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**WORKING PARTY ON CHINA'S STATUS AS A CONTRACTING PARTY**

**Communication from China**

The following communication, dated 25 May 1994, has been received from the Permanent Representative of the People's Republic of China with the request that it be circulated to members of the Working Party.

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**LATEST DEVELOPMENTS IN CHINA'S FOREIGN TRADE REGIME**

**China's Agricultural Policies**

China's reform to set up a market economy started first in rural areas and has gained greater momentum. Thanks to its correct policies on agricultural development, China has succeeded in feeding 22 per cent of the world's population with an arable land accounting for only 7 per cent of the world's total.

**1. Agricultural production**

In 1978, land was transferred from State or collective management to management by individual farmers or households through contracts. By signing contracts with collectives, farmers gain the right to use and manage land and at the same time take the responsibility for paying taxes to the State. At present, more than 90 per cent of China's tilled land has been contracted out to individual farmers or households.

In 1985, China abolished all mandatory plans for the production of farm produce and retained guidance plans for the production of some major products including grain, cotton, oil-bearing crops, sugar, meat and aquatic products that have a close bearing on people's livelihood. These guidance plans serve as comprehensive information to direct farmers to undertake agricultural structural adjustment in accordance with market demands and promote the all-round development of planting, forestry, animal husbandry and fisheries. Guidance production plans are not mandatory. Farmers are now completely free to decide on the crops they wish to grow and the acreage they wish to plant according to market prices, the costs of inputs, local conditions, and their own habits in planting.

Inputs into agricultural production are purchased by farmers from markets. In the past, when the State monopolized the purchase and marketing of farm produce, the State supplied production materials at fixed prices to compensate farmers who sold grain to the State at State-fixed prices (which were usually lower than market prices). Since over 90 per cent of farm produce is now purchased and marketed at market prices, as from January 1994 the State has ceased to supply production materials to farmers at fixed prices.

## 2. Purchasing and marketing of farm produce

In 1985, China launched a reform of the marketing of farm produce to replace the system of State monopoly over the purchasing and marketing of farm produce, turning the system of buying all products by the State into partial contract purchase by the State.

The products to be purchased by the State according to contracts include grain (rice, wheat, maize and soybeans), cotton, tobacco, silkworm cocoons, pressurized tea and some timber. State control over all other farm products has been lifted, and both individuals and collectives can trade them freely. Farmers who sign contracts with the State on the selling of farm products enjoy priority access to loans during production seasons. The grain purchased by the State is used mainly as reserves and for supply to urban residents. In 1993, China harvested more than 450 billion kilograms of grain, of which about 50 billion kilograms were purchased by the State. The market has played an ever-increasing role in the purchasing and marketing of grain, with the State exercising macro control over the purchasing and marketing of only certain important farm products that have a close bearing on the national economy and people's livelihood through regulation of grain reserves at various levels, purchasing at protective prices, and establishment of risk and reserve funds.

According to China's Agricultural Law, the central and local governments will jointly set up grain reserve funds to maintain a certain grain reserve and transportation capacity. In case of drastic price falls due to bumper harvests, governments will use these funds to buy grain, thus stabilizing market prices and protecting the interests of farmers. When grain prices sky-rocket during periods of natural disasters, governments will sell grain reserves to stabilize market prices and protect the interests of consumers.

## 3. Import and export of farm produce

### (1) Export

China applies a license system for the export of grain, tea, pork, beef, mutton, poultry and other farm products. Starting from 1 January 1990, China no longer subsidizes the export of farm produce. All farm products for export including grain and cotton are bought by foreign trade corporations from markets at prices negotiated between the parties involved. Export of grain is handled by the China National Cereal and Oils Import and Export Corporation and its branches in producing provinces. Export of maize is handled exclusively by the China National Maize Export Joint Corporation. Export of cotton is handled mainly by the textile import and export corporations in major producing provinces.

The foreign trade corporations are free to set the export prices of farm products on the basis of commercial considerations and international prices, free from State interference.

### (2) Import

China now exercises quota and license management of the import of grain (wheat, rice, maize and soybeans), cotton, wool, vegetable oil, sugar and tangerines.

Import of grain is handled by the China National Cereals and Oils Import and Export Corporation, while that of cotton is the responsibility of the China National Textile Import & Export Corporation. According to the Rules on the Quota Management of General Commodities, each province, municipality and autonomous region will file with the State Planning Commission applications for the amount of grain and cotton they intend to import according to their local situation in supply and demand. After aggregate balancing, the State Planning Commission will assign import quotas to each province,

municipality and autonomous region. Those who have obtained quotas can entrust the China National Cereals and Oils Import & Export Corporation and the China National Textile Import & Export Corporation to handle their imports.

4. Implementation of the Uruguay Round Agriculture Agreement

In March 1994, China officially submitted an initial offer on agriculture products to the Uruguay Round Trade Negotiations Committee. According to requirements in the Agricultural Agreement, the offer covered market access, internal support and export competition.

(1) Market access

In line with the product coverage of the Agreement, China has offered a ceiling binding ranging between 20 and 198 per cent and tariffed most kinds of non-tariff measures, accompanied by minimum access commitments. Tariffication of a handful of sensitive products such as cotton, soybeans and sugar is still under way.

(2) Internal support

Since China does not provide huge amounts of subsidies to its agriculture, its measures of support to agriculture basically fall within the Green Box. The offer provides statistical data on policy measures exempted from obligation to make concessions.

(3) Export Competition

Since China abolished subsidies for losses incurred from export of agriculture produce as of January 1990, it has no difficulty in implementing the Agreement. It has already made commitments for concessions as required by the Agreement. The offer is an initial one. China is ready to conduct further negotiations with interested contracting parties.

Impacts of the Reform of Tax System  
upon Foreign-Invested Enterprises

As a result of the reform, the laws and regulations governing the taxation of domestic and foreign-invested enterprises are basically the same except in the case of enterprise income tax. This has created the conditions of equal tax burden for enterprises of differing economic character and will surely contribute to the healthy development of foreign-invested enterprises.

1. Categories of taxes applicable to foreign-invested enterprises

According to the Decision by the National People's Congress, major categories of taxes currently applicable to foreign-invested enterprises and wholly foreign-invested enterprises include income tax, value-added tax, consumption tax, business tax, resource tax, land increment tax, stamp tax, operation tax of vehicle and ship, estate tax, and butchery tax.

2. Refund of possible increases in the tax burdens of some foreign-invested enterprises

Imposition of value-added tax, consumption tax and business tax upon foreign-invested enterprises and wholly foreign-owned enterprises will not bring about any changes in the tax burden of most enterprises. The tax burden of some will be lightened, while a few will shoulder a slightly heavier tax burden. For those whose tax burden will become heavier, the National People's Congress has decided that the extra amounts of taxes due to the shift to value-added tax, consumption tax and business tax paid by foreign-invested enterprises, whose establishment was approved before 31 December 1993, will be refunded for a maximum of five years during their approved period of operation. The time limit is also five years for enterprises approved subject to a specified time of operation.

Specific procedures for this process include filing of applications by enterprises and examination and approval by tax departments.

3. Preferential policies adopted by the Central Government to encourage foreign investment

Tax reduction and exemption to attract foreign investment will remain unchanged. These preferential policies include:

- (1) The raw materials to be imported by foreign-invested enterprises for producing export products shall be exempted from custom duties and turnover taxes.
- (2) The machinery equipment, spare parts and other materials to be imported by foreign-investment enterprises as part of their investment prescribed in contracts the value of which does not exceed the total sum of investment (including additional investment) shall be exempted from turnover tax at the time of import.
- (3) Except for a few kinds of products, such as mineral oil, cigarettes and spirits, which shall be taxed at half the rates, all other products manufactured by enterprises in special economic zones for marketing within these zones shall be exempted from turnover tax for the production process.
- (4) The products manufactured by enterprises in bonded areas shall be exempted from turnover tax for the production process if they are sold within the boundaries of these areas.

- (5) Turnover tax shall be calculated and collected from foreign-invested financial organizations and organizations involving foreign capital, for their interest revenues from foreign exchange loans according to interest differences.

4. Duty drawback for the export of products manufactured by foreign-invested enterprises

Unless otherwise stipulated by the State, all taxable consumer goods produced by foreign-invested enterprises for direct export will be exempted from consumer tax.

If foreign-invested enterprises directly export their products for which value-added tax should be paid, the tax rate will be zero. In other words, no value-added tax will be levied on such products at the last stage. The taxes contained in these export products can be credited, after completion of export procedures at customs offices and on the basis of export declarations and the sum of taxes listed on special value-added tax receipts, from the sum of taxes paid for products sold at the domestic market. If the sum is not enough for crediting, drawbacks will be allowed.

### China's system for import and export administration

After more than ten years of efforts in carrying out reform and opening to the outside world, great changes have taken place in China's system for import and export administration and a new model tailored to a market economy is being shaped gradually.

#### 1. The right to handle foreign trade

With the continuous expansion of the right to handle foreign trade, a structure of full competition has been created in foreign trade circles. By the end of 1993, the number of companies having obtained foreign trade rights stood at 5,000 and that of production enterprises surpassed 2,000. In addition, all foreign-invested enterprises can handle foreign trade independently, and these enterprises now number 174,000. The Ministry of Foreign Trade and Economic Cooperation (MOFTEC) is a government department authorized by the State Council to examine and approve the right to handle foreign trade. The procedures for an enterprise to apply for the right to handle foreign trade have already been made public. Once an enterprise is granted the right to handle foreign trade, it will enjoy similar rights as foreign trade companies in terms of customs duties, quotas and licenses.

With the establishment and perfection of a market economy system, China will gradually abolish its practice of examining and granting foreign trade rights to enterprises. The major purpose of keeping this practice at present is to guarantee the honouring of foreign trade contracts under current conditions where quite a number of our enterprises do not have the minimum required funds, skills and facilities to directly handle foreign trade. Production enterprises without the right to handle foreign trade can entrust foreign trade companies to both import raw materials they need and export products they manufacture.

Township enterprises will be granted the right to handle foreign trade directly so long as they meet qualifications.

#### 2. Administration of export

In 1991, China eliminated financial subsidies to exports, leaving enterprises to take sole responsibility over their profits and losses.

Starting from 1994, the Chinese Government no longer compiles mandatory plans on exports.

Except for 16 categories of products that have a close bearing on the national economy and people's livelihood and for which export is still managed by few corporations, State control over the export of all other commodities has been lifted. Business transactions conducted by these corporations are not country specific. Enterprises are free to choose partners according to the quality, specification and price of these commodities. The purchasing prices of export products are determined through consultations between the buyer and the seller according to market changes. In 1993, a total of 138 categories of products were subject to export license. The export license system is implemented for certain categories of products, such as textiles, with consideration, first, to the quota obligations set in bilateral and multilateral agreements, and second, to the capacity of the international market so as to avoid causing adverse impact on the markets of other countries, such as in the case of silicon. Consideration is also given to natural resource products, such as copper, that are in short supply in the domestic market. With the deepening of our foreign trade system, the number of products subject to export license administration will drop further.



3. Market access

In recent years, China has made persevering efforts to set up an import regime based essentially on economic and legal means and tailored to the General Agreement on Tariffs and Trade. It has taken a series of reform measures toward that end:

- On 7 October and 22 December of 1993, the Chinese Government promulgated, respectively, the Provisional Rule on the Import Administration of Machinery and Electric Products and the Provisional Rules on the Administration of Quotas for the Import of General Commodities. It has also launched major reforms of non-tariff measures by substantially narrowing the range of import administration and simplifying import procedures. According to the new rules, 18 categories of machinery and electric products will be subjected to public quota administration, while 171 categories have been included into the Catalog of Special Products for purchasing through international competitive bidding on an equal footing. In addition, a standardized quota administration system has been introduced for 26 categories of general commodities including grain and rubber;
- In 1992, the harmonization system was introduced in China's Customs. On 1 April 1992, China abolished the import regulatory duty. On 31 December 1992, China readjusted the tariff data to 3,371 tariff lines with an average reduction of 7.3 per cent. On 31 December 1993, China again readjusted downward the tariff rate of 2,898 tariff lines with an average reduction of 8.8 per cent. As a result, the simple average arithmetic level of China's tariffs has been brought from 39.9 per cent down to 36.4 per cent. On 1 April 1994, China cut the tariff rates of cars from 220 and 180 per cent to 150 and 110 per cent, respectively, bringing down their overall tariff level by another 1.4 per cent;
- In 1994, the Chinese Government abolished mandatory plans for imports;
- Starting from 1 January 1994, China no longer exercises quota and license over 283 tariff lines.

All these reform measures have remarkably improved China's conditions for market access, enlarged the degree of the openness of its market, and vigorously promoted the increase of imports. In 1993, China's imports rose by 29 per cent over 1992 levels to hit US\$ 104 billion, which amounts to about 20 per cent of China's GNP. China now exercises import license over 53 categories of commodities. With the deepening of its reforms, more and more commodities will be freed from such license.

China has also made efforts in improving management, simplifying procedures, and increasing transparency, in line with the Uruguay Round Agreement and other international agreements, with respect to commodity inspection, standard implementation, and animal and plant quarantine.

4. Transparency

Since China's initiation of the open policy and reform, the Standing Committee of the National People's Congress and the State Council have formulated and promulgated more than 500 foreign-related economic laws and regulations including the Law on Sino-Foreign Joint Venture Enterprises, the Law on Foreign-Related Economic Contracts, the Customs Law, the Law on Commodity Inspection, and the Law on Animal and Plant Quarantine. The State has also clearly stipulated that in order to guarantee the uniform application and transparency of the country's policies on foreign economic relations and

trade, except for those to be formulated and promulgated by the National People's Congress and the State Council, such policies will be promulgated by the Ministry of Foreign Economic Relations and Trade in a unified way. On 1 October 1993, China began to publish an official publication, Gazette of the Ministry of Foreign Economic Relations and Trade, to publish China's laws and regulations on foreign economic relations and trade. As a result of a comprehensive review, 744 of the internal documents circulated in the past have been rescinded, and 93 have been announced as remaining in force.

On 12 May 1994, the Standing Committee of the National People's Congress passed the Foreign Trade Law. Formulated with reference to international practices and the principles and rules of GATT in particular, this law contains stipulations on the system for the examination and approval of foreign trade companies, import and export quotas, the system for the management of licenses, services trade, anti-dumping, anti-subsidization, and guarantee measures. The Foreign Trade Law will serve as the basic law on foreign trade. To facilitate its implementation, the Ministry of Foreign Trade and Economic Cooperation is working on a series of supplementary regulations such as the Regulations on the Examination and Approval of Foreign Trade Enterprises and the Regulations on Chambers of Importers and Exporters.

China's efforts in continuously completing and perfecting its system of foreign trade laws and regulations has guaranteed the uniform application and transparency of its foreign trade system.



### Implementation of Foreign Exchange System Reform

On 1 January this year, China unified its official exchange rates and the exchange rates at foreign exchange swap centres. On 1 April, it officially put into operation the system of banks selling foreign exchange.

#### 1. Purchase of foreign exchange

Through this reform of foreign exchange system, China has achieved the conditional convertibility of RMB under the current account. This means that administrative organs are still subject to certain restrictions on their spending of foreign exchange for non-business purposes, while plans on payments for trade and business payments for non-trade items are no longer subject to examination and approval. Instead, foreign exchange can be bought directly for these purposes from banks designated to handle foreign exchange business, simply on the strength of valid documents. The term "valid documents" as used here refers to import contracts (including trade-related charges), payment contracts for non-trade transactions and the notice of payments issued by overseas financial institutions. In these cases, imports which are subject to registration requirement are registered automatically at the time when foreign exchange is bought, while licenses are to be presented at the time when foreign exchange is bought for imports subject to licensing. No examination or prior approval is required for buying foreign exchange. Thus, it can be seen that once an enterprise buys foreign exchange, it has begun trade and non-trade transaction behaviours, a sufficient proof that no examination and approval is required for the buying of foreign exchange as mentioned above, and all enterprises enjoy similar opportunities to obtain foreign exchange.

#### 2. Access to the Inter-Bank Market

The new inter-bank foreign exchange market will put an end to regional blocking so that a membership system for foreign exchange funds can be introduced across the whole country. Under this system, all banks and non-banking financial organizations authorized to handle RMB and foreign exchange business can become members and handle the buying and selling of foreign exchange on these markets for their own benefit or on behalf of non-member financial organizations and other clients. Non-financial organizations will not undertake transactions directly at inter-bank foreign exchange markets because their buying and selling of foreign exchange has already been completed at the counters of designated banks. Starting from 1 January this year, the State Foreign Exchange Control has stopped publishing the guidance list for the use of foreign exchange. Nor does it examine and approve market transactions any longer. The China Foreign Exchange Centre that has been set up is an economic entity independent of the State Foreign Exchange Control. This Centre only provides services to transactions and account settlement at foreign exchange markets. It does not exercise administrative management or give examination or approval. The banks that have been authorized so far to handle the settlement and selling of foreign exchange include the Bank of China, the Commercial Bank of China, the People's Construction Bank of China, the Agricultural Bank of China, the Bank of Communications, the CITIC Industrial Bank, the Ever-Bright Bank, the Guangdong Development Bank, the Shenzhen Development Bank, the Fujian Xingye Bank, the Merchants' Bank, the Huaxia Bank, the Pudong Development Bank of Shanghai and the China Investment Bank. In addition, some other financial organizations (including foreign-invested financial organizations) have got approval to handle business of foreign exchange settlement related to their approved scope of business.

#### 3. Surrender requirements

On 1 January this year China unified its double-track foreign exchange rates and developed a unified, managed floating rate system based on market forces. As a result of the unification, the RMB exchange rate is determined basically by supply and demand changes in the financial markets.

On the basis of weighted average of the inter-bank foreign exchange market of the previous day, the People's Bank of China publishes the middle rate of RMB against the US dollar. And China began, at the same time, to publish exchange rates between RMB and other major foreign currencies according to changes on the international financial markets. On the basis of the middle rate, each bank designated to handle foreign exchange publishes its own exchange rates fixed within the floating range set by the People's Bank of China for concluding foreign exchange deals with their clients. The term of "managed floating exchange rates" as used in the new system refers to the formulation of rules on deals on the foreign exchange markets to guarantee the orderly implementation of market transactions. It does not mean restrictions or prevention of such transactions. The exchange rates of RMB are published worldwide every day through the media, including broadcasting and television stations and newspapers. All trade and non-trade transactions and capital transactions are to be calculated according to the exchange rates.

4. Foreign-Funded Enterprises (FFE)

In order to protect the interests of foreign investors and encourage them to make investments in China, we have not made any changes to the regulations on the management of foreign exchange of foreign-invested enterprises or their channels for buying and selling foreign exchange. Foreign-invested enterprises are still allowed to retain foreign exchange according to the practices previously introduced and to pay from the outstanding sums of their foreign exchange account when they spend foreign exchange. As for the amount of foreign exchange for business operations and remittance of profits that exceed the outstanding sums of their foreign exchange account, it can be bought from the foreign exchange markets and remitted abroad. The balance of foreign exchange of foreign-invested enterprises is necessary for these enterprises themselves. In fact, some foreign-invested enterprises cannot achieve the balance of their foreign exchange. In 1993, for instance, exports by foreign-invested enterprises totalled US\$ 25.24 billion while their imports amounted to US\$ 41.83 billion. This meant a deficit of US\$ 16.59 billion. Nonetheless, we have helped these foreign-invested enterprises to cover their need for foreign exchange and none of them have encountered any problems in their operations due to foreign exchange imbalances.