

**CHINA'S TRANSITIONAL REVIEW MECHANISM**

Communication from Japan

The following communication, dated 23 August 2002, has been received from the Permanent Mission of Japan.

Japan welcomes China's efforts to implement its commitments under the Protocol on the Accession into the WTO. We have the view that Transitional Review Mechanism (TRM) would contribute to improved adherence by China to rules, disciplines and its commitments, if it would be operated in a meaningful and productive manner.

While China has committed to provide relevant information to each subsidiary body in advance of the review under the Protocol on the Accession into the WTO, such information has not yet been received.

We, therefore, submit our comments well in advance of the Committee on Market Access of 23 September 2002, in order for the Chinese authority to reply and to submit necessary information. Japan looks forward to working with China and other Members, so as to ensure the transparency committed under the Protocol, and appreciates, if China responds to our comments in written form ten days before the meeting.

1. Tariffs

(i) Certain photographic and cinematographic goods

While China committed the concession tariff rates on 35 items of photographic products in HS Chapter 37, on an *ad valorem* (levied on yuan/yuan) basis, those items are currently levied by specific import duties (levied on yuan/square metre basis) in a manner of far more excessive tariff rates than bindings.<sup>1</sup>

Japan has the view that those excessive duties should be lowered at the level of the bound rates. Could China provide a concrete time schedule for the revision from specific duties to *ad valorem* duties, in line with China's Schedule of Concessions and Commitments on Goods?

---

<sup>1</sup> The Report of the Appellate Body for the case of Argentine minimum specific import duties concludes that it is inconsistent with Article II:1(b) of the GATT 1994(1) if the application of a type of duty different from the type provided in the bound tariff schedule results in the levying of excessive duties, in any transaction, compared to the concession tariff rates. (WT/DS56/AB/R).

(ii) Beer

While China committed the tariff rate on beer in HS chapter 22, on ad valorem basis, it is currently levied specific import duties. Japan has the view that China should observe the bound rate in line with China's Schedule of Concessions and Commitments on Goods.

(iii) CKD/SKD tariff lines of motor vehicles

Does China have intention to create new tariff lines for CKD or SKD for motor vehicles? If so, please provide us relevant information, such as, how define CKD and SKD as new tariff line, and/or what tariff rate (in percent) will be applied to these tariff lines respectively?

- Related China's Commitment: Paragraph 93 of the Working Party report<sup>2</sup>

2. Quantitative restrictions on imports

(i) Import quotas on motor vehicles

(a) Notification of information on procedures of import quota on motor vehicles

- In accordance with Article 1, paragraph 4(a) of the Agreement on Import Licensing Procedure, procedures for submitting applications shall be published in the sources notified to the Committee in all circumstances insofar as possible by whenever practicable, 21 days prior to the effective date of the requirement. Please inform us of where the publication is available.
- In addition, under Article 5, paragraph 1 of the Agreement, Members which institute import licensing procedures or changes in licensing procedures shall notify the Committee of such within 60 days of publication. Please confirm that China has not yet instituted imported licensing procedures or changes, since China has not yet notified in this regard.

(b) Publication and provision of information on the implementation of import quotas on automobiles

In accordance with relevant provisions under the Agreement on Import Licensing Procedure, please provide the necessary information as follows.

(i) With respect to Article 1, paragraph 4 (a) of the License Agreement (information to be published)

- The eligibility of the applicant, and in particular, relationship to *trading rights*
- Paragraph 128 of the report of the Working Party

Is there any entity without trading rights that has been qualified as applicants? If so, what conditions apply to such entities? What kind of entity has been qualified as applicants so far?

(ii) With respect to Article 3, paragraph 5 (a) of the License Agreement (information to be provided upon the request of any Member),

---

<sup>2</sup> " China had no tariff lines for completely knocked-down kits (CKD) for motor vehicles or semi-knocked down kits (SKD) for motor vehicles? If China created such tariff lines, the tariff rates would be no more than 10 per cent."

- Information (both on the basis of application and actual allocation) on the value of import quotas for complete vehicles, CKD, and parts, broken down, respectively, by country of origin, engine displacement, and company.
- According to paragraph 4 of "Implementation Rules on the Quota Administration on Imports of Machinery and Electrical Products", the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) is responsible to examine and supervise the status of allocation of import license. Please provide relevant information on current status of import quota allocation distributed by following entities; all provinces, autonomous regions, municipalities directly under the central government and those with independent budgetary status, coastal open cities, and by external economic trading management departments of special economic zones and State Council-related machinery/electrical products import/export administrative offices.
- According to paragraph 129 of the report of the Working Party, August is the application period, and no later than 60 days after closure of the application quota allocation will be made. Please confirm this schedule for year 2003 that quotas will be allocated by October 30.

(c) Reallocation of unused quotas

We are requesting that unused quotas for this year be returned and reallocated as specified in the Report of the Working Party<sup>3</sup>. Please explain when and how China does it, [and if not, please explain why]. In this connection, the report of the Working Party provides that the deadline for return of unused quota is September 1, but China started the actual allocation of quota for current year in April. Does China intend to postpone the deadline for return of unused quota? And until when?

(d) Concern over priority consideration to new entrants in quota allocation

China should give priority consideration to new entrants in allocating quotas, as committed<sup>4</sup>. Please explain how China implements this obligation and specify what amount of quota has been allocated to new entrants.

(e) Rules concerning quota system for motor vehicles

We have the view that "Implementation Rules on the Quota Administration on Imports of Machinery and Electrical Products" should specify the following points so as to embody this scheme provided for in the Report of the Working Party<sup>5</sup>:

- (i) Priority consideration to be given to new entrants, enterprises with foreign ownership equal to or less than 50 percent, and enterprises with foreign ownership greater than 50 percent in allocating quota.
- (ii) An import license to be issued in most cases within 3 working days, and in exceptional cases, within the maximum of 10 working days, after a request for the license.
- (iii) An import license to be extended once, upon request, for up to 3 months, if the request is made before 15 December of the current quota year.
- (iv) The procedures for requests for extension mentioned in 3) above.

---

<sup>3</sup> Paragraphs 130 and 131

<sup>4</sup> Paragraphs 128 and 130 of report of Working Party

<sup>5</sup> Paragraphs 127, 129, and 130 of report of Working Party

- (v) Methodology of quota reduction for holders failing to return unused quota, and the date of reduction.

Japan appreciates the China's response on this issue.

- (f) Extension of period for quota allocation

Paragraph 129 of the report of Working Party provides that import licenses would be extended once, upon request, up to 3 months, if the request is made before December 15. We would appreciate, if China ensure that for this year, the effective period for all quotas and related import licenses be extended by three months, since the allocation of quota delayed for three months.

- (3) Import prohibition policy of used goods

As far as current information indicates, China prohibits imports of certain used goods listed in a list of goods subject to import prohibition of used industrial electric products. GATT Article XI:1 generally bans import restrictions, and China's Protocol of Accession does not permit such import prohibition. Please confirm the above-mentioned information, and explain consistency of import prohibitions for used goods with the WTO Agreement.

---