

Committee on Import Licensing

**REPORT TO THE COUNCIL FOR TRADE IN GOODS
ON CHINA'S TRANSITIONAL REVIEW**

1. The Committee on Import Licensing, at its meeting on 2 October 2003, carried out the second transitional review of China pursuant to Section 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432).
2. Written comments and questions in connection with China's transitional review were submitted in advance of the review by the European Communities, Japan, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and the United States submitted questions and comments in writing to China on its licensing system. These submissions were circulated in documents G/LIC/Q/CHN/5, G/LIC/Q/CHN/6, G/LIC/Q/CHN/7 and G/LIC/Q/CHN/4 and 9, respectively.
3. The information and notifications provided by China to the Committee on Import Licensing for its meeting on 2 October 2003 were circulated in documents G/LIC/W/20, G/LIC/N/1/CHN/2, G/LIC/N/1/CHN/3 and G/LIC/N/3/CHN/2.
4. The statements made at the meeting of 2 October 2003, where discussions under the transitional review took place, are reflected in the minutes of the meeting (G/LIC/M/18, paragraphs 3.1-3.36). The relevant paragraphs which reflect this discussion are annexed.

3. Transitional review under Section 18 of the Protocol of Accession of the People's Republic of China

3.1 The Chairperson recalled that the first transitional review of the implementation by China of the WTO Agreement and of the related provisions of the Protocol, under paragraph 1 of Section 18 of the Protocol of Accession of China (WT/L/432), had been carried out in 2002 by the subsidiary bodies of the WTO, including the Committee on Import Licensing, which had a mandate covering China's commitments under the WTO Agreement or China's Protocol of Accession. The report of this Committee to the Council for Trade in Goods on that review had been circulated in document G/LIC/10. The Committee would conduct the second transitional review at the present meeting.

3.2 The Chairperson further recalled that under the Protocol of Accession China was required to provide relevant information, including information specified in Annex 1A, to each subsidiary body, in advance of this review. Each subsidiary body was required to report the results of such review promptly to the relevant Council; in the case of this Committee, to the Council for Trade in Goods, which should in turn report promptly to the General Council. According to paragraph 4 of Section 18 of the Protocol, the transitional review would take place after accession, in each year, for eight years, followed by a final review in the tenth year or at an earlier date decided by the General Council. Under paragraph 3(a), Section IV of Annex 1A, China was required to notify the Committee on Import Licensing of "implementation of the provisions of the Agreement on Import Licensing Procedures and the WTO Agreement applying the measures set out in Section 8 of the Protocol including provision of the time taken to grant an import licence". Paragraph 1 of Section 8 of the Protocol set out the measures which China was to undertake to facilitate compliance with the WTO Agreement and provisions of the Agreement on Import Licensing Procedures. China was also required, *inter alia*, to submit the notification of its import licensing procedures to the Committee, and to report annually to the Committee on its automatic import licensing procedures, explaining the circumstances which gave rise to these requirements and justifying the need for their continuation. This report should also provide the information listed in Article 3 of the Licensing Agreement.

3.3 In addition, Section VII(a) of Annex 1A of the Protocol referred to responses to specific questions in the context of the transitional review mechanism, which should be notified to the relevant subsidiary body.

3.4 The Chairperson informed the Committee that a communication received from China on 23 September 2003, containing information required by paragraph 3(a), Section IV of Annex 1A of the Protocol to carry out the transitional review, had been circulated in document G/LIC/W/20 but was available only in English for the time being.

3.5 The Chairperson further informed the Committee that, pending the information required from China to carry out the review, four Members had submitted questions and/or comments to China as follows: communications dated 14 August 2003 from the European Communities (G/LIC/Q/CHN/5), 1 September 2003 from Japan (G/LIC/Q/CHN/6), 19 September 2003 from Chinese Taipei (G/LIC/Q/CHN/7), and 8 May and 25 September 2003 from the United States (G/LIC/Q/CHN/4 and G/LIC/Q/CHN/9).

3.6 Since China's communication circulated in G/LIC/W/20, the Committee had received additional information from China which was relevant to the transitional review. This included regulations and rules submitted under Article 8.2(b) of the Agreement, one week prior to this meeting, which had been circulated as document G/LIC/N/1/CHN/2. China had also submitted a notification of replies to the Questionnaire under Article 7.3 and a second notification under Articles 1.4(a) and 8.2(b) the day before this meeting, which had not yet been circulated as Committee documents¹. The

¹ Subsequently circulated in document G/LIC/N/3/CHN/2 and G/LIC/N/1/CHN/3.

Chairperson thanked the Chinese delegation, on behalf of the Committee, for the information provided.

3.7 The Chairperson suggested that the review be conducted in two parts: first, under Section IV.3(a) of Annex 1A, and thereafter under Section VII(a) of Annex 1A.

3.8 Taking the floor under Section IV.3(a) of Annex 1A, the representative of China informed the Committee of the implementation of China's commitments regarding the WTO Agreement on Import Licensing Procedures and China's commitments upon accession to the WTO since the last transitional review by this Committee in 2002. She said that the Chinese Government had, upon accession to the WTO, abided by its commitments in an effort to establish and maintain a uniform, transparent, fair and non-discriminatory environment for market access. At present, the import regulatory measures in China took the following forms: import quota, specific tendering, import licensing, automatic import licensing, tariff rate quota and import prohibition. Since the transitional review of 2002, the regulatory structure had generally remained unchanged with a view to ensuring the stability and predictability of China's trading system. Meanwhile, in order to maintain the transparency in the implementation of import regulations and rules, a period for comment was provided to solicit opinions from various parties before the enforcement of regulations and measures; before implementation, the regulations had been published in the China Foreign Trade and Economic Cooperation Gazette, International Business Daily and the official websites of various ministries and commissions under the State Council. During this one-year period, the Chinese authorities had amended and published a series of measures, which, among others, included: (i) *Catalogue of Commodities Under Automatic Import Licensing Administration for 2003*; (ii) *Catalogue of Commodities Under Import Licence Administration for 2003*; (iii) *Implementing Rules on the Allocation of Tariff Rate Quotas for Import of Major Agricultural Products in 2003*; (iv) *Implementing Rules on the Administration of Import Tariff Rate Quotas for Wool and Wool Tops in 2003*; (v) *Implementing Rules on the Allocation of Import Quotas for Natural Rubbers in 2003*; (vi) *Total Volume, Allocation Criteria and Application Procedures of Import Quotas for Processed Oil in 2003*; (vii) *Total Volume, Allocation Criteria and Application Procedures of Import Quotas for Automobile Tyres in 2003*; (viii) *Tentative Methods for Administration of Importation of Crude Oil, Processed Oil and Fertilizer by State Trading Enterprises*; and (ix) *Announcement on the Criteria, Materials and Procedures for the Application for the Record of Qualification as Non-State Trading Enterprises Importing Crude Oil, Processed Oil and Fertilizers*. At the same time, China had also published the catalogues of commodities under import ban and restriction and the methods for the administration of import licensing for some commodities. Such measures had been implemented in a manner compliant with the requirements of the WTO.

3.9 Furthermore, on 1 January 2003, the Chinese Government had removed quotas and import licensing measures on two products (auto hoists and motorcycles) under 18 tariff lines, two years in advance of the requirements of the Protocol; currently there were four commodities subject to quota and licensing administrations in total, i.e. processed oil, natural rubber, auto tyres and auto products. China had also lifted nine products under 19 tariff lines (eight-digits, HS 2002) out of the specific tendering scheme ahead of schedule, which represented more than 45 per cent of all the products under special tendering administration.

3.10 China had notified the above-mentioned policies and measures on import licensing to this Committee, including the responses to the Questionnaire as required by the Article 7.3 of the Agreement on Import Licensing Procedures².

3.11 A special note needed to be made to the reform on the governmental agencies with economic jurisdictions, as the result of which the duties of certain authorities had been adjusted, such as:

² Circulated in G/LIC/N/1/CHN/2, G/LIC/N/1/CHN/3 and G/LIC/N/3/CHN/2.

- (i) The former State Development and Planning Commission (SDPC) was reinstated as the State Development and Reform Commission (SDRC). The import tariff rate quotas for major agricultural products were now being administered by the SDRC and the Ministry of Commerce (MOC), of which the SDRC and MOC were jointly responsible for grain (rice, maize and wheat) and cotton, and the MOC solely responsible for other agricultural products. Import tariff rate quota for fertilizers which had been administered by the former State Economic and Trade Commission (SETC), was now within the jurisdiction of the MOC.
- (ii) Import Quotas: the MOC was in charge of the administration of all products subject to import quotas.
- (iii) Specific tendering: the MOC was responsible for the administration of import licensing of specific mechanical and electrical products.
- (iv) Automatic import licensing: major industrial products and some electrical and mechanical products subject to automatic import licensing, were now under the administration of MOC.

In order to ensure effective communication between China and other Members, the Chinese authorities had provided the Committee with a great amount of information prior to this meeting, hoping it would help Members better understand China's fulfilment of its commitments.

3.12 As concerned the questions China had received from some Members, she wished to provide the following responses:

(a) Questions concerning trading rights: According to China's commitments upon accession, China would eliminate the system of examination and approval of trading rights within three years from accession. At that time, China would permit all domestic and foreign enterprises and individuals, including sole proprietorships of other WTO Members, to export and import all goods (with the exception of products listed in Annex 2A of the Protocol reserved for importation and exportation by state trading enterprises) throughout the customs territory of China. Trading right in this context only referred to the right for importation and exportation, not including the right of distribution in China. The liberalization of distribution rights would be executed in accordance with the Schedule of Specific Commitments on Services. Currently, enterprises in China with foreign investment had the right to import equipment, technology, raw material and other goods for self-use, and export their products, while for the importation of goods and technology other than the above-listed, enterprises should change the scope of their business as required by relevant legislation. *The Foreign Trade Law of the People's Republic of China* was being revised to reflect that specific requirement. In January 2003, the former Ministry of Foreign Trade and Economic Cooperation (MOFTEC) promulgated the *Interim Rules for Establishing Sino-Foreign Trade Joint Ventures*, endowing legally incorporated Sino-foreign joint ventures with the right of import and export for the goods, technology and services within the approved scope, and the right to conduct domestic wholesale of the goods imported by the joint ventures themselves. With distribution also included, the scope of the rights granted by the Interim Rules went beyond what China had committed to in the Protocol. In that spirit, the Interim Rules had prescribed some requirements on experiences and registered capital for both Chinese and foreign parties of the joint venture. In addition, "Sino-foreign joint venture" referred to in the Interim Rules included joint ventures solely engaged in import and export business and wholesale of imported products, as well as other types of enterprises which applied for the operation of such businesses and satisfied the requirements of the Interim Rules.

(b) Questions concerning import TRQs for fertilizers: In strict accordance with their commitments upon accession and the *Regulations on the Administration of Import and Export of Goods of the People's Republic of China*, his authorities had promptly published the total volume and allocation

criteria of 2003 import TRQs for fertilizers, distributed 2003 fertilizer TRQs in full quantity, and allocated TRQs for state trading and non-state trading enterprises directly to importers in line with specified proportions. The allocation process had been administered in a fair and transparent manner. Enterprises went about the importation of fertilizers according to the market situation, either for themselves or as an agent, and their business activities were free from any government interference. With regard to the alleged problem of licence trade, i.e. selling quota for profit, such practice was against the Chinese law and subject to severe punishment. China hoped that Members would provide relevant information and evidence on this illegal trade. His authorities would deal with the offenders according to the law and slashing their quotas for the next year.

(c) The question on the administration of automobile import quotas: According to the statistics of the Chinese Customs, import of automobiles had maintained a robust growth in 2002 and 2003. In 2002, China had imported automobiles to the value of US\$ 7.86 billion, 42.5 per cent higher than 2001. From January to July 2003, China had imported automobiles to the value of US\$ 8.19 billion, 109.2 per cent higher than in the same period of the previous year, which set a new record of growth. Among automobile imports by China, imports from Japan represented more than 60 per cent in terms of value.

3.13 It should be noted that the volume of import quotas were not necessarily equal to actual import volume, and the fill rate of quotas depended on actual demand for imported automobiles on the Chinese market. Over recent years, automobiles produced by Chinese enterprises (including joint ventures) had satisfied the needs of Chinese consumers with enhanced quality, diversified models and lower prices. Therefore, although the need for automobiles on the Chinese market had considerably increased, the need for imported high-price automobiles was still limited. In particular, given the fast growth in production of automobiles below 2000 cc and their relative low prices compared with imported cars of the same class, Chinese importers had voluntarily increased the proportion of automobiles above 2000 cc in their applications for import quotas, so as to avoid competition with Chinese auto manufacturers.

3.14 Paragraph 130 of the Working Party Report (WT/MIN(01)/3) stated that in allocating quotas for imported products for wholesale or retail distribution, China would consider historical performance, experience and ability in servicing, as well as the qualifications of importers required by the Agreement on Import Licensing Procedures. The allocation criteria for quotas of automobiles imported for sale were as follows: first, verify the importer's qualification to conduct automobile trade in China; second, check the operational ability of the importer (i.e. the venue for sale and maintenance); and third, examine the business performances of the importer. The Chinese Government would not allocate quotas for sale to importers without sale qualification and operational ability. Importers with prominent operational ability and historical performance would receive more quotas. Importers might decide the composition of products for their quotas at their own discretion, i.e. they could themselves determine the type, specification and model of automobiles of their choice. The Chinese Government would grant import quotas in light of their selections.

3.15 With regard to punitive measures against importers failing to return unused quotas, *Regulations on Import and Export of Goods of People's Republic of China* specified that in the event that an importer did not use all quotas in its possession for the year, he should return remaining quotas to the administrative authority for import quotas before 1 September of the current year; if he failed to do so and failed to use the remaining quotas by the end of that year, the quota authority would reduce his quotas for the next year accordingly. Considering that import quotas of 2002 could be extended to 31 March 2003, there were no quotas returned in 2002. If a quota holder failed to use all quotas in his possession by the end of 2003 and failed to return the unfilled quotas within the specified time limit, the Chinese authorities would reduce his quotas for the next year.

(d) Question on the import inspection permit issued by the State General Administration of Quality Supervision and Inspection and Quarantine Procedures (AQSIQ): The procedures concerning import inspection permits were established on the basis of the Law of the People's Republic of China on the Entry and Exit of Animal and Plant Quarantine, adopted on 1 April 1992, and its Implementing Regulation adopted on 1 January 1997 (which had been notified to the WTO in documents G/SPS/N/CHN/P/4 and G/SPS/N/CHN/P/5, respectively). The said procedures were not newly developed, and applied equally to all countries exporting animals and plants as well as their products to China, not aimed at a certain country. China wanted to make it clear that the import permit regime concerned SPS measures and was not related to import licensing procedures applied to control the quantity in trade. The import permit procedures were neutral in application and administered in a fair and equitable manner in conformity with Article 1.3 of the Agreement on Import Licensing Procedures. This regime was also set up in line with Article 2.2 of the Agreement and did not have trade-restricting effects.

3.16 Finally, she wished to inform the Committee that the delegation from China for this review was composed of representatives from relevant ministries in order to give a better coverage for the concerns Members might have with regard to the import licensing regime of China.

3.17 The Chairperson asked whether a copy of the above statement by China could be provided to the Secretariat and whether the statement also included replies to the specific questions posed to China by several Members.

3.18 The representative of China said that a copy of the statement would be given after the meeting for circulation to Members.

3.19 A second representative of China said that, in his view, according to Section 18 of the Protocol of Accession under which the transitional review was conducted, China had no obligation to answer all the specific questions. He actually wondered if this question and answer process had to be a part of this transitional exercise at all and, therefore, wished that this transitional review be conducted strictly in accordance with Section 18 of the Protocol rather than, as some Members requested, in a way that went beyond Section 18. He hoped that the Chairperson as well as Members would abide by this understanding.

3.20 The Chairperson invited comments from delegations on the relevant parts of the above statement by China in respect of Section IV.3(a) of Annex 1A.

3.21 The representative of the European Communities thanked China particularly for having come to Geneva during this time of their national holiday and given a long presentation on the present situation. She wished to inform China that, following the notifications the Committee had received from China under Articles 8.2(b) and 7.3, the European Communities might have additional questions to China, in addition to the questions that had been circulated in G/LIC/Q/CHN/5.

3.22 The Chairperson, moving on to the discussion under Section VII(a) of Annex 1A of the Protocol of Accession, reminded Members that specific questions to China under this provision had been posed by Chinese Taipei, the European Communities, Japan and the United States in the context of the transitional review which had been circulated in documents G/LIC/Q/CHN/5 (European Communities), G/LIC/Q/CHN/6 (Japan), G/LIC/Q/CHN/7 (Chinese Taipei), and G/LIC/Q/CHN/4 and G/LIC/Q/CHN/9 (United States).

3.23 The representative of the United States thanked China for the responses provided at this meeting. He said that he did not entirely understand from the last intervention made by the delegate of China what China's responsibilities were. He wished to clarify this point first before raising further specific issues with respect to the questions that his authorities had posed to China as part of this

transitional review. He recalled that in the past there had been controversy over whether written responses to questions posed were required under Section VII(a) of Annex 1A; this was something that the United States was not raising at this point. However, if he understood what the representative of China said, it was that China did not have a responsibility to provide oral statements as part of the transitional review to the questions that had been posed. He wished to have clarification on this.

3.24 The representative of China said that he disagreed with the United States that this was China's transitional review. This was not true. The transitional review had to be conducted in accordance with Section 18 of the Protocol of Accession of China, under which China also had the right to raise questions concerning the fulfilment by other Members' of their obligations as part of the terms and conditions of China's accession. Therefore, it should not be called China's transitional review. It was simply a transitional review under Section 18. Secondly, with regard to whether he meant that China had an obligation to provide oral statements, China's practice this morning had made that very clear. China had already provided oral statements and therefore he had never indicated that China had no obligation to take part in this exercise, but he did question in what way, in what manner, and under which specific regiment China was going to take part in this exercise. He believed that China would do it according to China's understanding of Section 18 of the Protocol of Accession of China. Of course, if Section 18 clearly specified that questions and answers had to be an integral part of this exercise, then China would do it, but since Section 18 did not specifically say that, China then had no obligation to take part in this so-called questions and answers part of the exercise. That was his understanding and he hoped that he had now made his position clear.

3.25 The representative of the United States said that this was disturbing for him, because, at least in his recollection, this was the first time that this issue had arisen. As he had said before, there had been a controversy in the past about written responses but he did not recall there being a controversy with respect to providing oral responses; in fact, he thought that in 2002 China had done a very good job of trying to respond to all of the questions that were put to it as part of the transitional review. It was clear that Section 18 of China's Protocol said that questions might be posed to China. It did not specifically say that China had to answer those questions, but there simply could be no other interpretation of the clear intention of Section 18. What sort of exercise would Members be engaged in if questions were allowed to be posed, but China was free to simply ignore them? He noted that China had agreed to circulate in writing its statement made this morning. He also noted that four Members had submitted a fairly substantial body of questions to China in the documents that had been circulated. Having listened to the responses that were made at this meeting by China, he knew that China had responded to at least some of those questions, but his impression was that the answers given were not comprehensive, and that there were aspects still unanswered. He wished to state that he did not want to make this a contentious exercise, but he felt that, under Section 18 of the Protocol, Members had a right to receive responses to the questions that Section 18 said they could pose.

3.26 He wished to move on to some specific elaborations of some of the questions that his delegation had posed to China as part of this agenda item. The first set of questions from the United States to China addressed the licensing provisions provided for in AQSIQ Ordinance 7, which dealt with inspection permits, and AQSIQ Decree 25, which dealt with quarantine permits. Through its implementation of these measures, AQSIQ had taken over effective control of imports of any agricultural products that required an import inspection permit, including livestock, poultry, grains, oilseeds, planting seeds, horticultural products, and hides and skins. The United States was concerned that AQSIQ was using the procedures provided for by these measures to control the pace and quantity of agricultural imports, including non-TRQ commodities like soybeans and meat and poultry products. The United States was also concerned about reports from traders regarding both the burdensome nature of the procedures and selective enforcement by AQSIQ. His authorities had raised these concerns with China bilaterally on several occasions. The United States had also raised some of their concerns previously in this Committee. They would also like to ask an additional question that had not been included in the material that they had provided up to this point, which focused on import

requirements for GMO products, as announced by the Ministry of Agriculture in a letter released on 16 July 2003, which appeared to be inconsistent with AQSIQ import requirements. To obtain an interim safety certificate for a GMO product, it was necessary to show an existing contract between a supplier and an importer. Meanwhile, an import inspection permit had to be obtained before entering into a contract, but to obtain that permit it was necessary to have an Interim Safety Certificate which presupposed the existence of a contract. His authorities were seeking guidance as to how suppliers and importers should handle these conflicting requirements.

3.27 The representative of the European Communities thanked China once again for their long presentation that morning which partially responded to some of their concerns and some of their questions. She also thanked China for agreeing to make their intervention available to the Committee in writing. This intervention would be studied closely by her authorities. The questions from the EC had two main aspects, trading rights and tariff rate quota allocation, and she noted the responses provided by the Chinese delegation at this meeting. Regarding trading rights, the EC's main concerns were with regard to the time frame, scope, prescription of trading rights and the provisional nature of the rules adopted. Regarding the allocation of tariff rate quotas, she had taken note of the requests by Members for additional information from China regarding the allocation of TRQs for importers and the setting up of a licensing market. She thought that at this stage, before her authorities had studied the interventions China had made at this meeting, it was pointless repeating the questions which were to be found in document G/LIC/Q/CHN/5.

3.28 The representative of Japan thanked the delegation of China for the information provided at the beginning of this session on the implementation of China's commitments in the area of import licensing. He also hoped that this session would be constructive and said that he would like to have quick responses from China to Japan's questions and concerns raised in document G/LIC/Q/CHN/6. In that respect he referred to Section VII(a) of Annex 1A of the Protocol which specifically referred to "*responses to specific questions in the context of the transitional review mechanism received from the General Council or a subsidiary body*" and wondered how this provision should be interpreted in the context of China's comments. While he thanked China for briefly informing the Committee at this meeting of the implementation of auto quotas, he still believed that some of the questions Japan had raised had not been responded to. Japan welcomed the progress that China had made in implementing its commitments on import licensing since the first transitional review in 2002, and appreciated the efforts by China in developing the necessary framework and smoothly implementing the phasing in of its commitments. He recalled that Japan had submitted their comments and questions well in advance of this review in order to make the discussions in the review as meaningful as possible. While he had expected China to provide them with responses and relevant information prior to this meeting, he thanked China for the explanation given and still hoped that the Chinese delegation would respond at this meeting to the remaining questions and concerns that they had raised. Japan, like the European Communities, was interested in the issue of China's implementation of import quotas of automobiles.

- First, actual automobile imports from 20 April 2002 to March 2003, i.e. the period subject to the quota for the first year, were worth US\$ 3.85 billion, and this number was significantly lower than the import quota of US\$ 7.94 billion. Japan wished to know why this large discrepancy between the figures had occurred. He noticed that China had given them some statistical data, but Japan had provided specific numbers based on the customs tariff classification, which were attached to the questions submitted in G/LIC/Q/CHN/6. Japan therefore wished to know, based on their submission, what difference China found compared with the statistical data attached to Japan's questions. Furthermore, imports in the second quota for 2002 were US\$ 1.2 billion as shown in the annex. Multiplying this figure four-fold amounted to only US\$ 4.84 billion, which again resulted in a significant disparity from the nominal quota for 2003 of US\$ 9.125 billion. Japan was concerned about the implementation of the quota as had been agreed and wished to know what measures the Chinese Government planned to take to improve implementation for the current year.

- Secondly, Annex 3 to China's Protocol of Accession stated that 44 items were subject to the import quota for 2003 under complete vehicles and only one item, namely bodies, under auto parts. It was important to have a common understanding of what should be counted as items subject to import quotas in order to appropriately assess the situation concerning implementation of quotas. This would clarify the issue of the difference between the data given by Japan and that presented by China. Japan therefore requested China to confirm that there were no other items subject to import quotas for 2003.
- Thirdly, Japan considered it important to ensure transparency in the implementation of quotas. Several paragraphs in the Protocol of Accession and the Agreement on Import Licensing Procedures referred to such a principle. However Japan was still concerned with the lack of transparency in China's implementation of the import quota allocation in other sectors; his delegation had found, especially during this meeting, that there was a wide disparity between China's statistical data and Japan's numbers. He therefore requested that China present the actual quotas for 2003, by item and by country of origin.
- Fourthly, paragraph 130(c) of the Report of the Working Party on the Accession of China (WT/MIN(01)/3) provided that quota-holders that did not import their full allocation would receive a proportionate reduction in their quota allocation in the subsequent year unless the quantity was returned for reallocation by 1 September. As he had explained, Japan believed that actual imports in 2002 were much lower than the import quota, and thus there would be a number of quota-holders subject to such proportional reduction in quota allocation in 2003. Japan wished to know the number of quota-holders to whom China had applied this proportional reduction at the time of allocating the quotas for 2003 and the reduction in quota in total.
- Finally, Japan had information that China controlled the number of import licences to be granted by category, particularly those granted for cars of 2000 cc or less displacement in the sedan category "small", which indicated that import licences were not granted impartially and allocation did not reflect market demand. China had explained the market situation of less demand for smaller cars, but Japan wished to know if such information about the method for granting licences was true, and requested confirmation of the non-existence of such practices by the Chinese Government. He hoped to receive satisfactory replies to these questions at this meeting, in order to make this transitional review as meaningful as possible.

3.29 The representative of Chinese Taipei said that they too appreciated the informative presentation made by the Chinese delegation at this meeting. Noting that China had made considerable efforts over the past year in fulfilling their accession commitments, his delegation had no further questions to pose to China.

3.30 The representative of China, responding to the follow-up questions, said that concerning inspection permits, all applications would be accepted and approved within nine to 30 days by AQSIQ, as long as they were in conformity with the provisions of the quarantine law and its implementation rules as well as AQSIQ Decree No. 25. This ensured that China's import permit regime was fair and just. The import permit procedures related to entry of animal and plant quarantine did not come under automatic registration procedures, given the differences in the epidemic situation of the source nations and the relevant preventive and treatment measures, as well as the risk and management thereof concerning disease introduction. However, importers qualified to apply for import permits could submit applications to AQSIQ on an equitable basis. Concerning the questions on import requirements for GMO products, the Ministry of Agriculture of China had decided to extend Circular No. 222 to 20 April 2004, wherein contents concerning application requirements and approval procedures for GM products remained unchanged. The Ministry of Agriculture had entertained the idea of indicating on an Interim Safety Certificate the names of importers whose applications were submitted after 20 September. However, when they found that such a measure, were it to be implemented, would contradict that adopted by AQSIQ, they had not in

fact carried out this idea. Therefore to reply to the question, China had not promulgated such a policy as had been mentioned in the questions presented, namely a policy which required the provision of the importer's name upon application of the Interim Certificate for GMO products; therefore the alleged contradiction contained in the questions had not actually taken place.

3.31 Responding to the questions posed by Japan, he said that in the statement presented by the Chinese delegation at the beginning of this discussion, China had already answered the majority of the questions posed by Japan, including, for instance, the penalties for those unreturned quota-holders. He wished to offer a brief explanation of the disparity between the statistics in order to have a correct understanding of the disparity between the actual and the committed volume of quota. In accordance with Table One and Table Two of Annex 3 of China's Protocol of Accession, there were 65 HS codes covered in the sector of automobiles and their key parts which were subject to quota administration. Based on these 65 HS codes, China had committed US\$ 6 billion worth of quota for automobiles and their key parts and had made a commitment to increase this by 15 per cent annually during the transition period. In 2003, the total amount of US\$ 9.125 billion should also be based on these 65 HS codes. According to the timetable on the elimination of non-tariff measures committed by China, in the years 2001, 2002 and 2003 China had consecutively eliminated its quota administrative measures on some automobiles and key parts, but these parts of the products which had been imported should also be included in the import statistics for 2003, or else it would be unfair to China. As concerned the substantial disparity alleged by Japan concerning the committed volume and the actual volume of imports, he offered the following explanation: in the statistics provided by Japan, the period covered extended from April 2002 to March 2003. He wished to emphasise that the committed volume was not the actual volume of imports, because the actual amount of imports would depend solely on the market for automobiles in the Chinese market. Secondly, as his delegation had elaborated earlier in this discussion, according to China's understanding, the automobiles and key parts covered by the quota administration should be 65 HS codes instead of 45. Thirdly, concerning the period covered by these statistics, the first quarter of 2002 also used quotas allocated for the whole year, because in order to meet the requirements of Chinese domestic manufacturers and some importers, before April 2002 the Chinese Government had already arranged for the import quotas for 2002, or else all the domestic automobile manufacturers in China would have to stop their production. Therefore the period covered by the statistics should extend from January 2002 to March 2003. Fourthly, China had noted that in Japan's statistics, auto knock-down kits, or CKD and SKD, which were imported for assembly in China, were not included, because in the past two years in the initial period of production of new car models by Chinese domestic manufacturers, they had to import a considerable amount of knock-down kits for assembly production; for the import of these parts they had to be granted certain quotas; however, as regarded customs statistics, because these parts arrived at the customs in the form of component parts, they had not been incorporated in the statistics for complete automobiles. The final aspect could be attributed to the restrictions placed by certain suppliers in Japan. According to their information, some manufacturers and suppliers in Japan had placed restrictions on the number of Chinese importers, mainly limiting the number of Chinese importers who could sign contracts with suppliers in Japan. According to their understanding from these importers, Japanese suppliers had also placed restrictions on the amount of automobiles to be exported to China on a monthly basis. There was also another aspect, i.e. the alleged control by the Chinese Government of granting import licences for automobiles below 2000 cc displacement. He said that according to China's WTO commitments importers had the discretion to choose the types, specifications and models of some automobiles to be imported, and the relevant authorities in China, by deriving from their needs and choices, issued the relevant licences. In fact, given the quick growth of the production of automobiles below 2000 cc and the relative low prices compared with imported cars, Chinese importers had voluntarily increased the proportion of automobiles above 2000 cc in their applications for import quotas, so as to avoid competition with Chinese auto manufacturers.

3.32 In conclusion, the representative of China stated that, according to his understanding of Section 18 of the Protocol, China had no legal obligation to provide written answers to questions

posed. The information that China had submitted in written form prior to this meeting and the oral answers provided during the course of the meeting were sufficient for a meaningful review. China believed that providing written answers to Members' questions went beyond the provisions of Section 18 and would be overly burdensome for China. However, for the purpose of transparency and to facilitate the delegates who reported to capital, he would submit his statement to the Committee.

3.33 The representative of Japan thanked the delegation of China for the important explanation that was given on the import quota of automobiles. He was pleased to hear that China did not control the number of import licences to be granted by category, and hoped that the concerns prevailing within the Japanese auto industry would disappear quickly. As regarded the other issue, he said that he was not at this moment satisfied with the explanation by China. He would convey it to his capital for further consideration, and would take up these issues bilaterally as necessary.

3.34 The Committee took note of the comments and questions to China circulated in G/LIC/Q/-series, the notifications from China and the statements made.

3.35 The Chairperson suggested that a factual report on China's transitional review be submitted to the CTG for consideration at its meeting on 24 November 2003. This factual report would refer to the relevant paragraphs of the minutes of this meeting as well as the oral and written comments and questions submitted to China, and the information and notifications received from China. The relevant paragraphs of the minutes which reflected the discussion would be annexed to this report.

3.36 The Committee so agreed. The report to the CTG on the second transitional review was circulated in document G/LIC/11.
