

**Committee on Technical Barriers to Trade**

**SEVENTH ANNUAL TRANSITIONAL REVIEW MANDATED IN  
PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF  
THE PEOPLE'S REPUBLIC OF CHINA**

1. This report reflects the results of the Seventh Annual Transitional Review mandated in Paragraph 18 of the Protocol of Accession of the People's Republic of China (WT/L/432) that took place at the 5-6 November 2008 meeting of the Committee.
  2. In the context of the Seventh Annual Review, submissions were made by the United States (G/TBT/W/292), Japan (G/TBT/W/293) and the European Communities (G/TBT/W/300). Questions raised included the following elements: information security testing and certification; China's conformity assessment procedures, including the CCC mark system; the administration of the control of pollution caused by electronic information products; China's registration system for environmental management on the import and export of toxic chemicals; transparency and predictability in the Chinese regulatory environment; China's standardization activities, including the participation of foreign-owned companies established in China in domestic standardization activities, implementation of international standards and compulsory versus voluntary standards; ICT products; pharmaceuticals; automobiles; cosmetics; medical devices; and textiles.
  3. Submission was made by the People's Republic of China on 4 November 2008 (G/TBT/W/296) providing information relating to Annex 1A of WT/L/432. The statements made at the meeting, where discussions under the transitional review took place, will be reflected in the minutes of the meeting, to be circulated as G/TBT/M/46 (excerpt attached).
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**ATTACHMENT – EXCERPT FROM G/TBT/M/46**

**AGENDA ITEM 4: SEVENTH ANNUAL TRANSITIONAL REVIEW MANDATED IN PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA**

1. The Chairman recalled that, in accordance with Paragraph 18 of the Protocol of Accession of the People's Republic of China (WT/L/432), the TBT Committee would undertake an annual review for eight years of the implementation by China of the TBT Agreement.

2. The representative of the United States highlighted some issues contained in his delegation's submission (G/TBT/W/292). He recalled that during the current TBT Committee meeting, the United States had raised two substantive issues (information security and excessive packaging) with respect to Chinese measures under the Specific Trade Concerns part of the agenda (Part IIB of G/TBT/M/46). In addition to these concerns, the United States requested an update from China on several systemic issues which the United States had been following for some time. First, could China explain whether it had any plans to allow foreign laboratories to be accredited to conduct testing for mandatory CCC mark certification? Second, could China explain whether it was considering the adoption of a supplier's declaration of conformity (SDoC) for any products covered under the existing CCC mark system? Third, could China explain whether foreign stakeholders could be voting members on the technical committees of Chinese Standards bodies?

3. The representative of Japan referred to his delegation's submission (G/TBT/W/293). He noted that conformity assessment bodies of foreign countries had not been allowed to engage in certification activities in China according to the Article 9 and Article 13 of the regulations of the People's Republic of China on Certification and Accreditation, permitting only Chinese conformity assessment bodies (CABs) to conduct such activities. No foreign CAB had yet been allowed to engage in certification activities under the CCC mark system. Pursuant to the provision in Article 6.4 of the TBT Agreement and the commitment in Paragraph 195 of the Report of the Working Party on the Accession of China, Japan requested that local foreign-owned CABs, as well as foreign-based CABs, could be engaged in certification activities under the CCC mark system without discrimination.

4. In respect of administration of the control of pollution caused by electronic information products, Japan noted that article 3.3.4 of the Regulation prohibited "the import of electronic and information products that do not meet the national or industrial standards pertaining to the restriction of hazardous substances in electronic and information products". Since it was difficult for Japanese companies to understand from this text which were the standards that had to be met, Japan requested China to specify and provide a list of the standards referred to in this article. It was noted that at the last TRM session, China had replied that they were preparing the test standard and that if the future IEC standard would be practical for China, they would follow that standard. Japan requested China to make the objectives of the standard clear and promote it adequately according to Article 2.4 of the TBT Agreement which requires Members to use relevant international standards as a basis for their technical regulations.

5. Japan noted that it continued to have concerns about China's registration system for environmental management on the import and export of toxic chemicals. The Chinese State Environment Protection Agency (SEPA) had released a revision of "Highly Restricted Imported and Exported Toxic Chemicals" on 28 December 2005; it had gone into effect on 1 January 2006. A total of 158 chemicals had recently been added to the revised list of toxic chemicals, some of which were widely used in the chemicals industry. The "Regulations System for Environmental Management in the Initial Imports of Chemical Products and the Import and Export of Toxic Chemicals" ("the System") requires companies to pay US\$10,000 to SEPA in order to obtain a Registration Certificate

for exporting to China the chemicals on the list. It was pointed out that the Registration Certificate was valid for two years per contract. Japan asked how China would deal with the System after the expiration of the two-year period. At the last TRM session, China had replied that stakeholders from abroad could participate in the revision process. At the last TBT meeting held in July 2008, China had answered that this process was still under review. Japan requested more information about the status of the revision.

6. In respect of the notified Chinese technical regulations related to information security testing and certification, Japan shared the view of the United States raised at the last China TRM session.

7. The representative of the European Communities highlighted some points in his delegation's submission (G/TBT/W/300), noting that this document also identified other areas where concerns remained, as well as areas where progress had been made. Some issues raised under the Specific Trade Concerns part of the agenda (Part IIB of G/TBT/M/46) were also related to the TRM exercise.

8. The European Communities welcomed efforts made by China in the field of good regulatory practice and noted the significant increase in the frequency of public calls for comments. In this regard China was invited to provide an adequate period in which interested parties could make comments. China was also urged to systematically give public written notice of any regulatory change and to establish a single official journal for publishing all the regulations and other measures pertaining to or affecting trade in goods. It was also important to provide a reasonable interval between the publication of technical regulations, including when they took the form of compulsory standards, and their entry into force in order for economic operators to adapt, in accordance with the provisions of the TBT Agreement. The European Communities welcomed the unification of testing procedures for eight types of medical devices which had previously been subject to separate approval procedures managed by AQSIQ and SFDA; he hoped that this would serve as an example for other situations where double or even triple testing occurred, such as the case for telecom equipment.

9. It was noted that concerns relating to the Chinese Compulsory Certification System (the CCC mark system) had been addressed under the Specific Trade Concerns part of the agenda (Part IIB of G/TBT/M/46).

10. In the area of standards, the European Communities reiterated its call for foreign owned companies established in China to be allowed to participate in the work of domestic standardization processes on an equal footing to Chinese owned stakeholders. This was all the more important given the peculiar features of the Chinese regulatory system in which most technical regulations took the form of so called "compulsory standards"; the lack of access to the activities of Chinese standardizing bodies effectively excluded foreign stakeholders from a crucial activity in the regulatory process.

11. The representative of the European Communities emphasized his delegation's concerns in the area of ICT products, in particular: favouring home-grown standards featuring unique Chinese technologies; overly detailed standardization of mobile phone features and components; difficulties in placing on the Chinese market innovative products with multimode capabilities; and, multiple and partially overlapping certification procedures managed by different authorities.

12. In the automotive sector, the European Communities continued to have concerns about the continuous broadening and deepening of CCC certification as applied to automotive components regulations. The European Communities was of the view that the goals of regulating safety, health, and environmental concerns with respect to motor vehicles could be achieved through harmonization under the United Nations 1958 Agreement on Motor Vehicles (under the Economic Commission for Europe, UNECE). Thus, the European Communities urged China to become a Contracting Party to this Agreement, and also work to eliminate duplicative, costly and burdensome inspections and testing under China's unique CCC certification and marking system.

13. In the area of pharmaceuticals, the issue of active pharmaceutical ingredients remained of concern to the European Communities given routine multi-sampling and testing practices mandated for each imported batch of active pharmaceutical ingredients (APIs) by SFDA regulations. Also on pharmaceuticals, the European Communities requested China to consider taking measures to reduce the current abnormally long clinical trial approval periods. Another source of concern related to the National Reimbursement Drug List (NRDL); it was the understanding of the European Communities that the list had not been updated since 2004. Since only products on the list could be reimbursed, failure to update it put more recent and innovative drugs at a competitive disadvantage. The European Communities urged China to ensure the regular and systematic update of the NDRL.

14. In respect of cosmetics, the European Communities recalled concerns about the approval procedures in place for imported and domestic non-special use cosmetics and reiterated its request to Chinese authorities to unify the current notification system. The European Communities also recalled its request for MoH and AQSIQ to develop a single hygiene standard for cosmetics that would replace the two standards that were being separately enforced by the Ministry of Health (the Hygiene Standard for Cosmetics 2007) and AQSIQ (the already outdated Standard for Cosmetics GB 7916-1987), issued in 1987.

15. In the field of medical devices, the European Communities referred to the concerns raised at the Committee's last TRM exercise regarding duplicative mandatory (re-)registration requirements enforced by SFDA and AQSIQ offering no additional safety benefit for patients and users. The European Communities also recalled concerns about the registration procedures and the need for providing an equal level playing field for refurbished medical devices as compared to new medical devices. The European Communities was of the view that the ban on refurbished products was not justified on health and safety grounds.

16. Concerning textiles, the European Communities referred to previously raised concerns about the compulsory certification of silk quality and labelling requirements. The European Communities also joined Japan in requesting a review of China's toxic chemicals legislation.

17. The representative of China referred to his delegation's submissions (G/TBT/W/296) providing information relating to Annex 1A of WT/L/432. In respect of the comments from the European Communities regarding China's implementation of the TBT Agreement's transparency provisions, China noted that his delegation attached great importance to transparency. To date, China had made nearly 500 TBT notifications and provided a 60 day comment period on a regular basis. Moreover, it was usual practice to extend this period upon a Member's request, and written replies to Members' comments were also provided on request. In this regard, China asked Members, especially certain developed country Members, to also implement their transparency obligations in good faith.

18. In respect of the implementation of CCC certification for security products (paragraph 5(a) of US submission and paragraph 16 of EC submission), the representative of China noted that clarification and information had already been provided under the agenda item of Specific Trade Concerns (Part IIB of G/TBT/M/46).

19. In respect of the draft Amendment to Regulations on Compulsory Product Certification (paragraph 6 of the US submission), it was noted that major changes had been made in the following areas: changes to the sampling approach in product type-test; an administrative system based on type of products and enterprises; inspection of certified products and enterprises by certification authorities had been established; and, a product recall provision had been added.

20. Regarding permission for foreign laboratories to be accredited to conduct testing for mandatory CCC certification (paragraph 7 of the US submission, Section 1 of Japan's submission and

paragraph 13 of EC's submission), the representative of China said that the CCC certification system had been actively involved in multilateral and mutual recognition of testing and certification promoted by the TBT Agreement. In accordance with the Regulations of the People's Republic of China on Certification and Accreditation, foreign certification bodies' qualification for CCC certification could only be acquired through inter-government agreements, agreements recognised by the Chinese Government or agreements with competent authorities of the Chinese Government. So far, China had signed 20 agreements with agencies or certification bodies from 15 countries or regions which cover, for example, factory inspection and the recognition of certification or testing results.

21. Regarding the adoption of Supplier's Declaration of Conformity (SDoC) under the CCC mark system (paragraph 8 of US submission), the first priority was to establish whether the conformity assessment approach adopted was capable of effectively achieving the legitimate objectives of guaranteeing product safety and protecting consumer interests. China was of the view that the use of SDoC for products covered under the CCC system would not achieve the same level of confidence as that achieved by the CCC system, taking into account the special needs of the Chinese market.

22. Regarding the administration of the control of pollution caused by electronic information products (Section 1 of Japan's submission), the representative of China noted that relevant standards and technical requirements were under development and Japan was encouraged to make a request for information through the TBT enquiry point and other channels.

23. Regarding China's registration system for the environmental management on the import and export of toxic chemicals (Section 3 of Japan's submission), China informed the Committee that it was revising its State Council Regulation on Dangerous Chemicals. The revision of the registration system for toxic chemicals would follow thereafter.

24. Regarding EC comments on standardization (paragraph 23 to 35 of EC submission), China noted that standardization activities in China were consistent with the TBT Agreement. He also noted that given the late formal submission by the European Communities, some communications had already taken place before the meeting or under other agenda items.

25. The Chairperson thanked all delegations for their statements and the Committee adopted its report to the Council for Trade in Goods (G/TBT/24).

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