

Committee on Regional Trade Agreements
Sixtieth Session

**CONSIDERATION OF THE FREE TRADE AGREEMENT
BETWEEN PERU AND CHINA,
(GOODS AND SERVICES)**

Note on the Meeting of 14-15 March 2011

*Chairmen: Mr. A. Suescum (Panama) and
Mr. F. Riegert (France)*

1. The 60th Session of the Committee on Regional Trade Agreements (hereinafter CRTA or the Committee) was convened in Airgram WTO/AIR/3692, dated 31 January 2011.
2. Under Agenda Item B.III of this session, the CRTA considered the Free Trade Agreement (FTA) between Peru and China (hereinafter the 'Agreement'), goods and services.
3. The Chairman said that the Agreement had entered into force on 1 March 2010 and had been notified to the WTO by the Parties on 31 July 2009 under Article XXIV:7(a) of the GATT 1994 and the Understanding on the Interpretation of Article XXIV of GATT 1994 as an Agreement establishing a free trade area (document WT/REG281/N/1) and under GATS Article V:7(a) as an Agreement providing for the liberalization of trade in services within the meaning of Article V of the GATS (document S/C/N/537). The text of the Agreement was available, together with its Annexes, on the Parties' official websites. He also said that the Factual Presentation on the goods and services aspects (document WT/REG281/1 dated 11 November 2010) had been prepared by the Secretariat on its own responsibility in full consultation with the Parties, in accordance with paragraph 7(b) of the Transparency Mechanism (TM) for Regional Trade Agreements (document WT/L/671). Additionally, written questions and replies on this Agreement had been distributed in documents WT/REG281/2 and Add.1, dated 8 and 11 March 2011. For the consideration of the Agreement, he proposed to start by asking the Parties and then other Members for general comments. The specifics of the Agreement would then be examined using the factual presentation to guide the debate. He suggested to go through the Factual Presentation section by section, and then look at the questions and replies document.
4. The representative of China thanked the Secretariat for the opportunity to review the China-Peru Agreement. His appreciation also went to Members for their interest and the Peruvian delegation for their valuable contributions to this presentation. He said that this review had special significance for China as this year marked the 40th anniversary of the establishment of diplomatic relations between China and Peru. During these 40 years, the economic and trade cooperation between the two countries had developed rapidly and the level of cooperation had been upgraded constantly. Presently, China was Peru's second largest trading partner, while Peru was China's seventh largest trading partner in Latin America. Peru was also becoming one of China's primary destinations for investments in Latin America. He expressed his delegation's belief that this Agreement would further enhance their bilateral cooperation and bring it to a new level. According to China's statistics, during 2010, the first year of its implementation, bilateral trade had increased by

43.7% to US\$9.2 billion, against US\$6.4 billion in 2009. He also pointed out that this Agreement was the first comprehensive free trade agreement China had signed with a Latin American country and was a new landmark in China-Peru bilateral relations. In the context of the global financial crisis, this Agreement also sent a positive message about the two countries' commitment to open up and fight protectionism.

5. Another representative of China said that her country had started participating in FTAs in 2002 and deemed them an effective approach to speed up domestic reforms, integrate into the global economy and strengthen economic cooperation with other economies. This endeavour was a particularly important complement to the multilateral trading system. Currently, China had 15 FTA partners involving 28 economies, for which ten FTAs had been signed already. The China-Peru Agreement covered trade in goods, services, investment, rules of origin, customs procedures, intellectual property, trade remedies, TBT, SPS, etc. With respect to trade in goods, it featured wide coverage and a high degree of openness. All goods from both countries had been divided into five categories. For the first category, tariffs had been immediately reduced to zero upon the Agreement's entry into force. For the second and third categories, it would take five and ten years respectively to remove tariffs. Goods in the fourth category were exempted from tariff elimination or reduction. Tariffs in the fifth category would be removed within five to 17 years. Such a schedule implied that duties on over 90% of tariff lines would be eliminated by 2027. She added that products exempted from tariff elimination only accounted for 5.44% of China's and 8.05% of Peru's total bilateral trade. This fulfilled the requirement of eliminating duties on "substantially all the trade" as set out in Article XXIV of GATT 1994. As for trade in services, both countries had opened their domestic markets based on their WTO commitments. In the case of China, ten sectors were covered under this Agreement, among which six sectors or sub-sectors enjoyed improved access or were in addition to its GATS Schedule. In the case of Peru, ten sectors were covered, among which 25 sub-sectors enjoyed improved access or had been added compared to its GATS Schedule. With respect to investments, each Party provided not only national, most-favoured-nation, fair and equitable treatment to investors or investment from the other Party, but also encouraged facilitation of mutual investment. The Agreement aimed at improving the investment environment, investment-related regulations and the legal system in both countries. The Agreement also contained a Chapter establishing a cooperation mechanism to promote goods market access and efficient settlement of any problems that might arise in implementing the Agreement. Finally, she informed the Committee that since both countries had a long history and great diversity of traditions, the Parties had agreed to cooperate on the protection of genetic resources, traditional knowledge and folklore. She added that the Agreement had been warmly welcomed by business communities of both countries since its entry into force and had achieved rapid growth in the first year of its implementation. Both Parties were committed to take advantage of this Agreement and further enhance their cooperation in trade in services and investment. She informed the Committee that her delegation had provided written answers to the questions submitted by some Members and looked forward to further exchanges in this review.

6. The representative of Peru thanked the Secretariat for the preparation of the Factual Presentation of the FTA between Peru and China, as well as the Chinese delegation for their work during the negotiation process. He also expressed his delegation's gratitude for the interest and questions from Members regarding this Agreement and reaffirmed Peru's commitment to trade openness and the WTO's Transparency Mechanism. He said that the FTA between Peru and China was a historic step for Peru and the result of a process of consolidation of bilateral ties which dated back to 1849, when the first immigrants from China had arrived in Peru. In addition to improved access to the Chinese market, this Agreement established clear rules, with a transparent and predictable framework for bilateral trade and investment relations. As for trade dynamics between the Parties, he said that high growth rates exhibited by the Chinese and Peruvian economies had led in recent years to an increase in the volume of imports of raw materials, natural resource-based manufactures, intermediate and capital goods as well as strong demand for imported consumer goods from both Parties. The Agreement had boosted bilateral trade, which was expected to rise to

US\$15 billion by 2015. Chinese investments were also expected to increase substantially in various sectors in Peru, which was its second most important destination in South America.

7. Another representative of Peru said that Peru's trade policy aimed at promoting sustainable growth and modernization of the Peruvian economy by improving its efficiency and productivity. With such a strategy and in accordance with Peru's National Strategic Export Plan 2003-2013, Peru had sought to become an exporter of goods and services of high quality. In this context, multilateral, regional and bilateral trade negotiations were key instruments to achieve this objective, strengthen goods and services market access, ensure a legal framework, contribute to consumer welfare, and increase efficiency and productivity through improved access to inputs, technology and capital goods. She also reaffirmed Peru's commitment to the multilateral system and highlighted that RTAs were complements to the multilateral system and not substitutes. She said that this FTA was important for Peru as it was the first comprehensive trade Agreement that China had entered with a developing country, and which covered goods, services and investments. She also mentioned that at the same time an Agreement on the Cooperation and Mutual Administrative Assistance in Customs Matters had been signed. In her view, the Agreement was the most complete agreement China had negotiated so far as the Parties had the obligation to exchange official information in order to fight customs fraud and irregularities. The Agreement also included provisions on standards to provide greater predictability and transparency to operators in each Party. She emphasized the inclusion in the Agreement of a chapter on Intellectual Property (IP), which contained provisions on the protection of genetic resources, traditional knowledge and folklore. Such provisions gave a basis for future negotiations regarding the disclosure of the origin or source of genetic resources and/or prior informed consent in patent applications. The same chapter on IP included provisions for the recognition of geographical indications for each Party. In the case of Peru, protected designations of origin included Cuzco's white giant maize, Peruvian pisco, Chulucanas pottery and Lima beans. The Agreement also contained a chapter on co-operation that included areas such as research, science and technology, small and medium enterprises, information technology, education, culture, mining and industry, tourism, agriculture, fishery, forestry and environmental protection, competition policy and traditional medicine.

8. She added that the Agreement had strengthened ties between Peru and China and created new economic opportunities for Peru on trade in goods, services, investment and cooperation. Just nine months after the entry into force of the Agreement, the balance was very satisfactory for Peru. As of December 2010, trade flows with China had exceeded US\$10.5 billion, which was 44% higher than the previous year. Export growth had been particularly important for non-traditional exports including wood, paper, fisheries, agricultural and chemical products. She mentioned that China was a major source of investment for Peru, mainly in mining, but also in services. In 2010, according to Peru's Private Investment Promotion Agency, Chinese foreign direct investment (FDI) had reached US\$262 million. She also informed the Committee that the first meeting of the Commission of the Peru-China FTA was expected to take place in the first half of the year in order to assess and monitor compliance and the correct application of the Agreement's provisions. Finally, she reiterated that, as a GATT Contracting Party and WTO founding Member, Peru was fully committed to the multilateral trading system, and that RTAs were complementary and in no way a substitute for it. She highlighted that Peru's trade agreements were in line with WTO provisions and promoted trade liberalization at the multilateral level. The China-Peru Agreement contained commitments that contributed towards a multilateral agreement on the reduction of domestic support and elimination of export subsidies. Finally, she welcomed any additional questions Members might have.

9. The representative of the United States expressed his appreciation to Peru and China for their detailed presentations, as well as to the Secretariat for its work on the Factual Presentation. He observed that Table V.1 in page 50 of the Factual Presentation listed a number of agreements that had not been notified by the parties, including the agreement between China and Chinese Taipei. His delegation was thus interested in knowing when the Parties intended to notify these agreements to the

WTO. As in past CRTA sessions, he reiterated that his delegation viewed non-notified agreements as a blind spot in the understanding of RTAs and their implications for the multilateral system. He therefore encouraged the Parties to notify the remaining agreements as soon as possible.

10. The representative of the European Union (EU) asked the Parties to explain the reasons why the Agreement did not include any provision regarding the elimination and prohibition of export duties applied to goods. She further asked the Parties to elaborate on current and future export duties on trade between the Parties and how they intended to ensure compliance with the obligations set out in GATT Article XXIV to eliminate duties and other restrictions on substantially all trade between the Parties. She underlined that in accordance with Article XXIV, Members had the obligation to cover export duties in their liberalization commitments. With regard to non-notified agreements, she encouraged the Parties to notify the remaining agreements as soon as possible and welcomed any further information the Parties would like to share.

11. The representative of Peru replied that the appropriate way of notifying the remaining agreements was currently being discussed within the Latin America Integration Association (LAIA), as the countries concerned were members of that organization. She remarked that WTO Members had been informed of the conclusions of these RTAs in the biennial reports presented to the Committee on Trade and Development. Her answer had been sent in writing to Members.

12. In response to the EU's question, the representative of Peru answered that Peruvian exports were not subject to any duty, according to Article 54 of the Single Text of the General Customs Law adopted by Supreme Decree N° 1029-2004-EF of 12 September 2004. This document had been registered by the WTO Secretariat in Peru's last Trade Policy Review in 2007.

13. The representative of China replied that all China's agreements signed with other partners had been notified except for the one involving Chinese Taipei. For the latter, she added that China was in the process of coordination with Chinese Taipei and would keep Members informed about further developments. She added that the reason for not having a provision regarding export duties was because China had no such provision in any of its FTAs with other parties. Based on its negotiations with Peru, China had considered that including such a provision was not necessary.

14. The Chairman said that the consideration of the goods and services aspects of the FTA between Peru and China had allowed the Committee to clarify a number of questions and oral discussion of the Agreement could be concluded in accordance with paragraph 11 of the Transparency Mechanism. If any delegations wished to ask follow-up questions they were invited to forward submissions in writing to the Secretariat by 22 March 2011 and the Parties were asked to submit replies in writing by no later than 5 April 2011. In accordance with paragraph 13 of the Transparency Mechanism all written submissions, as well as minutes of this meeting would be circulated promptly, in all WTO official languages, and would be made available on the WTO website.

15. The Committee took note of the comments made.
