 3 of 1993 in its Public Notice No. 12 of 2002, and thereby fulfilled the commitment in this regard. The annulled Decree was on after sales service and was considered to be inconsistent with the principle of national treatment by a number of WTO members during China's WTO accession negotiations.

Regarding pharmaceutical products, the former Provisional Measures on Administration of Prices of Pharmaceutical Products has been replaced by Measures on Administration of Government Pricing for Pharmaceutical Products, with which the principle of national treatment is observed in procedures and formulas for pricing and classification of pharmaceutical products.

Regarding cigarettes, administrative measures taken by the State Tobacco Monopoly Administration have already led to a substantial increase of the number of retail outlets for imported cigarettes in China. The commitment of unification of the licensing requirements for both the domestic and imported cigarettes will be fulfilled by way of amending the Decree No. 2 of the State Tobacco Monopoly Administration, which is now under way. In the renewal of licenses in year 2003, a unified license will be issued for retail sale of both domestic and imported cigarettes, and the former special license for retail sale of imported cigarettes as well as the requirement that only those outlets with the special license are permitted to sell imported cigarettes will be abolished. Therefore, China will be able to fulfill the commitment of applying national treatment in this regard after the two-year transitional period.

Regarding spirits, legislative procedures are now under way with which the Administrative Measures on Imported Spirits in the Domestic Market, which a number of WTO members believed to be inconsistent with the principle of national treatment during China's WTO accession negotiations, will be amended to realize national treatment with respect to the criteria and licensing for the distribution and sale of different categories of spirits.

Regarding the chemicals, specifically the registration procedures applicable to imported chemical products, the State Environmental Protection Administration is now amending the Provisions on the Environmental Administration of Initial Imports of Chemical Products and Imports and Exports of Toxic Chemical Products together with the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs, and the amended rules will be in conformity to the principle of national treatment. Draft of the amended rules has been publicized by the State Environmental Protection Administration for public comments.

Regarding boilers and pressure vessels, the newly formulated Regulations for the Management and Supervision of Manufacturing of Boilers and Pressure Vessels will enter into force on 1 January 2003. Draft of the Regulations was notified to the TBT Committee of the WTO in May this year (G/TBT/N/CHN/1). Provisions in the new Regulations are in conformity to the national treatment.

IV. POLICIES AFFECTING TRADE IN GOODS

5. Export Restrictions

- (a) *any restrictions on exports through non-automatic licensing or other means justified by specific product under the WTO Agreement or the Protocol.*

China maintains export administration of a small number of products for the purposes of protecting public interest, avoiding shortage in domestic supply, conserving the exhaustible natural resources, or undertaking obligations under international treaties or intergovernmental agreements, which are in conformity to Article XX of GATT1994. From 1 January 2002, China gave up export administration of Chinese chestnut, reed mat, red bean, honey, colophony, tung wood and the board (to Japan), vitamin C and etc. There are now still 54 products subject to export administration, including live bovine and beef (to Hong Kong, China and Macao, China), live swine and swine meat (to Hong Kong, China and Macao, China), fowls and meat (to Hong Kong, China and Macao, China), garlic, tea, wheat, corn, rice, liquorices roots and their products, rushes and their products, sugar, bauxite, light (dead)-burned magnesia, talc, fluospar, rare earth, tungsten ores and products, antimony ores and products, tin, zinc, coal, coke, crude oil, processed oil, paraffin wax, artificial corundum, heavy water, ozonosphere depleting materials, chemicals under supervision and control, chemicals used to produce narcotics, sawn wood, silk, greige, cotton, woven fabrics, silver, platinum, certain steel products (to the U.S.), and etc. These export administrative measures have been notified to the WTO.

9. State Trading Entities

- (a) *progressive abolishment of state trading in respect of silk measures, increasing and extending trading rights, granting the right to trade to all individuals no later than 1 January 2005*

In accordance with the commitment made at China's accession to the WTO, trading right for silk has been progressively liberalized since the beginning of 2002. The number of enterprises engaged in export trade of silk has increased from 43 of 2001 to 99 up till now. China will abolish the restriction on trading right for silk at the latest on 1 January 2005 as committed.

- (b) *access to supplies of raw materials in the textiles sector at conditions no less favorable than for the domestic users, and not adversely affected access to supplies of raw materials as enjoyed under existing arrangements*

Access to supplies of raw materials in the textiles sector for foreign users since accession remains at the same conditions as for domestic users, and China's WTO accession has not altered the situation before the accession in an adverse way.

- (c) *progressive increases in access by non state trading entities to trade in fertilizer and oil and the filling of quantities available for import by non state trading entities*

Under the current circumstances that China has not yet relaxed the trading right as well as the domestic distribution right of fertilizers and oil products, in order to fulfill the commitment and to progressively expand the non-state trading enterprises in this respect, China carries out a registration system for non-state trading enterprises to be engaged in the trade of fertilizers and oil products. The registration procedure is automatic and transparent, and the lists of registered enterprises are published.

The State Economic and Trade Commission has fully allocated the non-state trading import quota for fertilizers and oil products for the year 2002. However, it is hard to tell the real import performance of non-state trading entities because relevant statistics will not be available until early 2003, and also state-trading enterprises can also deal with non- state trading import quota.

10. Government Procurement

(a) *laws, regulations and procedures*

The Standing Committee of the 9th National People's Congress adopted the Law of the People's Republic of China on Government Procurement on 29 June 2002 at its 28th Session, and the Law will enter into force on 1 January 2003.

(b) *procurement in a transparent manner and application of the MFN principle*

The Law of the People's Republic of China on Government Procurement embraces the principles of being open, equal, fair, and effective, and therefore guarantees that all the procurements of government entities as defined in the Law (military procurement excluded) are conducted in a transparent way and in consistency with the MFN principle.
