

COMMUNICATION FROM JAPAN

The following communication, dated 12 September 2002, has been received from the Permanent Mission of Japan.

**TRANSITIONAL REVIEW MECHANISM PURSUANT TO PARAGRAPH 18 OF THE
PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA ("CHINA")**

1. 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.
2. 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.
3. We, therefore, submit our comments well in advance of the Committee on Trade-Related Investment Measures of 14 October 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.
4. With respect to trade-related investment measures (TRIMs) in China, we would like to submit the following comments. We, however, reserve the right to raise further difficulties which should be discussed under review mechanism.

1. Status of the repeal of the 1994 Policies on the Automotive Industry

- We understand that no new set of policies has been enacted to replace the "1994 Policy for the Automotive Industry", and this 1994 Auto Policy is still in effect. Is this understanding correct?
- If so, the measures mentioned below would be inconsistent with China's commitment¹. Paragraph 204 of the Working Party report states, "this Policy would be amended to ensure compatibility with

¹ See Paragraph 203 and 204 of the Working Party Report :

203. The representative of China confirmed that upon accession, as set forth in the Draft Protocol, China would comply fully with the TRIMs Agreement, without recourse to Article 5 thereof, and would eliminate foreign-exchange balancing and trade balancing requirements, local content requirements and export performance requirements. Chinese authorities would

the WTO rules and principle". Please explain the relevance of the 1994 Auto Policy in light of the TRIMs Agreement and paragraph 203 and 204 of the report of the Working Party. Particularly, please explain the consistency of various conditions for establishing Sino-foreign automobile joint ventures in the area of production of autos which are stipulated in Article 31 of the 1994 Auto Policy with obligations under the TRIMs Agreement and Paragraph 203 and 204 of the report of the Working Party.

1994 Policy on the Automotive Industry

- Article 31: Conditions for the establishment of a Sino-foreign automobile joint venture
 - (1) The venture shall establish a center for the research and development of technologies within China
 - (2) (omit)
 - (3) The venture shall mainly export its products abroad, and thus maintain its own foreign exchange balance.
 - (4) In procurement of parts, the venture shall give priority to those produced locally.
 - Article 44: Application of favorable rates of import tariffs depending on a local content.
- Related WTO Agreements and commitments
- TRIMs Agreement Article 2 (Annex 1(a)), GATT Article III:4.
 - Paragraphs 203 and 204 of the report of the Working Party.

2. Tariff rates for finished automobiles being applied to automobile imported parts

5. According to our information sources, if imported major car parts (e.g. engines, bodies, transmissions, chassis, transaxle, steering wheels, etc.) are used in excess of a certain threshold to produce automobiles, the import tariff rates for finished automobiles (43.8%) will be applied to imported parts to that extent. The tariff rates for finished cars will be applied to imported parts, if the percentage of the price of the imported parts (CIF price) in the price of the finished automobile (wholesale price) exceeds a certain threshold to that extent.

- We understand that these measures encourage purchases of locally produced parts and they would be inconsistent with the TRIMs Agreement.

not enforce the terms of contracts containing such requirements. The allocation, permission or rights for importation and investment would not be conditional upon performance requirements set by national or sub-national authorities, or subject to secondary conditions covering, for example, the conduct of research, the provision of offsets or other forms of industrial compensation including specified types or volumes of business opportunities, the use of local inputs or the transfer of technology. Permission to invest, import licences, quotas and tariff rate quotas would be granted without regard to the existence of competing Chinese domestic suppliers.

Consistent with its obligations under the WTO Agreement and the Draft Protocol, the freedom of contract of enterprises would be respected by China. The Working Party took note of this commitment.

204. In the context of discussions on the government's Industrial Policy for the Automotive Sector, the representative of China confirmed that this policy would be amended to ensure compatibility with WTO rules and principles. The Working Party took note of this commitment.

- Please explain the relevance and background of these measures under the WTO Agreement.
- Related WTO Agreements and commitments
- TRIMs Agreement Article 2 (Annex 1(a)), GATT Article III:4.
- Paragraph 203 of the report of the Working Party.

3. Status of the repeal of restrictions for the licensing of auto production

6. According to paragraph 205 of the report of the Working Party, all measures applicable to motor vehicle producers restricting the categories, types or models of vehicle permitted for production, would gradually be lifted, and be completely removed two years after accession.

- Please clarify the schedule for repealing these measures.
- Related WTO Agreement and commitments
- Paragraph 205 of the report of the Working Party.

4. Status of independent approval by provincial governments for investments in motor vehicle manufacturing

7. According to paragraph 206 of the report of the Working Party, investments up to US\$60 million in motor vehicle manufacturing could be approved at provincial government level only, one year after accession.

- Please indicate the government's laws and regulations authorizing provincial governments to give such approval. If those laws and regulations are not yet in place, please show us the schedule to be introduced. And please confirm if approval is not needed at the central government level other than a provincial level.
 - Related WTO Agreements and commitments
 - Paragraph 206 of the report of the Working Party.
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