

**TRANSITIONAL REVIEW MECHANISM PURSUANT TO SECTION 18  
OF THE PROTOCOL ON THE ACCESSION OF  
THE PEOPLE'S REPUBLIC OF CHINA**

Submission by the United States

1. The United States welcomes China's implementation of Agreement on Technical Barriers to Trade (TBT), including the timely submission of its Article 15.2 Statement on Implementation (G/TBT/2/Add.65), its establishment of an enquiry point and publication of its working procedures, designation of a notification authority, and participation in meetings of the TBT Committee. We appreciate this opportunity to gain a better understanding of how China is implementing its TBT obligations and seek information on the following questions/concerns:

**II. NOTIFICATIONS AND PUBLICATIONS**

2. In its Article 15.2 Statement, China indicates that technical regulations and other notices will be published in either the MOFTEC Gazette or the AQSIQ Bulletin. We have had difficulty substantiating this as China's practice, however, and note that none of the notifications China has made to date of proposed regulations specifically reference publication of the notices in either the MOFTEC Gazette or AQSIQ Bulletin (for example, Box 8: relevant documents). Instead, references often cite "public notice ... reference to be decided." Noting that the TBT Agreement requires Members to "...publish a notice in a publication..." (Article 2.9), please clarify how China is, or plans to, comply with this obligation.

3. Several notifications by China indicated dates of adoption or entry into force that would appear not to provide a meaningful opportunity for comment by interested parties in other Members as there would be insufficient time for Chinese authorities to give due consideration to the comments received before adopting the proposal as final. We have raised this concern most recently with G/TBT/N/CHN/5 (circulated on 25 July 2002) concerning the national standard to "Limit quantity of arsenic, cadmium, lead, chromium, mercury content for fertilizers." The United States has substantive concerns with this proposal, including questions concerning the scientific basis and rationale for it. The right to comment provided by the TBT obligations is an important opportunity to prevent the creation of unnecessary obstacles to international trade. WTO members would appear to have been denied this opportunity given the notification indicates 20 September 2002 as the final date for comments, and 30 September 2002 as the date of adoption of the final regulation. It would be helpful for China to clarify what procedures it has in place, or intends to put in place, to ensure regulators afford a meaningful opportunity to consider comments received.

4. We are aware of 90 draft food hygiene standards that are available on the Ministry of Health's website ([www.moh.gov.cn](http://www.moh.gov.cn)) for comment by 25 October 2002. These standards were not notified to the WTO. Can China confirm that this is because compliance with the standards, once adopted, will be voluntary? If the standards will be mandatory (obligatory), when does China plan to notify them to the WTO?

### III. INTERNATIONAL STANDARDS

5. In 2002, China promulgated “*Measures for the Administration of Adoption of International Standards.*” This measure would appear to limit China’s use of international standards to those promulgated by the ISO, IEC and ITU. The TBT Agreement does not limit Members to using standards from particular bodies, nor does it contain a list of bodies deemed appropriate for purposes of implementing its provisions. Instead, the TBT Committee decided upon principles which should guide Members’ participation in the work of international bodies as well as the use of their standards, recommendations and guidelines (G/TBT/1/Rev.8 (IX)). Responsibility for implementing the TBT Committee Decision rests with WTO members (and not the international bodies themselves). We are concerned that this measure will limit China’s ability to comply with its WTO obligations and will deny it the possibility of choosing the best standard that is available, effective and appropriate for achieving its legitimate objective. We have identified examples of this in providing comments in response to specific notifications. Does China have plans to address this problem? If no action is being taken, could China please explain why it would limit its options to only 3 standardizing bodies when other bodies develop international standards that could be relevant, effective and appropriate for use as a basis for Chinese technical regulations and conformity assessment procedures?

### IV. CERTIFICATION

6. The United States appreciates the efforts undertaken by China to establish a single administrator (the China National Certification and Accreditation Administration, CNCA) and single “China Compulsory Certification (CCC)” mark, as communicated its 3 December 2001 publication, “*Managing Regulations for Compulsory Product Certification (AQSIQ Ordinance No.5),*” and its “*First Catalogue of (132) Products Subject to Compulsory Certification.*” Detailed comments and questions have been provided to China. We would appreciate any further information on implementation of the CCC mark. For example, it would be helpful to have information on the criteria China will use to determine whether additional products will be subject to certification or eligible to be withdrawn from the list. In addition, it is our understanding that information on the authorized testing and certification organizations is available on the AQSIQ website in Chinese and that there plans to also provide certain information in English. Will information on the procedures for recognition of conformity assessment bodies and the ones that have been recognized be made available in English on the AQSIQ website? What steps has China taken (or plan to take) to eliminate duplicative conformity assessment requirements (e.g., between the CCC mark and the Ministry of Information Industry, or between the CCC mark and the Ministry of Health/State Drug Administration)?

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