

**COMMUNICATION FROM THE EUROPEAN COMMUNITY
AND ITS MEMBER STATES**

The following communication, dated 4 September 2002, has been received from the Permanent Delegation of the European Commission.

TRANSITIONAL REVIEW MECHANISM (TRM) – CHINA

1. We are transmitting comments and questions in advance of the Balance-of-Payments Committee of 2 October in order to give time for the Chinese authorities to provide the relevant information including information specified in Annex 1A of the Accession Protocol.

2. China has begun to pursue market opening measures in line with the obligations of WTO membership. Our comments and questions on this process are best discussed under the following headings: transparency and transposition into domestic legislation. They refer to (A) Foreign exchange and payments, and (B) Balance-of-Payments-Restrictions – GATT and GATS provisions.

A. FOREIGN EXCHANGE AND PAYMENTS

3. Under this heading we would like to refer to the issue of Foreign Exchange and Payments in the terms in which it is to be notified to the BOPs Committee.

4. As pointed out in Annex 1A (2a) China is requested to provide information regarding "exchange measures as required under Article VIII, Section 5 of the IMF's Articles of Agreement and such other information on China's exchange measures as was deemed necessary in the context of the TRM".

5. Article VIII of the IMF's Articles of Agreement lists the General Obligations of Members. According to Section 5, "the Fund may require members to furnish it with such information as it deems necessary for its activities including, as the minimum necessary for the effective discharge of the Fund's duties", national data on matters such as holdings at home and abroad of gold and foreign exchange, production of gold, exports and imports of gold and of merchandise, international balance of payments, international investment position, national income, price indices, buying and selling rates for foreign currencies, exchange controls. By agreement with Members, the Fund may arrange to obtain further information.

1. Transparency

6. Balance-of-payment data remains costly and difficult to access. The China Statistical Yearbook, the main source of statistical information, contains no data beyond 1999. We have

managed to obtain data from other sources, but we will be grateful if the Chinese authorities could provide annual balance of payment data to the committee as required under Article VIII, Section 5 of the IMF's Articles of Agreement.

7. We welcome recent reforms which permit foreign-invested enterprises to convert foreign currency funds in their "foreign exchange capital accounts" into Renminbi without prior approval from the authorities. It is worth noting that various capital-account transactions e.g. international loans and securities issuance, are restricted. We would be grateful for information on how the Chinese contemplate the evolution of their policy towards capital account convertibility.

2. Transposition

8. EU companies operating in China are calling for a simplification of the complex set of regulations governing investment and foreign exchange transactions. Does the government has any concrete plans to modify these regulations?

B. BALANCE-OF-PAYMENTS - GATT AND GATS PROVISIONS

9. Under this heading we would like to make some general remarks regarding the issue of Balance-of-Payments Restrictions.

10. As one of the major exceptions to the basic GATT principles of tariff bindings and "tariffs only" WTO Members in balance-of-payments (BOP) difficulty have the right to introduce trade restrictions. The respective GATT Articles provide that in these circumstances the general level of imports may be controlled through restrictions on the quantity or value of imports. According to the Understanding on BOP Provisions of GATT 1994, such measures should be: a) of general nature and not sector specific. "Essential imports, i.e. products which meet basic consumption needs or contribute to efforts to improve the BOP situation, "such as capital goods or inputs needed for production", may be excluded from restrictions applied for BOP reasons; they should b) be rather price-based than quantitative as import surcharges or import deposit requirements are considered to have the least disruptive effect on trade.

11. In a similar way, GATS provides for the possibility to adopt trade restrictions in the event of serious balance-of-payments and external financial difficulties. Those restrictions shall inter alia not discriminate among Members and not exceed what is necessary to deal with difficulties.

1. Transparency

12. The EC attaches great importance to the correct application of these WTO provisions on BOP measures. According to the latest official figures concerning China's BOP situation China has had a healthy BOP situation, despite the known problems of capital controls and complex burdensome regulations. For the time being, there are no indications that China does consider invoking any restrictions for BOP reasons. Were this situation to change, and in the event that China might consider introducing import restrictions on BOP grounds, we would expect China to abide by its commitments in this field; i.e. to fully comply with the provisions of the GATT, the BOPs Understanding and the GATS, and, further to such compliance, to give preference to the application of price-based measures on imports of goods. We would also draw attention to the need to announce time schedules for phasing out restrictive import measures, or to provide justification where this is not possible.
