

**Working Party on the
Accession of China**

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COMMUNICATION FROM CHINA

In preparation for the Working Party meeting to be held on 19-27 July 2000, the Chinese delegation has submitted the following documentation, entitled "Reply by the Chinese Delegation to the Checklist of Information Requested from China during the Tenth Session of the Working Party"¹.

**Groupe de travail de
l'accession de la chine**

COMMUNICATION DE LA CHINE

En vue de la réunion du Groupe de travail qui aura lieu du 19 au 27 juillet 2000, la délégation chinoise a communiqué la documentation ci-après, intitulée "Réponse de la délégation chinoise à la liste de renseignements demandés à la Chine pendant la dixième session du Groupe de travail"¹.

**Grupo de Trabajo sobre la
Adhesión de China**

COMUNICACIÓN DE CHINA

Para preparar la reunión del Grupo de Trabajo que se celebrará del 19 al 27 de julio de 2000, la delegación china ha presentado la siguiente documentación, titulada "Respuesta de la delegación china a la lista recapitulativa de información solicitada a China durante la décima reunión del Grupo de Trabajo"¹.

¹ In English only./En anglais seulement./En inglés solamente.

**Reply by the Chinese Delegation to the Checklist of Information Requested
from China during the 10th Session of the Working Party**

13 July 2000

1. Working Party Draft Report (WT/ACC/SPEC/CHN/1)

- Page 6 - heading Monetary and Fiscal policy. Please provide a short general description of current and future government policies.

Response from China:

Through the reform and opening up in the last two decades, China has established a fiscal management system which is compatible with the requirements of market economy. With respect to fiscal revenue, a taxation system with the value-added tax as the main part has been established since the taxation reform in 1994. With respect to fiscal expenditure, over recent years the government has, in line with the public fiscal requirement generally exercised by market economies, strengthened its adjustment on the structure of expenditure and given priority to public needs so as to ensure the normal operations of the government.

In recent years, while pursuing proactive fiscal policy, China has implemented proper monetary policy and has taken a series of adjusting and reform measures which include lowering the interest rate for loans of financial institutions, improving the system of required deposit reserves and lowering the ratio of required reserves, positively increasing the input of base money and encouraging the commercial banks to expand their credit.

In respect of future fiscal policy, the Chinese government will further improve its taxation system and will be continuing to improve the efficiency of fiscal expenditure through implementing reform measures such as sectoral budget, centralised payment by the national treasury and zero base budget as well as improving management on fiscal expenditure. With respect to future monetary policy, the central bank will be continuing to pursue a prudent policy, to maintain the stability of RMB, to promote the interest rate liberalization and to establish a modern commercial banking system.

- Page 8 - under heading Foreign Exchange and Payments. Please identify and provide the Working Party with a copy of the law mentioned in the last sentence of paragraph 23.

Response from China:

The laws and regulations mentioned under this heading include:

- 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;
- Regulations on the Exchange System of the People's Republic of China; and
- Regulations on the Sale and Purchase of and Payment in Foreign Exchange.

The Chinese delegation has provided copies of these laws and regulations during the Ninth Session of the Working Party.

- Page 9 - heading Investment Regime. Please provide a short general description of current and future government policies.

Response from China:

Since the inception of the reform and opening up policy in late 1970's, China has carried out a series of reforms of its investment regime. The highly centralised investment administration under the planned economy has been progressively transformed into a new pattern of diversification of investors, multi-channel of capital sources and diversification of investment modalities. The government encourages foreign investment into the Chinese market and has uninterruptedly opened and expanded the scope for investment. At the same time, the Chinese government also encourages the development of non-state-operated economy and is speeding up the opening of areas for non-state investment. With China's program in the establishment of its market economy, the construction projects of various enterprises utilising free capital and financed by the credit of the enterprise will be fully subject to the decision-making of the enterprise concerned and at their own risk. The commercial banks' credit activities to all kinds of investors will be based on the evaluation and decision-making of their own and be at their own risk. The business activities of intermediate investment agencies will be fully subject to the market and will provide service at the instruction of the investors. These agencies will break up their administrative relations with government agencies and the service activities financed by the government should also be subject to the terms and conditions agreed in the contracts concerned.

- Page 9 - modified heading Commercial Operation of State Owned Enterprises (replacing State Ownership and Privatisation). Please provide a short general description of current and future government policies.

Response from China:

The state-owned enterprises of China have basically operated in accordance with rules of market economy. The government will no longer directly administer the human, finance and material resources and operational activities such as production, supply and marketing. The prices of commodities produced by state-own enterprises are decided by the market and resources in operational areas are fundamentally allocated by the market. The state-owned banks have been commercialised and the central revenue will no longer used to invest in these enterprises. China is furthering its reform of the state-owned enterprises and establishing the modern enterprise system.

- Page 10 - heading Pricing Policies. Please give the full title and place and frequency of publication of the Official Journal mentioned in paragraph 27. Please provide a list of all products subject to (i) basic price and (ii) floating range guidance pricing mentioned in paragraph 30. In paragraph 31, please provide a short statement of future government policies in relation to liberalisation of pricing policies.

Response from China:

The official journal providing the information of price is the Commodity Price Notice of the People's Republic of China published in Beijing.

The floating range of guidance pricing referred to in paragraph 30 is generally 5% to 15%. The short statement of liberalisation on future government policies referred to in paragraph 31 reads as follows:

China will be continuing to further its price reform, adjusting the catalogue subject to state pricing and further liberalise its pricing policies.

- Page 11 heading Competition Policy. Please provide a short general description of current and future government policies.

Response from China:

The Chinese government encourages fair competition and is against unfair competition acts of all kinds. The Law of the People's Republic of China on Combating Unfair Competition promulgated on September 2, 1992 and implemented on December 1, 1992 is the basic law to maintain the order of competition in the market. In addition, the Price Law, the Law on Tendering and Bidding, the

Criminal Law and other relevant laws also contains provisions on anti-monopoly and anti unfair competition. China is now formulating the Law on Anti-Monopoly.

- Page 11/12, heading Powers of Executive, Legislative and Judicial Branches of Government. Please provide information on the status that international treaties enjoy under Chinese Constitutional law, with particular regard to the WTO Agreement once it enters into force for China.

Response from China:

The Representative of China stated that China has been consistently performing its international treaty obligations in good faith. According to the Constitution and the Law on the Procedure of Conclusion of Treaties, the WTO Agreement falls into the category of "important international agreements" that is subject to the ratification by the Standing Committee of the National People's Congress. China shall make its best effort to keep its laws and regulations pertaining to trade or affecting trade in conformity with the WTO Agreement and with its commitments so as to fully perform its international obligations. China's domestic laws and regulations ensure the full implementation of the WTO Agreement in China. For this reason, China has commenced a plan to systematically revise its relevant domestic laws. Therefore, the WTO Agreement will be implemented in an effective and uniform way after China's accession.

- Page 15, heading Trading Rights. In paragraph 49, please provide a description of the "end users" contemplated in the first sentence. Please also provide a short description of government plans for the staged elimination of designated trading, focussing in particular on the sectors or enterprises to be liberalised, time periods, criteria for liberalisation, market share etc.

Response from China:

The end user herein refers to the Chinese enterprises without right to import and/or export. At present, these enterprises import the products for their own use through enterprises with right to import and export. Three years after China's accession to the WTO, the right to trade shall be liberalised, as a result of which, all enterprises in China will have right to trade, therefore the end users at that time will be legal persons of enterprises which use imported products.

Designated trading.

China will adjust and expand its list of enterprises under designated trading regime annually during the transitional period, until such time as the full implementation of the commitment contained in Annex 2b. The criteria for enterprise under designated trading regime include the registered capital, import and export volume and the import volume of products subject to designated trading in the previous year, bank credit rating and profits and losses.

- Page 16, heading Ordinary Customs Duties. Please indicate whether China intends to join the Information Technology Agreement.

Response from China:

China will join the Information Technology Agreement upon its accession to the WTO and the schedule of concessions will be incorporated in its final schedule.

- Page 17, heading Rules of Origin. Please provide information on the precise methodology used to determine whether a product had undergone substantial transformation. Are the same rules of origin criteria used for both preferential and non-preferential purposes? Are rules of origin applied as an instrument of trade policy?

Response from China:

China's rules of origin for import and export are non-preferential rules of origin. Upon its accession to the WTO, China will implement the Agreement on Rules of Origin of the WTO. Once the international harmonisation of non-preferential rules of origin has concluded, China will fully adopt the internationally harmonised non-preferential rules of origin.

The criteria for making the determination of substantial transformation is (a) change in tariff classification of a four-digit tariff line in the Customs Import and Export Tariff of the People's Republic of China; or (b) the value added component is 30% or more in the total value of a new product.

China will not use the rules of origin as an instrument to pursue trade objective directly or indirectly.

- Page 18, heading Fees and Charges for Services Rendered. Please provide information on the fees applied to imports for services rendered at national and sub-national level, together with calculation methodology and a short explanation of how the precise amount of the fee collected reflects the cost of provision of the service charged for.

Response from China:

China commits itself to comply with Articles II and VIII of GATT 1994 in this regard.

- Page 19, heading Tariff rate quotas, Tariff exemptions. Please provide information on how tariff exemptions are applied and whether they are applied on a m.f.n. basis.

Response from China:

The tariff exemption policy of China is developed and implemented in accordance with the Customs Law of the People's Republic of China and the Regulations of the People's Republic of China on Import and Export Duties. The coverage of specific tariff reduction or exemption is provided for by the State Council. All the statutory tariff reduction and exemption are applied on a m.f.n. basis.

- Page 19, heading Quantitative import restrictions, including prohibitions and quotas. Please provide information on the phasing in of the liberalisation contemplated for the products listed in Annex 3 of the Draft Protocol. Please also confirm whether Annex 3 is a full and complete list of all products subject to non-tariff measures.

Response from China:

During the phasing-in period, China will administer relevant quotas, licenses and tendering requirement in accordance with the current administrative regulations which has been notified to the Secretariat. China has also modified Annex 3 on the basis of the comments raised during the latest session of the Working Party. Annex 3 contains all the products subject to quotas, licenses and tendering requirement in China.

- Page 20, heading Import licensing. Please state the name and place of publication of the official journal mentioned in paragraph 68.

Response from China:

MOFTEC Gazette, a weekly magazine published in Beijing under the sponsorship of MOFTEC which is available at MOFTEC.

- Page 23, heading Customs Valuation. Please provide more information in relation to the circumstances in which the Customs officer may determine that the "normal transaction value" cannot be "ascertained".

Response from China:

The China side believes that there will not be a situation where the "normal transaction value" cannot be "ascertained" since the WTO Customs Valuation Agreement provides several methods for valuation.

Page 24. Heading Other Customs formalities. Please provide information on any other customs formalities that need to be complied with by an importer or customs agent.

Response from China:

China joined the International Convention on the Simplification and Harmonisation of Customs System in 1988 and signed the Protocol on the Amendment the International Convention on the Simplification and Harmonisation of Customs System. The Customs authorities of China have only adopted such customs formalities as declaration, examination, levying of duties and release which are consistent with international practices.

- Page 24. Heading Preshipment inspection. Please state whether China uses or expects to use the services of any preshipment inspection firm.

Response from China:

Currently, there are trade and commerce inspection agencies (including joint venture agencies) engaged in preshipment inspection. China commits itself to comply with the Agreement on Preshipment Inspection of the WTO, and will regulate the existing trade and commerce inspection agencies and permit the qualified agencies to be engaged in preshipment inspection in line with the government mandate or the terms and conditions of commercial contracts.

- Page 24, heading Anti-Dumping, countervailing duties, safeguard regimes. Please provide further information on the institutions and authorities responsible for the implementation of the recent law on anti-dumping and countervailing measures. Please provide further information on the status of the draft legislation on safeguards.

Response from China:

1. Competent Authorities for Anti-dumping and Countervailing Duty Investigations and Their Corresponding Responsibilities

Pursuant to the stipulations of "Regulation on Anti-dumping and Anti-subsidy of the People's Republic of China", there are four Chinese government bodies responsible for anti-dumping and countervailing duty investigations. Their responsibilities are as follows:

A. Ministry of Foreign Trade and Economic Cooperation (MOFTEC)

Receiving anti-dumping and countervailing petitions; Conducting investigation on dumping and dumping margin and issuing relevant preliminary determination decisions and notices; Negotiating with foreign interested parties on "Price Undertaking" if necessary; Providing proposal on imposition of definitive anti-dumping or countervailing duties or proposals on duty refund, etc. There is an Anti-

dumping Division established under the Department of Treaties and Law of MOFTEC, with responsibility to handle anti-dumping and countervailing investigations on alleged imports.

B. State Economics and Trade Commission (SETC)

Responsible for the investigation of injury caused by the dumped or subsidised imports to the domestic industry, the extent of such injury and make injury findings.

There is a non-permanent decision and policy making body in SETC which named as the "Injury Investigation and Determination Committee" (IIDC) which is composed of six commissioners from the relevant departments of SETC. There is a permanent executive office in charge of the investigation of injury to the industry and submitting its findings to the IIDC for approval.

C. General Customs Administration (CGA)

Coordinating anti-dumping investigations with MOFTEC; Enforcing anti-dumping measures such as collecting cash deposits, dumping or countervailing duties and monitoring its implementation.

D. Tariff Commission of State Council(TCSC)

Making final decisions on whether or not to levy the dumping or countervailing duties and refund duties based on the suggestions by MOFTEC with regard to imposing anti-dumping or countervailing duties and reimburse excess amount of duties respectively.

2. The status of the draft legislation on safeguards

Upon the accession to WTO, China will implement Regulation on Safeguard by which the future Safeguard measures will be regulated. The drafting work of this regulation is still on the way. It can be expected that the contents of this new regulation will be fully consistent with Safeguard agreement of WTO.

- Page 25, heading Export licensing. Please provide information concerning the use of export licensing as a mechanism to limit the quantity of exports.

Response from China:

China applies its export license system to certain agricultural products, resource products and chemicals, the underlying purposes of which are to ensure the reasonable and orderly exploitation of mineral resources, protect the biological environment and implement its obligations under international conventions as well as for statistical purpose.

Page 26, heading Export Subsidies. Please confirm that all industrial export subsidies have been notified to the Working Party.

Response from China:

China has confirmed that all of its industrial subsidies have been notified to the Working Party.

- Page 33, heading Government Procurement. Please provide a short description of the government procurement policy and process, together with a statement of future plans with respect to further liberalisation and foreign participation in the procurement process.

Response from China:

In order to promote China's government procurement, the Ministry of Finance promulgated the Interim Regulations on Government Procurement in April 1998. The Interim Regulations is stipulated in line with the spirit of the Agreement on Government Procurement of the WTO and on the basis of the relevant provisions of the United Nations Model Law on Procurement of Goods, Construction and Services while making reference to the laws and regulations of some WTO Members on government procurement. The policy and procedure regarding government procurement provided for therein are consistent with the international conventions. China sticks to the fundamental principles of being open, fair, equitable, efficient and in the public interest when carrying out government procurement. At present, China is formulating the Government Procurement Law.

- Page 33, heading Transit. Please provide a brief description of the rules and regulations governing transshipment of goods through the customs territory of China.

Response from China:

The current regulation of transit in China is the Regulations of the Customs of the People's Republic of China on the Supervision and Administration of Transit Goods which is consistent with Article V of GATT 1994.

- Page 33, heading Agricultural policies. Please provide a brief description of government policy and future plans for the agriculture sector.

Response from China:

Since China is a country with vast agricultural base, as well as a country with vast population, agricultural security, food security in particular, is an issue of supreme importance. China will base its policies on domestic agricultural supply, especially on balanced supply and demand of grains. Meanwhile, China will actively seek international resources as a necessary supplement. With its deeds the Chinese government has provided its consistent support for the progressive liberalization of

international trade in agriculture. As a matter of fact, this process has to be sensitive to development realities of different members.

- Page 34, heading Trade in civil aircraft. Please provide a short statement on the civil aircraft industry in China and an indication of whether China plans to join the Agreement on Trade in Civil Aircraft.

Response from China:

China's civil aircraft industry was established in 1980's. With more than ten enterprises and over 10,000 employees, the industry has developed, improved and rebuilt more than ten types of aircraft. The industry is characterised by backward production equipment, insufficient investment and low technical level. Besides, it has not formed economy of scale. Therefore, China is not in the position to commit to joining the Agreement on Trade in Civil Aircraft at present stage.

- Page 37, heading Transparency. Please provide a full listing of the official journals referred to in this section, together with an address of the agency responsible for their publication.

Response from China:

1. Gazette of the Standing Committee of the National People's Congress of the People's Republic of China
2. Gazette of the State Council of the People's Republic of China
3. Collection of the Laws of the People's Republic of China
4. Collection of the Laws and Regulations of the People's Republic of China
5. Gazette of MOFTEC of the People's Republic of China
6. Proclamation of the People's Bank of the People's Republic of China
7. Proclamation of the Ministry of Finance of the People's Republic of China

2. Annexes to the Draft Protocol

- Annex 2(a)1. Please clarify whether other agencies are involved in the importation of fertilizer. Please also confirm that no entity is involved in the importation of sugar.

Response from China:

China confirms that Sinochem and China National Agricultural Means of Production Group Corporation (CNAMPGC) are authorized state trading enterprises to import fertilizer. The entities processing the right to import sugar are specified in Annex 2(a)1.

- Annex 3. Please update the list to add all products covered by recent bilateral accords concluded with the US and EC.

Response from China:

China has revised Annex 3 which will be submitted to the Working Party.

- Annex 5a. Please review the draft Annex to ensure that all subsidies paid are described therein, in particular, those concerning the banking sector, tax deferrals, sub-national subsidies, special treatment of companies located in special economic zones etc.

Response from China:

China confirms that all subsidies have been notified.

- Annex 7a. Please create separate sections to this draft Annex for SPS and TBT measures, and add replace the "Justification" column with references to "legitimate objectives" of the kind described in Article 2 of the TBT Agreement.

Response from China:

China has revised Annex 7(a) which will be submitted to the Working Party.

3. Information supplied

- Table on Amendment of Legislation. Please review all laws at the national and sub-national level and their relation to the subject matters of the WTO Agreement and provide a revised table identifying areas of specific inconsistency and the planned action for elimination of any inconsistency, e.g. Agreement on TRIMS.

Response from China:

China has revised this table which will be submitted to the Working Party.

- State Trading. Please revise this table to ensure that all entities are state trading enterprises within the definition of Article XVII of the GATT 1994 or the Understanding on the Interpretation of Article XVII of the GATT 1994.

Response from China:

China has revised its answer on the questionnaire which will be submitted to the Working Party. China confirms that all the enterprises notified in the questionnaire are state trading enterprises within the definition of Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994. All the enterprises are doing business out of commercial consideration.

- TBT. Please provide a detailed description of the work currently underway to ensure compliance with the requirements of the Agreement on TBT.

Response from China:

China has revised the Checklist of Illustrative TBT Issues for Consideration in Accession which contains the relevant explanations. The checklist will be submitted to the Working Party.

- TRIMS. Please provide more information on the work currently underway to ensure compliance with the requirements of the Agreement on TRIMS.

Response from China:

In order to make the officials responsible for foreign investment policy be acquainted with knowledge of the WTO rules and the commitment Chinese government made in its accession negotiations, China has held training courses for them in a bid to ensure the implementation of the TRIMs Agreement in China. China is now intensifying the efforts on sorting out its laws and regulations on investment. China has developed plans for revising the Law of the People's Republic of China on Joint ventures with Chinese and Foreign Investment, Law of the People's Republic of

China on Chinese-Foreign Contractual Joint Ventures, Law of the People's Republic of China on Foreign-funded Enterprises as well as their respective rules for implementation, so as to make them consistent with TRIMs Agreement and China's commitment.

- **Agricultural Subsidies.** Please provide additional information on the data source used in pages 7, 8 and 9. Please also provide additional updated information on the base years 1993-1995.

Response from China:

In accordance with the WTO Document WTO/ACC/4, the base year for applying countries shall be the latest three years for which statistics are available. Therefore, the base year for latest submission of China's Domestic Support Supporting Tables (WT/ACC/CHN/22) is 1996 to 1998.
