

Committee on Safeguards

CHAIRMAN'S REPORT TO THE COUNCIL FOR TRADE IN GOODS ON TRANSITIONAL REVIEW OF CHINA

1. The Committee on Safeguards undertook the first transitional review of China's implementation of the Agreement on Safeguards pursuant to Paragraph 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432) at its meeting on 28 October 2002.
2. Annex 1A to the Protocol requires China to submit information regarding the implementation of its Regulation on Safeguards. The information provided by China in this regard is contained in document G/SG/W/193. The Committee also reviewed the notifications made by China in documents G/SG/N/1/CHN/1; G/SG/N/1/CHN/2; G/SG/N/6/CHN/1; G/SG/N/7/CHN/1; and G/SG/N/11/CHN/1.
3. Members submitted questions in the context of the transitional review relating to China's notification of legislation in G/SG/N/1/CHN/2. The questions posed by Members can be found in documents G/SG/Q1/CHN/1; G/SG/Q1/CHN/2; G/SG/Q1/CHN/3; G/SG/Q1/CHN/4; and G/SG/Q1/CHN/6. Questions were also submitted regarding certain safeguard action taken by China. These can be found in document G/SG/Q2/CHN/1.
4. The statements made at the meeting of 28 October 2002, at which the transitional review was Item C of the agenda, are reflected in the minutes of the meeting, which will be circulated as document G/SG/M/20. The relevant paragraphs which reflect the statements made and the discussion at the meeting are annexed.

ANNEX

C. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION.

1. The Chairman noted that paragraph 18 of the Protocol of Accession of the People's Republic of China to the World Trade Organization provides that all subsidiary bodies, including this Committee, "which have a mandate covering China's commitments under the WTO Agreement or [the] Protocol shall, within one year after accession, review, as appropriate to their mandate, the implementation by China of the WTO Agreement and of the related provisions of [the] Protocol." China was to provide relevant information in advance of the review, including information specified in Annex 1A to the Protocol. China could also raise issues relating to any reservations under Section 17 or to any other specific commitments made by other Members in the Protocol, in subsidiary bodies which have a relevant mandate. The Chairman further noted that the Committee must report the results of the review promptly to the Council for Trade in Goods, and that review is to take place after accession in each year for eight years, with a final review in year 10 or at an earlier date decided by the General Council. The Chairman stated that there were no procedures set out for the conduct of the transitional review in the Protocol, except that China is to provide relevant information in advance of the review. In accordance with section IV.6 of Annex 1A to the Protocol, China was required to notify the Committee of its implementation of its Regulation on Safeguards.

2. The Chairman noted that China had made a number of notifications, consistent with the obligations of all Members under the Agreement. China had made two legislative notifications, which can be found in documents G/SG/N/1/CHN/1 and G/SG/N/1/CHN/2. China had also made several notifications regarding safeguard action taken in respect of imports of steel. These notifications could be found in documents G/SG/N/6/CHN/1, G/SG/N/7/CHN/1, and G/SG/N/11/CHN/1. China had also sent a fax on 24 October 2002 concerning the implementation of its Regulation on Safeguards.

3. The Chairman stated that a number of Members had submitted questions in the context of the transitional review, both in respect of China's legislative notification G/SG/N/1/CHN/2, and in respect of its notifications of safeguard action. These questions can be found in documents G/SG/Q1/CHN/1, G/SG/Q1/CHN/2, G/SG/Q1/CHN/3, G/SG/Q1/CHN/4, G/SG/Q1/CHN/6, and G/SG/Q2/CHN/1.

4. The representative of the United States asked whether China would be providing any written replies to questions.

5. The representatives of the EC and Japan suggested that China should respond to follow-up questions at this meeting, and requested clarification in this regard. The EC stated that written replies to the questions would certainly be helpful.

6. The representative of China stated that his delegation would make a general presentation regarding China's implementation of the Safeguards Agreement, and then provide oral responses to TRM questions received in advance. China would not provide written responses to questions raised in the context of the TRM, since there was no requirement for written answers in China's Protocol of Accession. China would answer follow-up questions when China's legislative notification G/SG/N/1/CHN/2 is formally reviewed by the Committee at the April 2003 meeting. China was keen not to duplicate the legislative review process that will take place at the April 2003 meeting.

7. The representative of China addressed the following statement to the Committee (see document G/SG/W/192):

Thank you, Mr. Chairman. Let me first take this opportunity to thank you and the Secretariat for preparations and arrangement for this first review by the Committee on Safeguards at today's meeting pursuant to paragraph 18 of the Accession Protocol of China.

Mr. Chairman, it is the consistent policy of the Chinese government to pursue and uphold a fair and open trading policy. China's accession to the WTO, despite the enormous challenges it poses, is a genuine reflection of our strong quest in this regard. We believe this review by the Committee is important and useful. It gives us an opportunity to look into, and to exchange views on all the commitments that have been made in accordance with the WTO Agreement on Safeguards during the process of China's WTO accession.

Mr. Chairman, in my statement today, I will focus on three aspects. The first is an overview on China's implementation of WTO Agreement on Safeguards since China's accession to the WTO. The second part will be responses to those questions of common concern addressed to us by some Members prior to this meeting, and lastly, Mr. Chairman, I would also like to raise China's concerns with regard to safeguard.

Regarding China's implementation of WTO Agreement on Safeguards, Mr. Chairman, in paragraph 154 of the Working Party Report on China's Accession to the WTO, China made the following commitment, "China would implement its Regulations on Safeguards by which the future safeguard measures would be regulated. The contents of this new regulation would be fully consistent with the Agreement on Safeguards." Based on this commitment and in accordance with relevant provisions in the Law of the People's Republic of China on Foreign Trade, China formulated its Regulations on Safeguards, which was adopted by the State Council on 31 October 2001. The regulation was promulgated by the State Council in Decree No. 330 on 26 November 2001 and it went into effect on 1 January 2002.

Apart from this main dedicated regulation, China also enacted two administrative rules on safeguard. They are the Provisional Rules on Initiation of Safeguard Investigation, and Provisional Rules on Hearing in Safeguard Investigation. Both of them were promulgated by the Ministry of Foreign Trade and Economic Cooperation ("MOFTEC") on 10 February 2002 and came into effect on 13 March 2002.

China initiated one case of safeguard investigation after accession, which is still in process now. China Iron and Steel Association ("CISA"), together with five major iron and steel companies in China, filed an application with the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) on 19 April this year, requesting safeguards investigation into import of certain steel products and application of provisional safeguard measures.

Based on the preliminary determination made thereafter that there was evidence proving that the import increase had caused serious injury and threat of serious injury to the Chinese iron and steel industry, MOFTEC announced on 20 May 2002 to initiate a safeguard investigation into certain steel products, and that a provisional safeguard measure against certain steel products would be effective from 24 May 2002. The provisional safeguard measure took the form of tariff rate quota and would last 180 days. The safeguard investigating authorities will decide whether to apply a final safeguard measure according to the investigation results.

Regarding these regulations, administrative rules and measures I mentioned above, China has met its obligation to notify WTO and its Members. China notified the existence of the Regulations on Safeguards and the two administrative rules to the WTO on 6 June 2002. Full text of the regulation itself in English was provided later in a second notification on 27 August 2002. The two administrative rules are still in the process of translation and the English texts will be provided once available.

On the safeguard measures regarding certain steel products, China also notified the initiation of the safeguard investigation, pursuant to Article 12.1(a); application of the provisional safeguard measure, pursuant to Article 12.4; and developing Member exemption pursuant to Article 9, Footnote 2.

Mr. Chairman, prior to this meeting, questions were put forward by several Members to us regarding China's legislation on safeguard and its enforcement. I would like now to respond to those which are of common concern to Members.

1. Function of various government authorities in safeguard investigations.

Presently, three government agencies in China are involved in safeguard matters. They are the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), the State Economic and Trade Commission (SETC) and the Tariff Commission of the State Council (TCSC).

According to the Regulations on Safeguards, MOFTEC is in charge of the investigation and determination of increase of imports. If a definitive safeguard measure takes the form of quantitative restriction, a decision shall be made and published by MOFTEC as the foreign trade administrative authority. SETC is responsible for investigation and determination of injury. TCSC is to decide whether to increase tariff level as provisional or final safeguard measure, upon proposal made by MOFTEC on the basis of the investigation findings. The specific provision governing the responsibility of TCSC is found in Article 24 of the Regulation. According to the said Article, safeguard measures shall be limited to the extent necessary to prevent or remedy serious injury and to facilitate the adjustment of the domestic industry. The reason that MOFTEC and TCSC decide upon different forms of safeguard measures is to ensure the uniformity in administration of trade laws and regulations, as required by Article 10 of GATT 1994. While MOFTEC is the government agency to formulate and enforce administrative measures concerning trade, TCSC is in charge of matters relating to formulation of customs tariffs.

Other than the above functions carried out by SETC and the Tariff Commission, MOFTEC deals with the other issues related to safeguard, including consultation, notifications, dispute settlement concerning safeguard measures and etc.

2. Implementation of Article 32 of the Regulations on Safeguards.

Mr. Chairman, some Members are concerned that China may take the "corresponding measures" under Article 32 of the Regulations on Safeguards. I would like to make it clear here that firstly, China has not yet applied Article 32 of the Regulations on Safeguards and therefore has not taken any "corresponding measures"; secondly, being a WTO Member, China will first resort to the dispute settlement provisions provided in the Safeguard Agreement and the dispute settlement provisions under Annex II of the WTO Agreement before taking the

“corresponding measures”, if the other party is also a WTO Member; thirdly, if any rebalancing measures would be taken, China will abide by the provisions of Article 8 of the Safeguard Agreement.

3. On issues related to “developing country Members”.

Article 23 of the Regulations states that safeguard measures shall be applied to a product irrespective of its origin. However, I would also like to make it clear here that nothing prevents China from enforcing Article 9.1 of the Safeguard Agreement, that is, to exclude those developing Members meeting specified conditions from the application of the safeguard measures. In practice, developing Members meeting the requirements of Article 9.1 of the Safeguard Agreement had been excluded from China’s provisional measures on certain imported steel products, as has been notified to this Committee. To define and identify a developing Member, China will make reference to regulations and practices of other WTO Members. In this regard, I would also like to say that it is an indisputable fact that China itself is a developing country. The European Communities and Canada recognized this fact and treated China as a developing Member in their recent safeguard measures on certain imported steel products. I would like to take this opportunity to express our appreciation. In this regard we are greatly concerned that the United States did not take a fair and objective approach of treating China as a developing Member in its Section 201 investigations against certain imported steel products, despite the fact that China’s developing country status has been recognized by each and every other WTO Member and consolidated by China’s WTO accession.

4. Implementation of Article 11 of the Safeguard Agreement.

Some WTO Members hope that China would clarify that it will not implement the “grey measures” prohibited under Article 11 of the Safeguard Agreement. I would like to confirm here that China will abide by Article 11 of the Safeguard Agreement.

However, I must bring Members’ attention to such a fact that some Members imposed upon China what are exactly prohibited by Article 11 of the Safeguard Agreement, by inserting paragraph 16 into China’s Protocol of Accession to WTO. With that paragraph, voluntary export restraints on the part of China were provided for as an alternative to product-specific safeguard measures.

Mr. Chairman, apart from my responses above to some common concerns to other Members, I would also like to voice our great concerns over the resort to the transitional product-specific safeguard mechanism under paragraph 16 of China’s Protocol of Accession by any other WTO member. The transitional product-specific safeguard mechanism itself goes against the basic WTO principle of non-discrimination, and China took note of the fact that many Members of the Working Party on China’s Accession expressed that utmost restraints will be exercised in having recourse to the said mechanism and that it will only be applied under very special circumstances where other trade remedy measures are not effective. We hope that other WTO Members will honour this understanding. Frequent recourse to this mechanism of such nature can only damper China’s enthusiasm to take an active and constructive role in the multilateral trading system.

Mr. Chairman, China notes with concern that the substantive and procedural requirements intended for due process and fair treatment to China’s exports are not

fully reflected in implementing legislations of some WTO members. We hope that those substantive and procedural requirements for the imposition of product-specific safeguard measures incorporated in China's Accession Protocol, Working Party Report, as well as the WTO Safeguard Agreement will be observed in conducting the investigations concerned.

Thank you.

8. The representative of the United States thanked China for its presentation, and made the following statement to the Committee:

The remedies authorized by the Agreement on Safeguards ("SGA") form an essential part of the current rules-based international trading system. Transparency, predictability, and adherence to the rule-of-law are all critical to the WTO-consistent application of these remedies, as well as to ensuring that they don't act as an unjustifiable barrier to trade. Hence, it is in all Members' interests to ensure that each Member promptly and effectively implements its WTO obligations in this area.

Our joint goal in this transitional review mechanism should be to conduct a thorough and meaningful review, both to highlight to China its successes, and to identify areas where more work needs to be done. As China has already begun to apply its safeguards law, it is important that it lay out its plan for bringing its practices into better conformity with its WTO commitments where there are gaps. We want to do our utmost to facilitate such a review and urge China to join in the review in the spirit in which it is intended. A key part of the review is for Members to ask questions about areas of China's practices that they do not understand. We and five other Members posed such questions, and we thank China for the information concerning its implementation of the SGA that it recently circulated to Members of this Committee.

We recognize and applaud China's efforts to implement trade remedy laws and regulations consistent with WTO requirements. China has been prompt in promulgating new regulations and implementing rules, with new regulations having gone into effect on 1 January 2002, followed by two sets of provisional rules implemented in March. We are disappointed, though, by the delay in China's notifying these regulations and rules – the safeguard regulations were not notified until June (by name only in G/SG/N/1/CHN/1) and the text of the regulations not until August (G/SG/N/1/CHN/2). As indicated in the information China recently provided to the Committee, China has not yet notified the text of its provisional implementing rules on initiations and hearings (referred to in G/SG/N/1/CHN/1).¹

With regard to transparency, we urge both the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the State Economic and Trade Commission (SETC) to intensify their efforts to make non-confidential information submitted during safeguard proceedings available to interested parties and to the public. Moreover, at both agencies, there appears to be little or no disclosure of their respective analysis and decision-making process. We hope China takes advantage of this early stage in its administration of its safeguards law to further develop transparency in its proceedings.

¹ The United States reserves comment and the right to pose additional questions on the provisional rules and the topics that they cover once China formally submits the text of the rules to the Committee.

We are encouraged that the notified regulations generally embrace the principles of rule of law and due process. However, the regulations provide little elaboration of these principles. In particular, China should identify the specific statute or statutes that govern its safeguard actions and notify those laws to the Committee. China also should clarify the respective roles of Chinese Government entities involved in China's safeguard regime – MOFTEC, SETC and the State Council Tariff Commission – and the rules to which the latter is subject in rendering final safeguard determinations.

China has made a deliberate effort to conform its regulations to the provisions and requirements of the SGA. The language in China's notified regulations appears generally to follow that in the SGA, although there are certain areas where key provisions are omitted or are worded in an ambiguous manner. In addition, China included certain provisions that do not appear in the SGA. The most prominent example is Article 32 of the notified regulations, which indicates that China may take "corresponding" measures when another country "discriminatorily" imposes safeguard measures on exports from China. This provision appears to have attracted widespread comment and expressions of concern. In that regard, we note that China indicated that it would first revert to dispute settlement if the other party is a WTO Member. Under what circumstances would China then revert to application of Article 32? What outcome of dispute settlement would result in application of Article 32?

We and other Members also have questions about such topics as:

- How confidential information is treated under Article 13 of the notified regulations so that it complies with the provisions of Article 3.2 of the SGA;
- Whether increased tariffs and quotas are the only types of safeguards relief permitted by Chinese law, and how they are treated by Articles 20 and 21 of the notified regulations;
- Application of the injury factors outlined in Articles 8 and 11 of the notified regulations; and
- The terms and conditions governing the extension of a safeguard measure.

The questions we and other Members have posed attempt to seek clarification and understanding of the issues noted above. We are disappointed that China apparently is not yet in a position to provide written answers to those questions. Such responses would have greatly facilitated the review during these meetings. In order to make the review useful to all, including China, we urge China to submit in a timely manner written responses to the questions posed by the Members.

We also want to stress that the United States does not take issue with China's use of safeguard remedies, so long as such actions comport with WTO rules. We look forward to continued cooperation with China, such as through technical assistance exchanges, as it continues to develop its trade remedy regime.

9. The representative of the EC thanked China for its statement, and asked China when its two implementing regulations would be notified to the Committee. He also asked China to respond to questions 1 and 4 in document G/SG/Q1/CHN/2.

10. The representative of Japan thanked China for the information it had provided in the context of the TRM, and asked China to reply to questions I.2.1, I.7.1(a), I.7.2(a), I.7.3, I.8.1(b), and I.10.1(b) and (c) in document G/SG/Q1/CHN/3 regarding China's Regulation.

11. The Japanese delegate made the following statement regarding China's provisional safeguard measures on imports of certain steel products:

The provisional safeguard measures, which China imposed last May on certain steel products, are protectionist measures, whatever the background of such measures might be. Those measures could also trigger further developments to the chain reactions by other Members that began with the safeguard measures by the United States. Japan is strongly concerned about those measures.

Such serious concern prompted the Japanese Government to enter into two series of consultations with the Chinese Government pursuant to Article 12.4 of the Safeguards Agreement. However, we have to point out that the explanations provided by the Chinese Government regarding the WTO-consistency of those measures were far from convincing. Japan maintains its strong doubt about the WTO-consistency of those safeguard measures.

Those provisional safeguard measures are scheduled to expire on 19 November. If China advances to definitive safeguard measures, then what has been feared becomes a reality, which is the further proliferation of safeguard measures on steel products around the world. This will lead to further obstruction of world trade in steel products, and furthermore it will undermine the momentum for successful negotiations towards further trade liberalization under the DDA. I have to make it clear that Japan cannot and will not overlook matters advancing into such serious circumstances.

On behalf of the Japanese delegation, I would like to express my strong expectation to the Chinese delegation that China takes such concerns into serious consideration and that China makes a prudent decision on whether to advance into definitive measures.

12. The representative of Japan asked China to reply to questions II.1.1, II.2.1, II.2.2, II.4.1, II.7.1, II.8.1 and II.8.2 in document G/SG/Q2/CHN/1 regarding China's provisional safeguard measures on imports of certain steel products.

13. The representative of Chinese Taipei thanked China for the information it had provided, and welcomed the opportunity provided by the TRM to clarify certain issues with China. He asked China to respond to question 4 in document G/SG/Q1/CHN/4.

14. The delegate of Turkey thanked China for its efforts in responding to Members' questions, and looked forward to receiving those answers in writing.

15. In response to Members' request for written responses, the representative of China reiterated China's position that within the framework of the transitional review mechanism China is not obliged to provide responses to Members' questions in writing, however, his statement may be circulated to Members after the meeting. He then responded to the additional questions identified by Members. Regarding Article 3 of the Regulation, he explained that the concept of "other organization" includes those organisations (such as chambers of commerce, business associations, and trade unions) that do not have legal personality, but which may nevertheless be interested in the investigation. While such "other organization" need not be a producer, it must be related to the relevant domestic industry. He

also explained that rules governing the contents of applications / petitions are contained in China's implementing / administrative rules (not yet notified to the Committee).

16. Regarding the consistency of Article 8 of the Regulation with Article 4.2 of the Safeguards Agreement, he asserted that the investigating authority was required to examine all factors having a bearing on the state of the domestic industry. The factors listed in Article 8 are non-exhaustive.

17. Regarding Article 9 of the Regulation, he indicated that there was no provision governing the duration of China's safeguard investigations. Nor was there any provision imposing a minimum period before provisional measures may be applied. This was because there are no such requirements in the Safeguards Agreement. However, investigations would be carried out in an expeditious manner, and preliminary determinations would only be made after some form of investigation had been carried out. For example, all available domestic industry performance data had been studied before China imposed provisional safeguard measures on imports of certain steel products.

18. Regarding Article 10, and the issue of like and directly competitive products, he referred to China's notification of its provisional measures on certain steel products (G/SG/N/7/CHN/1). In that case, factors such as physical characteristics, consumer perception, use and interchangeability were considered.

19. Regarding Article 12, the Chinese delegate stated that the reference to "other interested parties" included all natural and/or legal persons and "other organizations" that might have interests in the investigation, such as consumer organizations and industrial users. Furthermore, the phrase "present views and supporting arguments" was consistent with Article 3 of the Safeguards Agreement, which requires the investigating authority to provide opportunities for interested parties to respond to the presentations of other parties. By virtue of Article 17 of the administrative / implementing rules, provision was made for a pre-hearing brief, a public hearing, and a post-hearing brief.

20. Regarding the meaning of the phrase "appropriate means" in paragraph 2 of Article 12, he gave the example of an on-the-spot investigation.

21. Concerning the term "justifiable" in paragraph 2 of Article 13, he indicated that it could be understood to mean warranted. Furthermore, confidential information would not be made available to parties other than the party that submitted it. There was no mechanism like the US system of administrative protective orders. Summaries of confidential information had to be made available to other interested parties, and had to be meaningful to allow other interested parties to understand the substance of the confidential information. If a request for confidential treatment were rejected, the relevant party could withdraw the relevant information from the record, and that information would be disregarded by the investigating authority in making its determination.

22. Regarding Article 14, he confirmed that that provision was intended to implement Articles 3.1 and 4.2(c) of the Safeguards Agreement. Article 14 requires the Chinese investigating authority to publish a report setting forth its findings and reasoned conclusions reached on all pertinent issues of fact and law.

23. Concerning Articles 15 and 16, he asserted that in practice the investigating authority's published determination would include a recommendation for relief.

24. Regarding Article 20, he indicated that other types of safeguard measures would include tariff quotas, as was the case in respect of the provisional measures on imports of certain steel products.

25. Concerning Article 21, he indicated that different authorities were responsible for different types of safeguard measures in order to maintain uniformity in the administration of the relevant law.

26. With respect to Article 22, he indicated that in Chinese the term "country" implies sovereignty, whereas the term "region" does not. Safeguard measures may need to be imposed on entities that are not "countries", such as separate customs territories and customs unions. Regarding quota allocation in the absence of a negotiated settlement, he stated that China would allocate quotas on the basis of Article 5 of the Safeguards Agreement.

27. Regarding Article 24, he stated that a translation error had been identified. The correct translation should read "[s]afeguard measures shall be limited to the extent necessary to prevent or remedy serious injury and to facilitate the adjustment of the domestic industry".

28. Regarding Article 27, he stated that the duration of provisional measures, and any extension thereof, would be counted as part of the duration of the final measure. Although there was no explicit rule to this effect, the relevant provisions of the Safeguards Agreement would be adhered to. He also stated that the notification and consultation obligations provided for in Articles 8 and 12 of the Safeguards Agreement would be applied in respect of the possible extension of safeguard measures.

29. Concerning Japan's questions on China's provisional safeguard measure on imports of certain steel products, he confirmed that imports from Kazakhstan, Ukraine and Belarus were excluded because China already imposed restrictions on steel from those countries. The quota for those three countries was established on the same basis as the level of the tariff quota for WTO Members, i.e., on the basis of the volume of imports for the last three representative years. Such exclusions were not inconsistent with the principle of parallelism. Regarding the question of critical circumstances, he referred Japan to page 4 of China's notification (G/SG/N/7/CHN/1). Since China was the third largest importer of steel in the world, trade diversion to China would be imminent following the imposition of safeguard measures by the EC and US. Regarding the question of unforeseen developments, he referred Japan to Article XIX:1(a) of the GATT 1994, whereby unforeseen developments and GATT obligations were set as parallel conditions for the imposition of safeguard measures. There was therefore no need to separately identify the effects caused by those two factors. He indicated that he was not in a position to respond to Japan's detailed questions regarding data and statistics, but noted that those questions had been addressed in the context of two rounds of bilateral consultations. He stated that the concerns raised by Japan in the context of those consultations would be given serious consideration when making a final determination in the steel investigation.

30. The representative of the European Communities thanked China for their detailed replies, and asked for clarification as to when China expected to notify its administrative / implementing rules to the WTO. He stated that the EC was particularly keen to have access to China's rules regarding exporters' participation in hearings. The EC also asked whether there was a mandatory deadline for completion of China's steel investigation and, if so, the legal basis for that deadline.

31. The delegate of Japan thanked China for its answers to questions, particularly those concerning China's Safeguards Regulation. Regarding the questions on the steel investigation, he noted that most of China's answers were the same as had been provided in bilateral consultations, and were therefore unconvincing.

32. The representative of China stated that the translation of its administrative / implementing rules had been accelerated, and the relevant notification would be made to the WTO by the end of 2002. He stated that there was no mandatory deadline for the investigation of the provisional measures on steel, but it had been decided that they would expire after 180 days. Accordingly, the final determination would be made before expiry of the provisional measures.

33. China regretted that not all questions / issues could be addressed at this TRM session. In particular issues regarding the final determination on steel, which had not yet been made. Rather than

making Members wait until the 2003 TRM, China expressed its willingness to consult bilaterally with Members on any safeguard issues of interest to them.

34. The representative of the United States thanked China for its extensive replies to questions, and wanted to respond to two concerns raised by China. First, he indicated that he did not wish to respond in detail to the issue of Article 9.1 and the exclusion of developing country Members since that issue was currently subject to dispute settlement proceedings. However, the US had responded to a question from China on this issue at the last regular meeting of the Committee, as reflected in para. 103 of the minutes for that meeting (G/SG/M/19). Second, he thanked China for expressing its concerns regarding the transitional product-specific safeguard mechanism. That mechanism was agreed to by China and all Members by virtue of Article 16 of the Protocol of Accession, and the US had followed the procedures set forth in the protocol and the Working Party Report in implementing this mechanism under US law. He noted that while China did not identify any particular Members with respect to its concerns, the US does have a current proceeding under the product-specific safeguard mechanism, and recently made a request to China for consultations, and then notified that request to this Committee. The United States was looking forward to consultations with China on this matter.

35. The representative of China stated that his delegation looked forward to consultations with the United States in the context of the transitional product-specific safeguard mechanism.

36. The Chairman noted that there were no guidelines for the Committee's report to the Council for Trade in Goods. He indicated that in several other bodies that had recently undertaken the transition review, the Chairman had, acting on his own responsibility, prepared a brief, factual report, with references to the documents concerned, and attaching the portion of the minutes of the meeting which relate to the transition review. He proposed that the Committee adopt the same format for its report.

37. The Committee adopted the Chairman's proposal for reporting to the Council for Trade in Goods.
