

## STATEMENT BY HEAD OF THE CHINESE DELEGATION ON THE TRANSITIONAL REVIEW OF CHINA BY THE COUNCIL FOR TRADE IN GOODS

The following statement, which was made at the meeting of the Council for Trade in Goods on 22 November 2002, has been received from the Permanent Mission of the People's Republic of China with the request that it be circulated to Members.

I appreciate the opportunity of having the floor to address the Council on the implementation of China's commitments with regard to trade in Goods within the framework of paragraph 18 of China's Protocol of Accession.

A strong delegation, composed of the senior officials from relevant administrative authorities including the State Development Planning Commission(SDPC), the State Economic and Trade Commission(SETC), Ministry of Finance and the Ministry of Foreign Trade and Economic Cooperation(MOFTEC), has been assembled to address the comments and concerns of other Members in this review. We hope that candid exchange of ideas and effective clarification can be achieved through this annual mechanism. Following the "Information to be provided by China in the context of the Transitional Review Mechanism" as specified in the Annex 1A to the Accession Protocol of China, it's expected that my introduction will help Members better understand the efforts and achievements China has made in this respect after its accession to the WTO.

### **Part one: The fulfilment of transparency obligations**

In light of the requirements by Annex 1A, the information needed for this review has been submitted to CTG in advance of this meeting, which covers:

- the repeal or modification to provide full national treatment in respect of laws, regulations and other measures applying to internal sale, offering for sale purchase, transportation, distribution, or use of: after sale service, pharmaceutical products, cigarettes, spirits, chemicals and boiler and pressure vessels;
- non-automatic licensing requirements for export under WTO agreement and accession commitments;
- increasing and extending trading rights and the conditions on the access to supplies of raw materials in the textiles sector;
- progressive increases in access by non state trading entities to the imports of crude and processed oil;

- the laws, regulations and procedures on government procurement and application of MFN principles.

Pursuant to Article XVII:4(a) of the GATT 1994 and paragraph 1 of the Understanding on the Interpretation of Article XVII of GATT1994, China has submitted its responses to the Questionnaire on State Trading.

Apart from that, the list of products under export licensing requirements was provided to the Committee on Market Access. The texts of regulations and rules related to the import licensing were submitted under articles 1.4(a) and 8.2(b) of the Agreement on Import Licensing Procedures and were circulated in document G/LIC/N/1/CHN/1/Add.1.

According to our accession commitments, the enquiry point was set up by China and the establishment of it was notified to WTO. The trade related laws, regulations and measures can be accessed and retrieved from this point. The enquiry point, operating outside the framework of TRM and at the same time providing a useful supplement to it, will serve the common goal with this mechanism.

## **Part Two: Implementation of WTO Obligations and Commitments**

### **1. Adherence to the principle of non-discrimination**

In line with its commitments, to provide full national treatment to imported products, the Chinese Government has repealed or modified the laws, regulations and other measures applying to internal sale, offering for sale, purchase, transportation, distribution, or use of: after sale service, pharmaceutical products, cigarettes, spirits, chemicals and boiler and pressure vessels.

- 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 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 boilers and pressure vessels, the newly formulated Regulations on 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). Article 18 of the new Regulation specified a 4 year validity for the Certificate of Production, which applies equally to both domestic and imported products. The relevant standards on the charges are in the process of drafting and will be enforced after the endorsement by the State Development Planning Commission and Ministry

of Finance. A uniform charging standard will be ensured for products both domestically made and imported.

For pharmaceutical products, chemicals and spirits, a transitional period of 1 year was reserved as provided by China's accession protocol. During the course of this year, constructive measures have been taken to amend or abolish the related laws and regulations. thanks to these efforts, the conformity with the national treatment requirements has been practically attained well ahead of the committed date.

- 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 spirits, new administrative measures are at the stage of formulation. The new measures on spirits will regulate the products and markets of spirits on the basis of safety and quality requirements, regardless the origin of the spirits.
- Regarding the chemicals. specifically the registration procedures applicable to imported chemical products, the State Administration of Environmental Protection is now amending the Provisions on the Environmental Administration of Initial Imports of Chemical Products and Imports and Exports of Toxic Chemical Products in collaboration with the MOFTEC and the General Administration of Customs, and the amended rules will be in conformity to the principle of national treatment and internationally accepted practices. Draft of the amended rules has been publicized by the State Environmental Protection Administration for public comments, with a view of its enforcement before the end of the transitional period. Moreover, the legislation on new chemical substances is also under way to align our governing procedures with international principles.

## **2. Non-automatic export licensing requirements under WTO agreement and accession commitments**

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 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, fluorspar, 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.

## **3. State trading entities**

In accordance with the commitment made at China's accession to the WTO, the 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 the trading right for silk at the latest on 1 January 2005 as committed.

Under the current circumstances, 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, 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 and updated on a regular basis.

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. The related information can be found in the *Foreign Trade and Economic Cooperation Gazette* or via the website of MOFTEC.

Export price of state trading enterprises is decided by the enterprises themselves. It is usually constructed based on such costs as domestic procurement prices plus circulation costs (including warehousing, transportation, bank interests, inspection fees etc.), with prices of the international markets taken account of as reference. According to the *Law on Pricing of People's Republic of China* and Annex 4 of the accession protocol, only a small number of commodities and services are subject to the government pricing or the government guidance pricing, and the pricing policies are applied regardless of the ownership of the enterprises. Apart from those stipulated few, the prices of the rest commodities and services are determined by the market forces.

To sum up, the policies and measures governing the state trading enterprises are promulgated in a transparent manner and administered in consistency with the WTO Agreement.

#### **4. Government Procurement**

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

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 conformity with the MFN principle.

### **Part Three: Some clarifications on our policy related to trade in goods**

Now I would like to draw Members attention to some areas in our trade policies where some additional explanation might be needed.

#### **1. On the export restrictions on fluorspar**

The export arrangement maintained by China on the fluorspar export is in consistency with the GATT 1994. Dating back to the end of 1970s, the fluorspar exploitation and processing has been put under rigid control. According to the *Law on Mineral Resources of People's Republic of China*, exploitation of the fluorspar is subject a 15% resource tax and compensatory charges for mineral resource.

## **2. On preferential treatment to the imports through border trade**

Products imported to China in the form of border trade enjoy a 50% reduction of import tariff and VAT. The scope of the imports covers the commodities produced and consumed by the habitants living along the border area. With our best understanding, the WTO does not provide for a clear definition for "border area". In the case of China, it can be loosely defined as the area no further than 25 kilometres away from the national boundary. But exceptions do exist. In the western part of China, i.e. some border areas in Xinjiang Autonomous Region, even the nearest collective habitats lie hundreds kilometres away from the boundary. A rational trade policy can not exclude the people in these areas from the legitimate benefits of border trade. China's policy on border trade plays an important role in the development of these areas and promotion of trade and economic exchanges with neighbouring countries. The trade authorities have always been closely monitoring the effects to the normal trade by the border trading. In light of related regulations on border trade, the scope of products under border trade will be adapted in case of the excessive impact it has on normal trade, and part of products will then be removed from tariff and tax reductions. We have taken note of the concern some Members have on the import of boric acid. A comprehensive analysis and review will be conducted on this issue and China is going to make amendments to the related policy if prove to be necessary.

## **3. On the provisional rules on investigation of foreign trade barriers**

These rules are not concerned with the import administration, nor do they affect Members' export to China. The rules are about the investigation made by the government of China when its products suffer unfair treatment in a foreign market so as to take necessary legal remedies in line with the principles of WTO. In that spirit, we think the promulgation of regulations in this nature does not fall within the coverage of the relevant provisions in China's accession protocol, and this is not the right subject to be discussed in this council. Having said that, we welcome the comments from Members on this issue anyway, and would like to suggest a better channel, which is the enquiry point of China, to address their concerns of this kind.

## **4. On the non-discrimination issue with regard to automobile retailing**

This is a question with bearings on a series issues like automobile quota, import and export right, and relaxation of distribution right. At this stage, not all the enterprises are the holders of import and distribution rights of automobile. China will formulate its distribution policies on cars in line with its WTO commitments and, at the same time, with the developmental demand of its auto industry. In this process, the opinions and comments from all circles will be taken on board and national treatment will be strictly adhered to.

## **5. On the allocation of the quota and TRQ.**

In response to a few specific concerns from some Members, I would like to clarify that the circulars concerning the quotas for Machinery & Electrical products, fertilizers and TRQ allocation has been published respectively by the Notice No. (2002) 36 of MOFTEC, Notice No. (2002) 73 of SETC and Notice No. (2002) 4 of SDPC, which can be accessed through their official websites. The redistribution of the unused quotas is based upon the return of them by the original quota holders. For the year 2002, there are no quota returns for automobile, fertilizer and crude oil at this stage. The reallocation of unused quota for processed oil has been completed by September 15, and the reallocation methods was set out in the Notice No. (2002) 51/52 of SETC. The reallocation of unused quota for agricultural products like wheat, soybean oil and rapeseed oil has completed by October 15, under the SDPC Notice. (2002) 3.

**Part Four: Comments on the implementation of WTO obligations by other Members**

With reference to the Article 18 of the Accession Protocol, “China can also raise issues relating to any reservations under Section 17 or to any other specific commitments made by other Members in this protocol, which have a relevant mandate.”

Under paragraph 241 of the Working Party Report of China’s Accession to the WTO which specifies the commitments undertaken by the textile and clothing import restraining Members of the WTO, the United States is obliged to increase the growth rates of quotas in force on the day prior to the date of China’s accession to the WTO by the respective growth factors provided for in the Agreement on Textile and Clothing (ATC), including the 25% growth factor applicable to Stage 2 of the ATC implementation. However the United States has failed to fully implement its obligations by not applying the full 25% growth factor to China. Since the issue remained unresolved after several rounds of bilateral consultations between China and the United States, China requested the Textile Monitoring Body to review this matter. The TMB concluded after its review (see G/TMB/R/90) in July that the United States shall apply the 25% growth factor in full to China and asked the United States to make the necessary adjustments to its methodology accordingly.

So far the United States has not yet made such adjustments. Such a failure on the US side has adversely affected the market access available to China and upset the balance of rights and obligations between China and the United States under the ATC.

The textile and clothing sector has played and will continue to play a significant role in China’s economic and social development in terms of both job creation and poverty alleviation. China hopes that the United States will immediately take actions to remedy the above-mentioned problem and fully implement its commitments under the WTO. China also wishes that the United States, as a key and long-standing member of the multilateral trading system, can set a good example for new WTO Members and other Members as well by fully and faithfully implementing its commitments and obligations under the WTO agreements.

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