

WORLD TRADE ORGANIZATION

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Council for Trade in Goods

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TRANSITIONAL REVIEW MECHANISM IN CONNECTION WITH PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

Communication from the European Communities

The following communication, dated 26 November 2003, has been received from the delegation of the European Communities.

The EC attaches a great importance to the TRM exercise, and considers that it is of utmost importance to ensure a proper and meaningful functioning of this mechanism over the years to come.

Taking into account the experience of last year and to make the 2003 exercise more meaningful, the EC had decided this year to:

- (i) as last year, transmit the questions well in advance of each meeting (typically 6 weeks)
- (ii) focus on a limited number of priorities and
- (iii) raise only issues discussed already a number of times in the WTO committees or in bilateral meetings and therefore well-known to the Chinese side.

The objective of the EC was to have in each subsidiary body under the Council for Trade in Goods a meaningful discussion and detailed replies from the Chinese side to this limited number of questions.

The assessment made by the EC about this year's TRM exercise in the subsidiary bodies under the Council for Trade in Goods is mixed: while the Chinese side provided useful clarifications on several matters of concerns, the EC impression is that it did not obtain satisfactory replies from the Chinese side to a number of questions raised notably in the Import Licensing, Market Access, TBT and SPS Committees.

The EC will come back to these issues in the relevant committees and bilaterally with China in the coming months.

In this meeting, the EC would like to concentrate on two extremely important concerns, on which the answers provided by the Chinese side raise a number of questions:

- (i) the trading rights issue (right to import and export for foreign invested companies): the Chinese statement on this issue at the Import Licensing Committee does not clarify whether the shortcomings in the current Chinese legislation highlighted by the EC in both the Import Licensing and the Market Access committees will be corrected and whether, in line with China's commitments, all majority-owned foreign joint-ventures will be able to obtain the

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trading rights from 11 December 2003, without any condition and for all goods related to their activity.

This notably supposes the abolition of the distinction currently made by the Chinese side but not foreseen under China's Protocol of accession, between so-called "trading JVs" and "manufacturing" JVs, the elimination of conditions on prior experience and capital requirement and the unclear requirement for existing JVs to request in some cases a "change of [their] scope of business".

- (ii) the establishment of a dual distribution network for domestically produced and imported automobiles:

While the question from the EC on this issue was unfortunately left unanswered by the Chinese side at the Market Access Committee of 20 October 2003, the Chinese side officially confirmed its intention to set up separate distribution network a few days later in a bilateral meeting. The EC was told that the objective of China was to establish such system in the coming months.

As was done then and on a number of occasions in the past (notably during last year TRM in this Council), the EC would like to strongly reiterate its deep concerns with regards to this planned measure and to its WTO compatibility.

The EC would be grateful if China could explain whether it intends to reconsider this measure and, if not, what is the state of play of the legislative process for its adoption and when China intends to notify it for comments. In this respect, given the potentially very disruptive impact such a measure would have on the activity of foreign automotive firms in China, the EC would like to urge China to make available the text of the planned measure as soon as possible.

Finally, as a follow-up to the question asked last year, the EC would like to raise the question of China's accession to the Government Procurement Agreement (GPA).

In the Working Party for WTO accession China stated that would initiate negotiations for membership in the GPA as soon as possible.

Now that two years have elapsed since China's accession to the WTO, the EC would be grateful if China could indicate when it intends to start negotiation in order to join the GPA.

The EC would also like to stress that, until its accession to the GPA, China should, in line with its commitments ensure that all government entities conduct their procurement in a transparent manner and that all foreign suppliers are provided with equal opportunity to participate in that procurement pursuant to the MFN principle.
