

COMMUNICATION FROM CHINA

The following communication, dated 10 October 2002, has been received from the Permanent Mission of the People's Republic of China.

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

Information provided by China on Annex 1A of the Protocol
in the context of the Transitional Review Mechanism¹

Pursuant to paragraph 18 of the Accession Protocol of the People's Republic of China, China hereby provides the following information for the transitional review of the Committee on trade-Related Investment Measures.

II. ECONOMIC POLICIES

3. Investment Regime (to be notified to the Committee on Trade-Related Investment Measures)

- (a) completed revisions to investment guidelines in conformity with the WTO Agreement

To implement its commitments made for the accession to the WTO, China modified its policy on foreign investment in 2002 by promulgating the revised Provisions on Guiding Foreign Investment Direction and Industrial Catalogue for Foreign Investment, which came into force as from 1 April 2002. To fully embody the commitments made for the accession to the WTO, China has liberalized further the restrictions imposed on the proportion of foreign equity in investment projects and opened new sectors to foreign investment. The newly-opened sectors include telecommunications, urban water supply and drainage, construction and operation of gas and heat distribution network, which all were previously prohibited from any foreign investment. In light of commitments made in the WTO with respect to geographic restrictions, quantitative restrictions, business scope, proportion of equity and timeframe, China has opened further such service sectors as banking, insurance, distribution, trading right, tourism, telecommunications, transportation, accounting, auditing and legal services. The timeframe and pace of opening of these markets, as committed in China's accession to the WTO, has been contained in annexes to the Industrial Catalogue for Foreign Investment.

¹ This "information" refers to information other than that required by the general notification requirements for WTO Members. To avoid duplication, it is understood that members will accept information provided on an annual basis by China to other WTO bodies as satisfying the information requirements in Annex 1A.

IV. POLICIES AFFECTING TRADE IN GOODS

8. Trade-Related Investment Measures (to be notified to the Committee on Trade-Related Investment Measures)

- (a) elimination and cessation of enforcement of trade and foreign exchange balancing requirements, local content and export performance offsets and technology transfer requirements made effective through laws, regulations or other measures

The basic laws in China concerning foreign investment are: law of the People's Republic of China on Chinese-Foreign Equity Joint Venture; Law of the People's Republic of China on Chinese-Foreign Contractual Joint Venture; and Law of the People's Republic of China on Wholly Foreign Owned Enterprises.

Upon approval by the National People's Congress and its Standing Committee, modifications have been made on the following laws and regulations at the time given: in October 2000, Law of the People's Republic of China on Chinese-Foreign Contractual Joint Venture; in October 2000, Law of the People's Republic of China on Foreign-Invested Enterprises; in March 2001, Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture; and in July 2001, Implementation Rules on Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture. Modifications relating to implementation of commitments made in the WTO are as follows:

1. deletion of the following provisions on foreign exchange balancing requirements
 - 1.1 Provisions in Article 20 of the Law of the People's Republic of China on Chinese-Foreign Contractual Joint Venture, i.e., "a contractual joint venture shall maintain foreign exchange balance by its own; if not, it may, in light of the State regulations, request for assistance from the authorities concerned";
 - 1.2 Provisions in Article 18.3 of the Law of the People's Republic of China on Foreign-Investment Enterprises, i.e., "a wholly foreign owned enterprise shall maintain foreign exchange balance; in case a foreign-invested enterprise, upon approval by the authorities concerned, engages in sales in the Chinese domestic market, which causes imbalance of its foreign exchange, the authorities granting the approval of its sales in the domestic market shall be responsible";
2. modification or deletion of the following provisions on local content requirements
 - 2.1 Article 9 of the Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture has been modified as "within its business scope approved, an equity joint venture can purchase raw materials, fuel and others that it needs in the domestic market as well as in the international market";
 - 2.2 Article 15 of the Law of the People's Republic of China on Wholly Foreign Owned Enterprises has been modified as follows: "within its business scope approved, a wholly foreign owned enterprise can, in light of fair and reasonable principle, purchase raw materials, fuel and others that it needs in the domestic market or in the international market"; previous provision, i.e., "in the same conditions, priority shall be given to purchase in the domestic market", has been deleted.

3. modification or deletion of the following provisions on export performance requirements

- (a) Article 3.1 of the Law of the People's Republic of China on Wholly Foreign Owned Enterprises has been modified as follows: "the establishment of a wholly foreign owned enterprise shall be conducive to the development of Chinese national economy. The State encourages the establishment of wholly foreign-owned enterprises with export orientation and adoption of advanced technology". Previous provisions, i.e., the establishment of a foreign-invested enterprise "must adopt advanced technology, or export all or the most of its products", has been deleted.

In addition, the authorities concerned have repealed the Notice concerning Export for Balancing Foreign Exchange of Chinese-Foreign Joint Ventures, modified Regulations of the People's Republic of China on the Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises, Regulations of the People's Republic of China on the Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises, and other rules, which all are incompatible with the commitments made by China for accession to the WTO .

- (b) amendments to ensure lifting of all measures applicable to motor vehicle producers restricting the categories, types or models of vehicles permitted for production (to be completely removed two years after accession).

The Chinese government shall completely lift the said measure in line with the commitment made with respect to the timeframe, so as to ensure that motor vehicle producers have right to choose categories, types or models of vehicles they will produce.

- (c) increased limits within which investments in motor vehicle manufacturing could be approved at the provincial government at the levels outlined in the Report.

It is expected that in compliance with its commitments made with respect to the timeframe, by the end of 2002 the Chinese government shall publish a circular increasing limits of investment to be approved by provincial authorities.
