

REPORT OF THE COUNCIL FOR TRADE IN GOODS ON CHINA'S NINTH AND FINAL TRANSITIONAL REVIEW

1. The Council for Trade in Goods (CTG), at its meeting on 7 November 2011, carried out the ninth and final Transitional Review of China pursuant to paragraph 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432).
2. Japan posed questions and comments in writing to China on the CTG-specific information requirements contained in Annex 1A of the Protocol and on matters raised before subsidiary bodies. The questions and comments by Japan were circulated in document G/MA/W/106. Annex 1A information provided by China to the Council for the review was circulated in document G/C/W/661.
3. The CTG took note of the reviews that had been carried out in the CTG subsidiary bodies. Furthermore, the Council reviewed the information provided by China concerning specific parts of Annex 1.A of the Protocol and the questions raised by Japan, Mexico, the United States (US) and the European Union (EU). The statements made at the meeting of 7 November 2011 are reflected in the minutes of the meeting in document G/C/M/108¹. The relevant paragraphs from the minutes which reflect the discussion under agenda item XIV are annexed.

¹ To be issued at a later date.

ANNEX

XIV. TRANSITIONAL REVIEW UNDER PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

14.1 The Chairman recalled that in accordance with paragraph 18 of the Protocol of the Accession of the People's Republic of China in document WT/L/432, this Council was to report to the General Council on the Transitional Review. CTG subsidiary bodies were required to transmit their reports to the Council for Trade in Goods. First, he gave Members an opportunity to make general comments on those reports, and subsequently proposed that the Council takes note of the Reviews that had been carried out in the CTG subsidiary bodies. He then moved to the CTG's own report. The Council was required to review the information to be provided by China in designated parts of Annex 1.A of the Protocol.

14.2 He added that the following subsidiary bodies had carried out the Transitional Review: Market Access – the report was contained in document G/MA/258; Agriculture - the report was contained in document G/AG/27; Customs Valuation - the report was contained in document G/VAL/66; Import Licensing - the report was contained in document G/LIC/23; Rules of Origin - the report was contained in document G/RO/72; Anti-Dumping - the report was contained in document G/ADP/21; Subsidies and Countervailing Measures - the report was contained in document G/SCM/140; Safeguards - the report was contained in document G/SG/96; and TRIMs - the report was contained in documents G/L/963; SPS - the report was contained in document G/SPS/57. He asked Members for general comments on those Reviews. He noted that the report from the Committee on Technical Barriers to Trade had not been finalized at the time of the Council meeting as the TBT Committee was meeting that week.

14.3 The Council took note of the reports from the subsidiary bodies. The Chair of the Committee on Technical Barriers to Trade would submit the report directly to the General Council.

14.4 The Chairman recalled that China was required to provide information to the CTG in accordance with paragraph 18.1 of the Protocol of Accession. The relevant information requirements were listed in Annex 1A therein. China had submitted this information as circulated in document G/C/W/661. He also drew Members' attention to the questions from Japan in document G/MA/W/106. The Chair gave the floor to China to introduce its submission.

14.5 The representative of China stated that he preferred to respond after other Members had taken the floor.

14.6 The representative of Japan stated that, on the 10th anniversary of China's accession to the WTO and final Transitional Review Mechanism (TRM) under the Protocol of Accession, his delegation wanted to highlight not only the role of the TRMs, which had ensured transparent review of China's efforts to comply with its obligations, but also China's efforts to answer the questions posed by Members. However, Japan considered that China had not fully responded to the questions, like in the Committee on Market Access on 14 October 2011, where Japan raised some issues concerning export restrictions and export taxes and China suggested that these be taken up to this Council. He then indicated that the Chinese government had issued export restrictions on several raw material products, including rare earths, tungsten, antimony, indium, molybdenum, tin coke, etc. In rare earths, China's Ministry of Commerce (MOFCOM) had announced that, according to its policy, the total amount of export quotas was confined to approximately 8,000 tons in 2010, marking a 40 per cent decrease when compared to 2009. The total amount for 2011 was expected to be approximately the same as for 2010. Moreover, ferroalloys had recently been included in the coverage of export quotas; and, as a result, the amount of quotas for rare earth had decreased significantly. China's explanations that these measures were taken to protect exhaustible natural resources were contradicted

by the increased amount of Chinese domestic consumption of these products. Thus, these measures appeared to benefit domestic users of the metals. Japan also recalled that China's export duties on various raw materials, including rare earths, tungsten, antimony, indium, molybdenum, tin, fluorite, and hydrogen fluoride had been raised several times since November 2006 and requested explanations from China as to how and whether it had plans to eliminate those export restrictions.

14.7 On China's implementation of export licensing on coal, Japan indicated that, whereas a sufficient number of export licences used to be issued in terms of China's export amount of coal, the number of export licences had decreased over the past few years. This trend might hamper smooth trade flow of coal. China's domestic production and consumption of coal seemed to be in expansion, but it was unclear if the export licensing measures on coal had been adopted in conjunction with the restrictions on domestic production and/or consumption, as stipulated in GATT Article XX (g). This raised concerns with regard to the consistency of such measures with GATT Article XI; thus, China should clarify how it justified export licensing on coal under the GATT. Moreover, while China was committed to eliminating export taxes-with the exception of those which are listed in Annex 6 in China's Protocol of Accession- it had raised export taxes on coking coal and had levied taxes on steam coal and anthracite since August 2011. China should also explain how it justified its export taxes in relation to its commitment upon accession, and indicate any plans to review the export licensing measures and imposition of export taxes on coal.

14.8 Japan recalled that in March 2006, MOFCOM had announced export prohibition on natural sand and on 5 January 2007 it announced that this would take effect from March 2007. China had explained that the purpose of the prohibition was to preserve natural resources and that, in parallel, production and consumption of natural sand had also been restricted. China should provide detailed explanation on its measures, including legislative measures and quantitative restrictions on domestic production and consumption of natural sand. The Japanese industry sector had not only submitted inquiries on the particularities of the measures, but also requested their repeal. On several occasions Japan had posed questions on the WTO consistency of China's export prohibition on natural sand but had not received sufficient explanations from China.

14.9 On export taxes on fertilizers and their raw materials, Japan indicated that since 2008 China had levied its export taxes on fertilizers and their raw materials as follows: China levied 100 per cent special export tax on 32 items of the chemical fertilizers and their raw materials from 20 April to 30 September 2008; a total of six items including phosphate rock, were added to the list of the above items, making them subject to the 100 per cent special export tax on May 2008; currently, a total of eight items had been levied; and, during periods of high demand, China had levied 75 per cent special export tax on items such as urea and ammonium phosphate, in addition to a 35 per cent export tax levied during such periods. Since these products were not listed in Annex 6 of the Protocol, Japan was concerned that the aforementioned measures were inconsistent with the commitment to abolish export taxes in accordance with section 3, Article 11 of China's WTO Protocol of Accession. Despite several inquiries by Japan regarding China's future plans to eliminate these export taxes on the aforementioned TRM and TPR, China had not provided any concrete explanation. Therefore, he requested China to provide explanations on this issue.

14.10 As to Trade Related Investment Measures (TRIMs), Japan recalled that at the TRIMs Committee on 4 October it recognized China's efforts in recent years to simplify the verification processes for investment projects, but had indicated that China had to further improve the application of the system, especially in rural areas, through enhancing transparency and predictability on the implementation and through a substantial elimination of remaining foreign capital restrictions under the "Law on Management of Foreign Investment in Commercial Sectors". Japan was also concerned that performance requirements on local content or on technology transfer still remain as impediments for foreign investors in China. Japan had also pointed out that, in spite of China's commitments in paragraph 7.3, Part I of the Protocol of Accession and paragraph 203 of China's Working Party

Report, China was still imposing technology transfer requirements in the new-energy vehicles production by "Access Regulations for New-Energy Vehicle Manufacturers and Products". At the TRIMS Committee meeting, Japan asked China to clarify the consistency of this measure with its Protocol of Accession but had not yet received concrete explanations.

14.11 With regard to the Committee on Agriculture, Japan indicated that Section 11.3 of Part 1 of the Protocol of Accession stipulated that China should eliminate all taxes and charges applied to exports unless specifically provided for in Annex 6 of the Protocol or applied in conformity with the provisions of Article VIII of GATT 1994. At the Committee meeting in September 2011, Japan expressed its concerns on China's introduction of export taxes and charges on agricultural products in terms of volatility of world food prices and requested for China's view on the consistency with the Protocol of Accession and the relevant WTO provisions concerning export taxes and charges.

14.12 With regard to the forthcoming meeting of the Committee on Technical Barriers to Trade (TBT), Japan looked forward to receiving from China, comprehensive responses regarding standards, conformity assessment procedures, regulation for information security and "Regulations of the People's Republic of China on Certification and Accreditation" and "Measures for the Administration of Certification Bodies" in China. Even though this was the final occasion to review China's progress in fulfilling its accession commitments, Japan would continue monitoring China's progress in the standing committees.

14.13 The delegate of Mexico recalled that her delegation had made its concerns apparent in several Committees, but in particular at the Committee on Customs Valuation where it had serious concerns. Mexico recognized the initiatives undertaken by the Chinese government to ensure China's full integration into the multilateral trading system and to comply with its Protocol of Accession. In spite of significant reforms which over the last ten years led China to a thriving economy, Mexico had concerns on the industrial policies aimed at promoting national industries and the increasing government intervention in the economy; these could distort international trade. Government intervention in the operation and design of investment strategies of the Chinese state-trading enterprises also caused concern. China had made significant progress in certain areas, such as the steel sector, where plans to increase mergers between companies, a reduction or cancelling of credits and the closure of a number of small plants had been implemented in order to reduce the capacity of state trading enterprises. However, the Mexican private sector remained concerned by the continuing governmental intervention in setting levels of production and exports of its trade-owned enterprises; this caused distortion in international trade of steel. The Chinese government also intervened in other sectors such as automotive, chemicals construction, machinery and equipment, information technology, iron and steel and nonferrous metals where, given the 2008 crisis, the Chinese government had implemented a number of stimulus packages. Mexico recognized the efforts carried out by China in order to improve transparency to its practices and commercial measures. However, the Mexican private sector was still concerned that there were significant short-comings on the transparency of the Chinese industrial policies, which were still based on significant government intervention. In some sectors, in particular leather and footwear, there were concerns about potential government participation in the ownership of enterprises as well as lack of information about the government's participation. Mexico requested the Chinese authorities to continue its efforts towards the full implementation of the WTO obligations, as was agreed in China's Protocol of Accession.

14.14 The delegate of the United States recalled that the TRM was created largely because China was admitted to WTO membership before it had revised all of its trade-related laws and regulations to become WTO-compatible, and because China was allowed a variety of transition periods before it took on certain WTO obligations. Active monitoring of China's implementation progress through the TRM was considered an important mechanism to help ensure that China successfully integrated into the WTO's open, market-oriented and rules-based trading system and to help ensure that WTO Members benefited fully from liberalized trade with China. During the initial phase-in period

following its accession to the WTO, China implemented a set of sweeping commitments, including reducing tariffs, eliminating non-tariff barriers that denied national treatment and market access for goods and services imported from other WTO Members, and making legal improvements in intellectual property protections and in transparency. These actions deepened China's integration into the international trading system, facilitating and strengthening China's rule of law and economic reform. Trade and investment also expanded dramatically between China and its many trading partners.

14.15 Nevertheless, even though China had taken many impressive steps to reform its economy since joining the WTO ten years ago, the overall picture remained complex, given a troubling trend in China toward increased state intervention in the Chinese economy in recent years. She noted that frequently, trade frictions with China could be traced to China's pursuit of industrial policies that relied on excessive, trade-distorting government intervention intended to promote or protect China's domestic industries and state-owned enterprises and that this government intervention reflected the fact that China's movement away from a centrally planned economy toward a free-market economy governed by rule of law remained incomplete. To date, all of the committees that report to this Council had conducted their TRMs, with the exception of the Committee on Technical Barriers to Trade. In the statements that the United States made before those committees, it noted the progress that China had made in implementing the Protocol of Accession commitments and in complying with the obligations that China had taken on under the many agreements that make up the WTO Agreement during its first 10 years of WTO membership. However, the United States also noted many areas of on-going concern, evidencing a troubling trend toward increased state intervention in China's economy. Her delegation wanted to highlight, at the meeting, some of the key on-going issues that it raised in the TRMs before the Council's subsidiary bodies.

14.16 She recalled that, before the Committee on Agriculture, the United States noted that national treatment in connection with China's application of its value-added tax (VAT) had been a concern for some time. It appeared that sales of agricultural commodities produced and sold by farmers in China, such as wheat, cotton and corn, were exempted from the VAT and that sales of agricultural inputs produced and sold in China, such as seed, pesticide, herbicide, agricultural machinery and certain fertilizers, were also exempted from the VAT. However, when these same products were imported, it appeared that they were assessed the VAT at the rate of 13 per cent. Her delegation also noted that China's TRQ system for bulk agricultural commodities continued to be impaired by inadequate transparency, inordinately benefited state trading enterprises rather than the private sector, and suffered from low fill rates for many of the commodities. In addition, it was difficult to provide an assessment of whether China had adhered to its commitments with regard to agricultural subsidies because it appeared that, even after 10 years of WTO membership, China had failed to notify all of its subsidies to the WTO, as required by Article 25 of the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement). The United States urged China to reconsider its use of non-tariff barriers, like its discriminatory application of the VAT to agricultural products, which created an uneven playing field in China to the detriment of foreign producers and their products. She also urged China to take immediate steps to improve transparency, both with regard to its TRQ regime and its use of subsidies.

14.17 She recalled that before the Committee on Trade-Related Investment Measures (TRIMs), the US had explained that even though China had revised many laws and regulations on foreign-invested enterprises to eliminate WTO-inconsistent requirements relating to export performance, local content, foreign exchange balancing and technology transfer, some of those measures continued to "encourage" the use of local content or technology transfer, without formally requiring it. Moreover, enterprises from the United States and other Members continued to report that some Chinese government officials, who typically retained a high degree of discretion when reviewing investment applications, still considered factors such as local content and technology transfer when deciding

whether to approve an investment even in the absence of a measure expressly encouraging it. She indicated that the auto sector was one sector that the US highlighted as having been particularly plagued by this type of government intervention, and the latest manifestation could be seen in a series of problematic actions being taken by the Chinese government related to the so-called "new energy vehicles", or NEVs. Another sector impacted by troubling investment restrictions was the steel sector. However, these two sectors were by no means the only affected sectors. In a number of other sectors, her delegation and other Members had become increasingly concerned over the last few years about new restrictions on investment being proposed and implemented by China. Often, these restrictions were accompanied by other problematic industrial policies, such as the increased use of subsidies, preferences for using domestic rather than imported goods, and the development of China-specific standards. Many of these investment restrictions could be traced to the five-year plans that guided China's industrial development. She urged China to reconsider its heavy reliance on investment restrictions as a tool of industrial policy and to review its existing investment restrictions, particularly with regard to NEVs, in light of its WTO commitments and make appropriate revisions where necessary.

14.18 Before the Committee on Market Access, her delegation noted that serious market access problems had arisen over the last 10 years as a result of various Chinese government industrial policies, and that many of these problems had involved fundamental WTO obligations, such as national treatment, non-discrimination and transparency. The United States referenced four WTO compliance matters that could not be resolved through dialogue and led to the initiation of dispute settlement proceedings, including *China - VAT on Integrated Circuits* (DS309), *China - Measures Affecting Imported Auto Parts* (DS339, DS340 and DS342), *China - Publications and Audiovisual Products* (DS363) and, most recently, *China - Export Restraints on Raw Materials* (DS394, DS395 and DS398). With regard to the last of these WTO cases, *China - Export Restraints on Raw Materials*, she indicated that the complainants had challenged China's export restraints as applied to a representative sample of nine raw materials and that a WTO panel had recently rejected all of China's defences and ruled in favour of the complainants. The United States urged China to abandon its use of export restraints not only on these nine raw materials, but also other raw materials, including rare earths, tungsten and antimony.

14.19 She recalled that before the Committee on Import Licensing, her delegation addressed a variety of import licensing requirements being imposed by China that raised questions about China's commitment to implementation of the Agreement on Import Licensing Procedures. Her delegation specifically referenced China's import licensing system for iron ore, China's regime for issuing Quarantine Inspection Permits (QIPs) for products such as poultry, pork and beef, and China's regime for issuing Automatic Registration Forms (ARFs) for poultry, pork, soybeans and dairy products. The United States urged China to take a path that would promote rather than restrict trade and specifically to abandon its use of restrictive import licensing procedures for iron ore; and, eliminate its QIP and ARF regimes.

14.20 She indicated that before the Committee on Sanitary and Phyto-sanitary Measures (SPS), her delegation noted that over the last ten years China's regulatory authorities had imposed non-transparent SPS measures apparently lacking a scientific basis that restricted imports of a number of key US agricultural exports and that, in many instances, the US efforts to resolve China's underlying concerns were hindered by China's inability to provide relevant risk assessments or its science-based rationale for maintaining its import restrictions. She stated that examples of problematic SPS measures currently in place included a ban on US beef products, zero tolerance standards for certain pathogens in imported raw meat and poultry that were generally considered unachievable and were apparently not applied to domestic raw meat and poultry, and lengthy bans on poultry from various US states in response to cases of low-pathogenic avian influenza. The United States urged China to

fully embrace the disciplines of the SPS Agreement and ensure that its SPS measures were based on international standards or science-based risk analysis procedures.

14.21 She also indicated that before the Anti-Dumping Committee, her delegation noted that while China had made significant progress in developing a legal framework for its anti-dumping regime over the past ten years, it had more to do to make its anti-dumping investigative and decision-making processes fully transparent and procedurally fair for all parties, as envisioned by the Anti-Dumping Agreement. The United States later noted before the Subsidies Committee that these same concerns applied to China's countervailing duty regime. Separately, the US also drew attention to the fact that, in recent years, China had initiated anti-dumping and countervailing duty investigations under troubling circumstances. The United States added that some of these investigations had generated WTO disputes in which multiple WTO violations had been alleged, including claims of inconsistency not only with fundamental obligations relating to transparency and procedural fairness, but also key aspects of the injury determinations. The United States had initiated two of those disputes, one involving grain-oriented electrical steel (DS414) and the other involving broiler products (DS427).

14.22 As to the Committee on Subsidies and Countervailing Measures, her delegation emphasized that it was particularly troubling that, throughout its first ten years of WTO membership, China appeared to have made frequent use of subsidies that were prohibited by the Subsidies Agreement. To date, the United States had brought three separate WTO cases challenging scores of Chinese central, provincial and local government subsidies as prohibited. While China either repealed the challenged measures or eliminated the challenged benefits in those measures after being challenged at the WTO, there were concerns that China continued to face WTO challenges alleging significant use of prohibited subsidies at every level of government even after ten years of WTO membership. As pointed out, the Subsidies Agreement's disciplines were clear and straightforward, and it was unacceptable for China or any other Member to maintain prohibited subsidies. Her delegation also highlighted another troublesome problem in the subsidies area: despite being one of the top traders among WTO Members, China had a poor record of compliance with its transparency obligations under the Subsidies Agreement. China continued to maintain an opaque subsidies regime, and until last month it had submitted only one of its required subsidies notifications under Article 25 of the Subsidies Agreement since joining the WTO ten years ago. That notification, submitted in 2006, was incomplete as it failed to notify any subsidies provided by provincial and local government authorities, as well as numerous central government subsidies. China did submit a new notification in October 2011 after the US took the extraordinary step of submitting a counter notification under paragraph 10 of Article 25 of the Subsidies Agreement, but China's new notification was again incomplete.

14.23 With regard to the Customs Valuation Committee, she indicated that her delegation noted that it appeared that China's implementation of its obligations under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (the Customs Valuation Agreement) had been inconsistent from port to port, both in terms of customs clearance procedures and valuation determinations. The US specifically highlighted China's improper use of "reference pricing" for many high technology products, China's automatic adding of royalties and license fees to the dutiable value of goods such as computers that include pre-installed software, and China's assessment of duties on digital products based on the imputed value of the content rather than the value of the underlying carrier medium. The United States urged China to take immediate steps to ensure that its customs valuation measures were fully and uniformly implemented.

14.24 The US had described concerns before several committees about the efforts that China had made to comply with a series of commitments from its Protocol of Accession that were designed to ensure that trade with China would be predictable and transparent. First, with regard to China's commitment to publish all laws, regulations and other measures pertaining to or affecting trade in

goods or services, her delegation noted that while China had complied with this commitment in many respects, it still did not appear that China published measures that provide "internal guidance." Second, with regard to China's commitment to publish measures for comments before implementing them, China had made improvements over the years, but it appeared that China had still not institutionalized a notice and comment mechanism for all Chinese agencies. Third, with regard to China's commitment to make available all laws, regulations and other measures pertaining to or affecting trade in goods or services in one or more WTO languages, it appeared that China had made only limited progress in implementing this commitment.

14.25 In conclusion, the US delegate stated that overall, while China had made noteworthy progress in implementing the Protocol of Accession commitments and in complying with obligations that it took on under the many agreements that make up the WTO Agreement, more work lied ahead if China was to fully integrate into the WTO's open, market-oriented and rules-based trading system and if other WTO Members were to benefit fully from liberalized trade with China. The United States was committed to continuing its engagement with China, both here at the WTO and bilaterally, in order to achieve these objectives.

14.26 The representative of the European Union indicated that China's WTO accession was probably the most defining economic development the world had witnessed over the last decade and the ninth and final Transitional Review Mechanism (TRM) provided the EU with the opportunity to review the implementation of China's commitments since joining the WTO by the end 2001. Since then, China's exports had increased 6-fold in just over a decade, making China the world's number one exporting nation. China was also the EU's second largest trading partner, while the EU was China's biggest export market and number one trading partner. He highlighted the tremendous efforts China had done in the run-up to and in the years following its WTO accession. First of all, the EU acknowledged that China had implemented its tariff reductions according to the schedule. Accession to the WTO had also given a new impetus to Chinese law-making because of the specific consultation and publication obligations that WTO membership entails. The EU had learnt that in the process, China reviewed over 2000 pieces of laws and regulations at the central level alone, in addition to tens of thousands more at the provincial level; this was complemented by a nation-wide awareness-raising and information campaign.

14.27 Despite these huge efforts and impressive achievements, it was important to note that WTO membership was not a one-off event but a commitment that required on-going work, especially in a fast developing country like China that was catching up rapidly and very actively regulating its markets, often in very short time. In fact, it ought to become an in-built reflex to ensure that its rules and legislation respect WTO rules and basic principles such as non-discrimination, transparency, and national treatment. That was applicable to each and every WTO Member, but especially leading trading nations ought to lead by example. Given China's size – already the world's number one exporter and soon also the world's biggest economy, all that it does or does not do, had an impact on the rest of the world, including in the case of domestic and internal market regulations.

14.28 Despite the impressive progress China had made since 2001 in integrating to the rules-based world trading system, WTO Members were still confronted with some important areas of concern and significant challenges remained in realising the benefits of many of the commitments that China had *de jure* implemented. He noted that his delegation, like many others, had taken active part in this TRM in a number of CTG sub-committees, including the Committees on SPS, Market Access, TRIMS, Anti-dumping, Subsidies and Countervailing measures where the EU had made statements and presented written submissions. The EU was surprised that China, in some of these Committees, had thanked those Members who had remained silent during the TRM. In this regard, he recalled that transparency was an essential element of the WTO, that the scrutiny provided for by the TRM was

part of China's Protocol of Accession, and that each and every WTO Member, regardless of its size, had an equal right to exercise its rights.

14.29 With regard to the Committee on Market Access, the EU encouraged China to reconsider procedures, to engage in a substantive review of its Compulsory Certification scheme and to act responsibly as a WTO Member who is a significant raw materials consumer and producer worldwide. The EU appreciated China's concerns with regard to sustainable management of natural resources and encouraged environmental considerations in this field but considered that export restrictions were not the appropriate and WTO consistent approach to achieve these objectives. The EU had repeatedly endeavoured to find a constructive solution through dialogue but because of the reticence of the Chinese party to engage in such dialogue, had to resort to WTO litigation. His delegation expected the final ruling in this dispute in December and hoped China would be willing to engage with it in finding a systemic solution to export restrictions on many raw materials.

14.30 In the TRIMS Committee, the EU had raised China's investment approval process where, despite efforts to enhance transparency, further streamlining was needed. His delegation also highlighted many restrictions on foreign investment, including complete bans on foreign investment in certain sectors, reflecting the government's continuing role as a very active manager of the economy, as well as some local content requirements. He called on China to implement all of its investment measures in a way that ensures transparency and predictability.

14.31 As to the Committee on SPS, the EU's main concerns related to transparency such as access to legislation and procedures, SPS notifications were coming in big volumes and in Chinese only therefore, possibilities for real commenting remain limited. On administrative procedures for export applications, the EU noted general slow progress. Another concern related to the fact that Chinese legislation was not yet aligned to several international standards; in this context, the EU raised differences between the Chinese list of authorized food additives and processing aids and the list considered safe by international standard-setting bodies. Additionally, China had not given a scientific justification for this deviation. China should continue its efforts to fulfil the responsibilities deriving from its WTO membership in this area.

14.32 In the context of the Committee on Subsidies and Countervailing Measures, the EU had raised the issue of notifications, recalling that WTO Members were under the obligation to submit regular notifications of subsidies in the area of trade in goods under the SCM Agreement (ASCM). His delegation was interested in hearing China's intentions in this respect. With regard to the Committee on Anti-dumping (AD), the EU emphasised its concerns relating to the nature and standards applied in Chinese proceedings related to the use of anti-dumping instruments, highlighting that AD proceedings should be initiated only if all WTO conditions were met, regardless of any retaliatory motive whatsoever.

14.33 In conclusion, the EU felt that, ten years after its accession to the WTO, China had moved from being an emerging economy to a global economic power and its WTO membership had certainly not been alien to this transformation. The EU recognized and welcomed China's continuous efforts over the past ten years to implement its WTO commitments and encouraged it to continue in the same path, so as to ensure that its domestic rules and legislation faithfully respect WTO rules and basic principles such as non-discrimination, transparency, and national treatment. The EU looked forward to continuing this review in the remaining meetings of the WTO bodies, such as the Committee on Technical Barriers to Trade (TBT) and the General Council.

14.34 The delegate of China thanked Japan, the US, Mexico and the EU for their statements and expressed the appreciation of his delegation for the constructive silence of all other Members that might not have been willing to take the floor under this agenda item ever or at the TRM. He expressed that China had spared no efforts to fulfil most comprehensively and seriously, its

tremendous commitments made upon its accession to the WTO on 10 November 2001. Since then, China had reduced tariffs, eliminated all non-tariff measures, and made available the right to trade to all individuals and businesses which drastically lowered the threshold for people engaging in trade. With the duly and complete implementation of tariff reduction commitments each year in the transitional period, China's average tariff on goods had reduced from 15.3 per cent at the time of accession to 9.8 per cent in 2011; this was lower than the average tariff level of other developing country Members. China had overhauled 2300 laws, regulations and departmental rules at the central level and 190,000 trade-related regulations, policies and measures at the local level. As the biggest developing country of the world and a stalwart supporter of the multilateral trading system, China had done its best endeavours to fulfil its WTO obligations and promote transparency, liberalization and trade facilitation internally and abroad. In the same vein, it submitted to the Goods Council, document G/C/W/661 containing the information requested in Annex 1A of China's Protocol of Accession. China looked forward to furthering effective discussions with other Members during this final TRM and in the future at the regular meetings of the Goods Council.

14.35 The Chinese delegate thanked Japan for respecting the division of labour between this Council and the Committee on Market Access and for having submitted their questions to the latter prior to this Council. Some of the verbal questions by other delegations had already been addressed in previous reviews under the subsidiary bodies of this Council or at other various arenas, including through bilateral talks. China's deliberations, clarification and argument had been clear and consistent and it would be inappropriate to reopen those topics and repeat China's position already stated in previous transitional reviews this year.

14.36 In response to Japan's written question on the export restrictions and export tariff on some nonferrous raw materials, the Chinese delegate indicated that rare-earths, tungsten, molybdenum, antimony, tin, and other nonferrous raw materials were non-renewable and exhaustible natural resources. China was also facing serious resource depletion and environment pollution challenges during the exploitation of the above-mentioned raw materials; therefore it had imposed both export restrictions and strict control of domestic mining and production on such raw materials so as to protect the environment through improving the rational exploitation and utilization of resources as such. This policy and practice fully complied with WTO rules. With regard to rare-earths he indicated that it was widely known that China had about 30 per cent of global reserves of rare-earths but had produced and supplied 95 per cent of the world's total demand and, accordingly and undoubtedly, endured most of the pollutions. It was unsustainable, unrealistic and unfair to expect China to meet the majority of the global demand for rare-earths in the long run with relatively a much smaller proportion of global reserves. Thus, China adopted restrictive measures for the exploitation, production and export of rare-earths considering environmental protection and economical use of limited resources. He noted that those measures were implemented in a way fully consistent with WTO rules and agreements, including the national treatment principle. He furthered that in 2010, China produced 89,000 tons of rare-earths, a year-on-year decrease of 31 per cent. The decrease of production was proportionate to the adjustment of export quotas and all available data disapproved the alleged statement of Japan that there had been an increase of production of rare-earths in China despite export measures in place. Furthermore, in 2011, the export quotas of rare-earths were 24,000 tons and the export volume only accounted for 34 per cent of export quotas. China believed that the decreasing export of rare-earths was mainly caused by market power rather than the adjusted export quotas.

14.37 Regarding coke and natural sand, the Chinese delegate stated that that China had taken consistent and WTO-compliant export measures to promote the rational exploitation of resources and protect the environment. Unsurprisingly, its coke reserve accounted for about 22 per cent of the world's total while its production takes were one third of the world's total. China noted that reduced export in the past years had taken place in the context of the plummeting world demand for coke, mainly due to the negative impact of the global financial crisis. China had tried its best to provide far

bigger export quotas than the volume of realized export in order to safeguard and promote free trade. China's coke export quotas totalled 10 million tons in 2010, which was significantly higher than the 33.5 million tons of export realized in the same year. With regard to natural sand, he reminded Members that China had notified in 2007, under quantitative restrictions notification category, its export measure on natural sand, which was officially put into effect on 1 March 2007.

14.38 On questions concerning the export quotas and export tariff of coal, the Chinese delegate stated that China's analysis had proved again that the decreasing coal export volume from China was not caused by the adjustment of coal export quotas. The over-exploitation of coals had resulted in increasingly depleting resources for consumption and severe damages to the environment in China. Therefore, it was justified and imperative for China to adopt export measures on coal fully in line with the WTO rules. He also indicated that China calculated and decided its total coal export quotas, based on a comprehensive consideration of domestic supply and demand, global market demand and quotas used in real terms in the previous year. Additionally, in recent years coal price in the global market had always been lower than that in the domestic market and, as a natural response to the market situation, the trade volume of coal agreed under Sino-Japan Long-term Agreement had been reduced substantially. Moreover, due to the same unfavourable export market conditions, Chinese coal enterprises were showing less and less interest in coal export business, resulting in a huge decrease of export volume from 45.43 million tons in 2008 to 19.03 million tons in 2010, a drop of 58.1 per cent. As a result of this, the Chinese government moderately adjusted its coal export quotas from 47.7 million tons in 2008 to 45 million tons in 2010, a drop of only 5.7 per cent. Facts and data had proven that the coal export quotas provided were consistently and drastically higher than actual coal export volume in recent years; thus, China's export measures had little to do with the decrease of export to Members like Japan.

14.39 With regard to the questions from Japan on export tariffs of chemical fertilizers and other raw materials, the Chinese delegate expressed that China had an enormous population with little arable land, thus it was always a cardinal task for China to feed its 1.3 billion people. As an important agricultural means of production, chemical fertilizer had played an important role in increasing agricultural output and farmers' income. China did make several adjustments to the export tariff of related products during 2008-2010 and was willing and ready to conduct further discussions with concerned Members so as to exchange accurate information in the future. Japan's written assertion that "China has raised export taxes on coking coal and has levied taxes on steam coal and anthracite since August 2011" was incorrect given that nothing had changed since August 2011. Thus, China would refrain from taking further comments on this problem on this occasion.

14.40 China concluded by stating that it had covered everything in hand and reassured Members that it was ready and willing to continue discussions at all appropriate arenas in the future. The Chinese delegate thanked the Secretariat for its work during the past ten years in China's TRM.

14.41 The Chairman proposed that the Council take note of the information provided by China in its submission and its responses to the questions raised by Members. Regarding the form of the Council's report of the Review, he proposed proceeding in the same manner as in previous years. This meant that a brief factual report would be prepared, with references to the documents and attach to the report, the portion of the minutes of this meeting relating to the Transitional Review. This report, as well as the reports of the subsidiary bodies, would then be transmitted to the General Council.

14.42 The Council so agreed.
