China has submitted to the CONTRACTING PARTIES a request to resume its status as a contracting party (L/6017) and a Memorandum on China's Foreign Trade Regime (L/6125). At its meeting on 4 March 1987 the Council established a Working Party on China's status as a contracting party and invited all contracting parties to submit questions concerning China's foreign trade regime (C/M/207 and GATT/AIR/2392). The present document sets forth the questions submitted by contracting parties and the replies given by the Chinese authorities.

The Working Party decided at its first meeting on 22 October 1987 to hold its next meetings on 23-24 February, 26-27 April and 28-29 June 1988. It was understood that a third day could be added to these meetings if necessary and that the date for the meeting in June was subject to confirmation. The Working Party further decided that it would discuss at its meeting on 23-24 February 1988 the subject matters falling under Part One and under Sections I and II of Part Two of the Memorandum on China's Foreign Trade Regime (L/6125). These subject matters are dealt with in Sections 1-6 (pages 1-86) of the present document. It was understood that the discussion on these subject matters would, if necessary, continue during the April meeting.
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1. GENERAL QUESTIONS

1-1

In the Chinese Memorandum, there are several references to the objective of establishing a new system of "commodity economy" ("économie de produits de base" in the French version). What does "commodity" mean in this context?

ANSWER

The new system of "planned commodity economy" represents an integration of plan and market. The word "commodity" in the context of "commodity economy" does not refer to "primary products".

1-2

What percentage does the services sector represent in China's gross domestic product? How has this share developed over the past ten years? How does one determine the gross domestic product referred to by China in the memorandum? In this calculation what is the incidence of the prices/wages fixed by the State?

ANSWER

The share of the services sector in the GDP of China rose from 20.9% in 1979 to 25% in 1986.

GDP figures of China are calculated in line with the principles of the System of National Accounts (SNA) of the United Nations. The primary industry in China refers to agriculture, the secondary industry includes industry and construction, and the tertiary industry covers all sectors other than those in the primary and secondary industries. To be specific, the tertiary industry consists of commercial and service sectors.

GDP of China is calculated according to the existing prices and wages. The rapid increase of GDP is partly due to the quick increase of prices and wages since 1979. For percentage of output subject to state-pricing, please refer to the reply to P2-2-3 and P2-2-4.
Among all the laws and regulations which China has made available to GATT, in respect of which does it intend to invoke Article 1(b) of the Protocol of Provisional Application of the General Agreement?

ANSWER

China is now in the process of establishing and amplifying its legal system. While new legislation is published, out-dated legislation is reviewed and abolished. This situation will prevail over the period of negotiations proceeding to the resumption of China's status as a contracting party to GATT. The list of laws and regulations annexed to the Memorandum is therefore incomplete in this sense. According to the usual practice of contracting parties to GATT, the laws which China will invoke Article 1(b) of the Protocol of Provisional Application of the General Agreement are those existing on the date of the protocol on China's resumption relating to the provisions in Part Two of the GATT. Examination of this issue is continuing.

Page 4, para. 3: What sort of "multi-formed system of ownership of the means of production" is envisaged? What changes from the current system will be implemented, and what changes are anticipated in percentage of ownership held by various types of entities?

ANSWER

Multi-formed system of ownership denotes 1) economy of ownership by the whole people which includes two forms: one is the central state-owned industrial and commercial enterprises,
the other is the local ones; 2) economy of collective ownership which includes collective economy in the cities and towns as well as in the rural areas; 3) economy of individual ownership which includes rural and urban individual industrial and commercial households; 4) economy of mixed ownership which includes cooperative enterprises, integrated complex, shareholder enterprises, Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and wholly foreign-owned enterprises. In addition, there are some private enterprises too.

The proportion of the various economic elements in the total value of industrial output are: industry of the ownership by the whole people takes up 68.7%; collectively-owned industry, 29.2%; individual-owned small handicraft industry, 0.3%; other industries, 1.8%. In the total value of retail sales, the state-run commerce accounts for 39.4%; commerce of collective ownership, 36.4%; commerce of individual ownership, 16.3%; and other commercial forms, 9%. As to gross value of agricultural output, the proportion taken by state-owned farms is 2.3%, the rest is by collectively-owned farms and, especially by the agricultural households under contract system.

By the end of the Seventh Five-year Plan period (1986-1990) or in still longer time, the collective economy, the individual economy, the Chinese-foreign joint ventures and the wholly foreign-owned enterprise economy will develop further. They will all co-exist over long-run, appropriately and proportionally developed.

Page 4, para. 3: Concerning the "dominant position of the public ownership" in China's economic system, is it anticipated that the portion of economic activity subject to public ownership will decline relative to private or and other forms of ownership?

ANSWER

China's economy of public ownership consists of two parts: economy of ownership by the whole people and that of the collective ownership. They will hold a dominant position in the economy at present and in the future. Individual economy and other economic elements which are the necessary supplement to the system of public ownership have developed rapidly since 1980. Their proportions in the national economy have been raising year by year and will go on developing. In certain economic sectors, the proportion of public ownership is expected to be further reduced, but on the whole, it will always have a dominant position and a leading role to play.
Page 4, para. 3: Does the Chinese Government plan to maintain a dominant role for public ownership on an industry-by-industry basis, or in the aggregate? Does the Chinese Government plan to encourage joint public/private ownership in cases where enterprises are currently privately owned?

ANSWER

By dominant position of the public ownership in the national economy, it does not mean dominance of individual sectors, but for the economy as a whole it is so. In basic industries as energy, raw and semifinished materials, in communication and transportation, in wholesale commerce, the proportion of the public ownership economy is bigger, whereas in handicraft industry and small-sized retail commerce, in catering service, and repairing trades, the proportion of the public ownership economy is smaller than on average of the economy as a whole.

The current policy of the government is to encourage the development of individual economy, allow the existence of private enterprises, issue active guidelines to them, give full play to their positive role in the national economy and people's livelihood, and strengthen administrative controls over them. So far there is no plan to encourage joint state-private ownership.

Will China accept an obligation to consult each year with GATT members on its trade practices resulting from China's participation in the GATT (as it is the case for some other GATT members)?

ANSWER

After resuming its status as a contracting party to GATT, China will apply relevant GATT provisions regarding consultations. The discriminatory treatment accorded to particular contracting parties should not create a precedent for resolutions to China's case.
Does China regulate imports for any of the purposes cited in Article XX of the General Agreement?

ANSWER

For the purposes cited in GATT Article XX, China prohibits imports of commodities listed in Appendix XIII of the Memorandum, such as narcotic drugs, obscene goods; and foodstuffs, medicine, animals, and plants that are inconsistent with China's hygiene and quarantine standards.

Do customs users fees, sea port or airport users fees, levied in accordance with the weight or the value of the goods exist in China? If the answer is affirmative, please provide a detailed explanation.

ANSWER

For goods transported in or out of the ports of China, the port authorities levy 3 yuan RMB harbour dues per ton. Customs users fees do not exist in China. For airport users fees, please see reply to 1-13.

Is there a limitation of entrance to ports by vessels in China? If the answer is affirmative please provide a detailed explanation.

ANSWER

China supervises and controls foreign vessels according to its national law. For details, please refer to "Regulations Governing Supervision and Control of Foreign Vessels by the People's Republic of China" and "Regulations Governing Supervision and Control of Vessels of Foreign Registry Sailing in the Yantze River Issued by the People's Republic of China" annexed to the Memorandum.
1-12

What is the relation between the Central Government and Local Governments with regard to the jurisdiction over government procurement, standards, etc.?

ANSWER

The methods and standards established by the Central Government related to government procurement are also applied by the local governments.

1-13

Do taxes, customs users fees, sea port or airport users fees levied in accordance with weight, volume and other criteria on vessels and airplanes exist in China? If the answer is affirmative, please provide a detailed explanation.

ANSWER

Harbour dues and groundage are levied on the ships sailing in or out of the ports of China in accordance with net tonnage. The former is 0.35 yuan RMB per net tonnage (or horsepower). The latter is 0.10 yuan RMB per net tonnage.

The Chinese airports collect landing and takeoff charges, parking charges, night landing facilities charges, lamplight charges, service charges on international passengers and goods and air navigation facility charges. Landing and takeoff charges are collected on the basis of maximum takeoff weight registered in the air worthiness certificate of the airplane. Parking charges are collected on the basis of the maximum landing weight and time. China imposes no Customs user's fees.

1-14

In a speech to the Chinese People's Political Consultative Conference on 8 April, economist Qian Jiaqu stated that the Chinese Government's use of total industrial (GVIO) and agricultural output (GVAO) values as indicators of development is misleading due to "overlapping" calculations of raw material and energy costs (double counting). Precisely how does China calculate the GVIO and the GVAO? How are the total and per capita, gross and net national income calculated?
The gross industrial output value (GIOV) is calculated by using "the factory method" which includes transferred value of materials, fuels and power consumed in the production process. There exist overlapping calculations.

The gross agricultural output value (GAOV) is calculated by "the products method". It is obtained by multiplying the quantity of the final products in five major agricultural sectors (farming, forestry, animal husbandry, fishery and sideline production) over a certain period of time (usually one year) by the unit price.

In the present MPS system (the System of Balances of National Economy, on which China's aggregated economic statistics are based), there are only national income statistics, but no "net value of national income". National income is calculated first in five production sectors, namely, industry; agriculture, construction, transport, posts and telecommunications, and commerce. There are two methods of calculating net output value. The first one is the "production approach" by which net output value is obtained by deducting material consumption from the gross output value. At the moment, this method is used mainly in the field of agriculture. The second method is the "income approach" (also called "distribution approach") by which elements of net output value such as wages, welfare funds, interests, taxes, profits, are added together. This method is used to calculate the net output value of industry; construction; transport, posts and telecommunications; and commerce. The sum total of net output value of these five material production sectors makes up the national income. The per capita national income is obtained by dividing the national income by the population of the year.

In addition, the Chinese statistical agencies in recent years have calculated GDP and GNP figures in line with the System of National Accounts (SNA) recommended by the United Nations. The method is to adding the value-added products of non-material production sectors to the total value of national income (some adjustment of national income figures is required). The per capita GDP or GNP is obtained by using the population of the year as the denominator.

Part four: Annexes, Page 34: Concerning the list of prohibited items, can China justify the prohibition of trade in these items under GATT Articles, e.g. Article XX?
Please see the reply to 1-9.

2. REFORM OF ECONOMIC STRUCTURE IN CHINA

2-1

On page 4, para. 5: the document states that "the objective of the reform is to establish a new system of planned commodity economy of Chinese style" and page 4, para. 3, states that "government responsibility has shifted from direct control of production, supply and marketing to mainly planning, co-ordination, providing services and supervision". A more detailed explanation of these functions of the government is required, as well as information on further intended reforms.

ANSWER

It is an important part of the economic reform to separate the responsibility of the government from that of the enterprises and gradually shift the functions of state organizations in economic administration. Briefly, the Government has eight categories of functions in economic administration:

1. to make strategies, plans, principles and policies of economic and social development;

2. to make plans for exploitation of natural resources, technical transformation and development of human resources;

3. to co-ordinate development plans and economic relations among regions, sectors and enterprises;

4. to deploy key projects, especially building of energy, communication and raw and semifinished materials industries;

5. to collect and disseminate economic information and to implement measures of economic regulation;

6. to make and supervise the implementation of laws and regulations;

7. to appoint officials within the designated authority;

8. to administer foreign economic and technology exchange and cooperation.
Economic departments of the government at all levels concentrate on overall planning, policy application, coordination, servicing and effective inspection and supervision. The economy will be controlled and regulated through economic legislation and supplementary administrative measures. Macroeconomic controls are exercised by governments at different levels, and localities, especially large and medium-sized cities would be encouraged to increase their responsibilities and enthusiasm in putting the macro-economic controls into effect. The systems of disseminating economic information and policy advice would be strengthened, economic legislation and jurisdiction improved, and institutions of economic inspection and supervision at all levels established.

2-2

Does China intend to maintain a dominant role for central planning of all commodities? What will be the respective roles of the plan and the market in this arrangement?

ANSWER

The dominant role for central planning of all commodities has changed greatly (see reply to 2-25).

Economic planning aims at balancing of the total demand and supply, balancing of economic structure, as well as rationalization of key elements of production, including natural resources.

Market regulation is conducted through short-term individual balancing and short-term structural readjustment.

2-3

Page 5, para. 1: The Foreign Trade Memorandum states that price control over agricultural and some industrial products has been "largely liberalized". For the agricultural sector, what percent of total output is currently marketed at prices that are determined freely in the market place? What percent is subject to "guidance" prices? What percent of total output is marketed at prices fixed by the State?
Page 6, para. 3: How are State purchasing prices set and adjusted for agricultural products? For what proportion of China's current agricultural output are market-regulated prices allowed to apply? What proportion is covered by State guidance pricing?

ANSWER

Of the total amount of agricultural products sold by farmers, transactions at state price constituted 92.6% in 1978, 67.5% in 1984 and 37% in 1985. Transactions at guidance price constituted 1.8% in 1978, 14.4% in 1984 and 23% in 1985. The market-regulated part was 5.6% in 1978, 18.1% in 1984 and 40% in 1985. Roughly speaking, the percentage of the three types of prices remained unchanged in 1986.

Please also see the reply to 2-5.

Page 5, para. 1: What are the current percentages of industrial production? For products subject to price "guidance" or fixed levels, and what is the range within which prices can increase or decrease from the level set by the State?

ANSWER

The share of consumer goods fixed at the State prices constituted 97% of total value of retail sales in 1978, which fell to 73.5% in 1984, and down to 47% in 1986. The proportion at the State guidance prices only accounted for 0.5% of the total retail sales in 1978, which went up to 10.5% in 1984 and increased to 19% in 1986. As for the part of the market regulated prices, it attained at 2.5%, 16% and 34% in 1978, 1984 and 1986 respectively.

In 1978, almost all the capital goods were state-priced. In 1986 the proportion of capital goods at state prices was 60%, and that of state guidance prices or market regulated prices amounted to 40%.
China's economic reforms in the agricultural sector are the most developed and have been in effect the longest time. Understanding how this sector has been dealt with may be helpful in understanding current and future reform plans. Concerning the agricultural reforms:

- How are prices determined for agricultural products at the farm-gate, wholesale, and retail levels in the "reformed" commodities? Are the prices of comparable imports taken into consideration?

- At what prices are products such as oilseeds purchased for the urban rationing system?

- Does "price liberalization" mean these prices are no longer under any form of control or management? How are imports of like or similar products to those "liberalized" in this sector regulated, i.e. by tariffs, quotas, etc.?

- What agricultural products in addition to grain, cooking oil and cotton, remain under price control? Are the quantity and price of the same or like imports also controlled? If so, how?

**ANSWER**

The purchasing prices of agricultural products are determined according to the production costs under rational operations in normal weather conditions, proper profit margins, market supply and demand situation and state policy requirements. Wholesale prices are set on the basis of purchasing prices plus business costs of commercial departments in producing areas and reasonable profit margins. The retail prices are based upon the wholesale prices plus the price difference between wholesale and retail transactions, which consists of retail costs and profit. The prices of comparable imports serve as an important reference.

Price liberalization does not mean that prices are no longer under any form of control. In case of sharp fluctuations of market prices, the price administration may determine the ceiling or floor prices for a certain period of time, and set up compulsory reporting procedures for upward price adjustment. As for the tariffs, many imported agricultural products are exempted from customs duty.
The prices of products such as oilseeds purchased by contracts for the urban rationing system are determined by the state.

In addition to grains, edible oil and cotton, there are some other agricultural products subject to state prices and state guidance prices. Please refer to the reply to 2-31. A few import items like grain are state-priced according to the price of similar domestic goods, the price difference being covered by state resources.

2-6

Page 5, para. 1: Please explain more fully the operation of the "household contract system". The footnote states that remuneration is linked to output, but please explain how "contracts" are arrived at, with whom, and how much discretion rural households have in determining the conditions of sale. How closely is the contract linked to a market price system?

ANSWER

The procedures for making the contract in the household contract system linked to production are as follows:

First, the Villagers' Group or the Villagers' Committee organizes the personnel concerned (cadres, agronomists and old and experienced peasants) to assess the quality of the land and to assess the target to be contracted, and then the peasants taking part in the system sign the contract.

The contract is signed between the peasants taking part in the system and the Villagers' Groups or the Villagers' Committee. The peasants who have contracted the land must shoulder responsibilities. They must pay agricultural tax (land tax) to the State; they must pay accumulation fund and public welfare fund to the Villagers' Group or the Villagers' Committee; they must sell agricultural products according to the purchasing contracts (signed by the Villagers' Group, the Villagers' Committee or the peasant himself with the State agricultural products purchasing departments). The peasants will sell part of the products such as grain and plant oil to the State according to the contract. The rest and other products could be sold either in the market or to the State at market prices, as the peasants wish. If the market price should be lower than the contracted price, the state would purchase the products at a higher price to
protect the interests of the peasants. As the State provides materials for agricultural production to the peasants at low prices, the contracted price is usually lower than the market price. The range of difference between the two prices varies according to products, years and localities. In the past two years, the market price was 10% to 30% higher than the contracted price.

2-7

Page 5, para. 1: Please describe more fully what constitutes an "economic unit"? Are they the rural households? What does it mean that "local government agencies have been separated from economic units"?

ANSWER

Economic units in this section refer to production and operation units or enterprises, e.g. rural enterprises, cooperative economic organizations in agricultural production, agro-industrial and commercial complex and rural household production units.

The present separation of government agencies from economic units is a contrast to the former system of the people's communes which integrated government administration and production management. With the abolishment of the system of the people's communes and the restoration of Governments at township level, they are no longer rural economic organizations. Rural industries are coordinated and administrated by the Supply and Marketing Companies of Rural Industry (or Supply and Marketing Operating Departments of Rural Industry set up by the counties). Specialized peasants' individual enterprises and rural household production units can directly enter the market. They may accept the State guidance plan (through economic contracts) or benefit from the market information provided by the competent departments of the Government.

2-8

Page 5, para 2: Please elaborate on the meaning of "specialization and commercialization" and how do these concepts relate to the household contract system?
Commercialization denotes the development of the rural economy from self-sufficiency towards a market-oriented economy. The establishment of vegetable production bases on the outskirts of cities, grain and cotton bases in many parts of the country, and the export-oriented agricultural production bases, all these are examples of commercialization in the field of agriculture.

"Specialization" refers to either industrialized, or intensified, or specialized production of a certain farm product.

When the household contract responsibility system was first introduced, most of the rural households were engaged in diversified economic undertakings. Later on, some of them became specialized in a single product operation more responsive to the market. With further development of specialized households, those engaged in production of similar goods voluntarily integrated themselves. The number of such integrations have reached over 480,000 with 4 million peasants involved.

Page 5, para 3: In light of the statement in the Memorandum that government functions have been separated from those of enterprises, what is the significance of the recent failure of the National People's Congress to pass the draft State Sector Industrial Enterprise Law, which is intended to codify the relations between enterprises and the party?

After thorough discussion, the Standing Committee of the Sixth National People's Congress concluded unanimously at its 20th Session that the draft law of the state-owned industrial enterprises was mature. However, in view of the continuing reform of enterprises, and of the insufficient experience in the contracted responsibility system, the leasing system and the shareholding system which are being widely adopted in the country, the Standing Committee decided that the submission of the draft law to the National People's Congress for consideration should be postponed.
Page 5, para. 3: How far has the decentralization of economic responsibility and decision-making proceeded? Is it limited to the provincial and municipal levels, or has it proceeded to the local and enterprise level as well?

ANSWER

Please refer to the reply to 2-24 for autonomy of economic responsibility and decision-making.

While granting more autonomy to the enterprises, the State has delegated part of the economic administrative powers to the provinces, autonomous regions and municipalities which have in turn delegated powers to the central cities, with a view to bringing their functions into full play in economic administration. Other cities at lower levels and counties are also granted decision-making powers.

Page 5, para. 3: What percentage of enterprises are currently directly responsible for their own profits and losses? What percentage of national output does this represent? What percentage of enterprises are currently implementing the "factory management responsibility system?" In the absence of a bankruptcy law, and in the absence of a price system that reflects relative scarcities, how are "profits" determined? Can factory managers terminate the employment of workers?

ANSWER

China has not yet collected statistics of enterprises with full responsibility for their own profits or losses. By the end of the first half of 1987, the percentage of state-owned industrial enterprises adopting "the director responsibility system" reached about 35% of the total, and the collective-owned enterprises adopting "the director responsibility system" reached 100%. Profits of enterprises are determined by sales earnings after deducting the ex-factory costs, sales tax, costs of sales, tax of city protection and construction, resources tax and other expenses.
The Bankruptcy Law of State Enterprises has been promulgated (see Annex V of the Memorandum). In case of operational losses, an enterprise may apply for loans from the State banks, and the government department in charge should assist the said enterprise to improve production management for the purpose of overcoming the operational losses. The enterprise may be declared bankrupt for continuous losses according to the Bankruptcy Law.

According to the regulations of "The Working Decrees of Directors of Industrial Enterprises Owned by the Whole People", a director is empowered to terminate the employment of the workers.

2-12

Page 5, para. 3: Please clarify the difference in practice between "excessive and rigid control of enterprises by the State" and the "indirect control" of State enterprises that the Memorandum states has replaced it. Why is this transformation an "irreversible" policy?

ANSWER

"Excessive and rigid control of enterprises by the state" refers to the direct interference in the past by the state in management of production, supply, sale, personnel and finance. The "indirect control" refers to the separation of Government administration from enterprise management, and the eventual Government administration of enterprises through utilizing such economic levers as prices, taxes and credits. The current urban economic reforms focus on this transformation. It is also the firm intention of the Government.

2-13

Page 5, para. 3: What is the current time-table for implementation of urban reforms described in this paragraph? What percentage of enterprises are likely to be covered by these reforms when they are fully implemented? What percentage of national output will this represent?
ANSWER

In the Seventh Five-Year Plan or over a longer time, China will develop a framework of a new economic system. Efforts are made to:

1. Further invigorate the enterprises, especially the State-owned big and medium-sized ones, and turn them into autonomous economic entities;

2. Develop markets for goods and improve the market system; expand markets of both consumer goods and capital goods; open up capital markets, technology market and promote the flow of labour force; further reform the pricing system and price administration.

3. Shift the state direct control of enterprises to indirect control, and establish a new system of macro-economic controls. Further reform of planning system and give full play to the function of State banks in the macro-economic control. Further reform the financial and taxation system and achieve the macro-economic controls at different levels.

In order to achieve the objectives of separating the functions of the Government from the management of enterprises, and revitalizing economy, 100% of the enterprises will be covered by the reform.

ANSWER

Since 1979, enterprises have been encouraged to exercise managerial authority and take responsibility for their own profits and losses, by enlarging their decision-making powers and by reforming the income distribution between the state and enterprises.
Since 1986, efforts have been made to improve the managerial mechanism, observe the principle of contracted responsibility system, and further reform the distribution relationship between the enterprises and the State, enterprises have thus been in a better position to maintain full authority. This stage is expected to last till the year of 1990.

The significance of the reform lies in readjusting the economic relations between the state and enterprises and between the employees and enterprise, casting aside the egalitarian distribution system of "everybody eating from the same big pot", mobilizing the enthusiasm of managers and employees and invigorating enterprises, especially the large and medium-sized ones, and ensuring steady and sustained development of the national economy.

2-15

It is believed that the extent of production enterprises is not as widespread as stated in the document. The system where directors or managers exercise full managerial responsibility is still in an experimental phase. Information on the extent and future of such managerial control would be appreciated.

ANSWER

The implementation of the director responsibility system on a trial basis began in May 1984 in State-owned industrial enterprises. The number of enterprises implementing this system increased from 27,580 at the end of 1985 to 32,884 as of June 1987, representing 35% of the total number of enterprises. The percentage is expected to reach 50%–60% by the end of 1987 and approximately 100% in 1988.

2-16

Page 5, para. 3: and page 11, para. 3, describe the process of administrative devolution accompanying urban and foreign trade reform. It would be appreciated if comments could be provided on:

(a) the extent to which this process is consistent (i.e. authority once delegated is not revoked);
(b) uniform (i.e. applying equally to all provinces and municipalities); and

(c) transparent (i.e. the administrative authority held at each level is clear and made public).

ANSWER

Decentralization of administration, i.e. the separation of government functions from enterprise management and full autonomy of enterprises, is a major element of the reform of the economic system. The reform is consistent. Not only will the authority delegated not be revoked, but also the further decision-making power conferred on the enterprises. The objective of decentralization is nation-wide and unanimous and the process of devolution is almost the same, with minor time difference. As for transparency, one of the aims of the economic and political reform is to clarify and make known the functions of government departments at different levels.

2-17

It would be appreciated if information could be provided on the relative weighting of provincial decisions versus those taken in Beijing - to what extent is Beijing approval or endorsement of provincial decisions necessary, for example? It is understood that some national agencies in Beijing have retained foreign-trade monopoly on certain products. Can this be confirmed? If so, a comprehensive list of products involved would be appreciated.

ANSWER

It is within the power of the provinces to supervise the implementation of state foreign trade policies, laws and regulations; to formulate specific measures for further implementation, and to make and execute regional import and export plans in conformity with the national foreign trade development programme laid down by the Central Government; to administer foreign trade enterprises by means of administrative and economic levers. Decisions beyond the above power must be reported to and approved by the central government, for example, transactions beyond the designated scope of business are subject to approval.
Central administration is exercised over export of a number of important products or highly competitive products in the international market.

The products presently handled by one or more designated state foreign trade enterprises are given below:

Rice, soya bean, peanut, frozen pork, cotton, cotton yarn, cotton grey cloth, cotton/polyester yarn, cotton/polyester grey cloth, drawnwork, tobacco, tea, silk, crude oil, petroleum product, coal, maize, prawn, pearl, gin-seng, pilose antler, Chinese angelica, Tienchi, royal jelly (including the powder), canned mushroom, salted water mushroom, eel (including its fry in different species), heavy water, diamond, rabbit hair, tungsten ore and ammonium paratungstate.

Page 5, para. 4: What is meant by contracting or leasing out and in what sectors is this practiced? Will ownership of State enterprises be transferred to the private sector? In which sectors? Will State enterprises be fully responsible for profits and losses? Will they be eligible for capital infusions from the Government of the People's Republic of China?

ANSWER

Contracting is a form of economic relation between the State and the enterprises by signing contracts. It is practiced in large and medium-sized state-owned industrial and commercial enterprises.

Leasing out is a form of operation under the responsibility system. The Government departments in charge select managers for specific enterprises by way of public bidding. By signing a leasing contract management is leased to the selected managers for a certain period of time in return for a rent according to the asset. Leasing out is practiced in state-owned small-sized industrial and commercial enterprises.

Contracting and leasing out operations don't change the nature of public ownership. The purpose of such practices is to separate ownership from managerial responsibility, to balance rights and obligations and to make enterprises independent
economic entities having full authority for management and full responsibility for their own profits and losses. Part of the State-owned enterprises have already held such full responsibilities. The rest are expected to do so along with the development of the economic reform. Resources of investment for a State-owned enterprise come mainly from savings and loans. Such enterprises are becoming areas of increasing investment.

2-19

Page 5, para. 5: To what commodities do mandatory plans still apply in the agricultural sector? Are the provisions of these plans published? How do the mandatory economic plans affect China's international trade in these commodities? Are provisions made for international trade in the economic plans? Is it expected that mandatory economic planning in key commodities will be reduced further? If so, over what time period, and to what extent?

ANSWER

Mandatory planning has already been abolished in the agricultural sector and replaced by guidance planning and market regulation. Agricultural products are purchased according to contracts entered into by the state and farmers unlike the previous Government monopoly marketing. Sales of agricultural products are largely regulated by market forces. Annual, medium-term and long-term plans approved by the National People's Congress are published, including targets of key sectors of national economic and social development. Please see the reply to 2-42 for reducing mandatory planning in the future.

2-20

Does China expect to apply the provisions of the General Agreement to trade in agricultural products covered by mandatory planning in agricultural production programmes?

ANSWER

China has abolished mandatory planning in agricultural production. China will apply GATT provisions like other contracting parties in agricultural trade. We have also noticed that agriculture is one of the subjects in the New Round of Multilateral Trade Negotiations.
Does China agree that the provisions of Article XVII of the General Agreement would apply to international trade in state-traded goods in general commerce?

**ANSWER**

China is of the view that all contracting parties of GATT should follow the international trade rules, including Article XVII of the GATT.

2-22

Page 5, para. 5: What measures, i.e. economic levers, are used to enforce the objectives of "guidance planning"? What is the level of State involvement in guidance planning? Is there a written guidance plan? How are production policies for guidance planning in the economic plans developed, communicated, and implemented? What percentage of current (1986) production is under mandatory economic planning guidelines? What was the percentage in 1978?

**ANSWER**

In the current economic reform, stress has been laid to the utilization of economic levers to implement guidance planning, such as application of differential interest rates on loans to promote the construction of industries of energy, transportation, communication, and raw and semifinished materials; lower product taxation on newly constructed power stations; and new legislation of construction tax to control the scale of investment.

The State implements the objectives of the guidance plans by means of indirect controls and economic levers. Administrative interference is seldom resorted to.

The annual and medium-term national economic and social development plans approved by the National People's Congress spell out the objectives and measures, of both mandatory and guidance nature.
The guidance plans are prepared by the central and local governments, on the basis of total supply and demand, various forecasts and structural adjustment requirements collected through the vertical and horizontal information network. Information is disseminated to enterprises through governments at different levels, meetings of the departments concerned and the media. In implementing the guidance plans, government departments are responsible for programming, coordination, and providing guidance and services.

The proportion of industrial products under mandatory planning in the total value of industrial output declined from 40% in 1984 to 17% in 1986; and the number of product items declined from 120 to about 60. In the area of commerce, the number of products subject to mandatory state distribution was reduced from 256 to 20.

2-23

In the context of economic reform, China intends to shift gradually from a system of "mandatory" planning to a system of "guidance" planning. Could China define precisely which sectors are subject to mandatory planning, and what is their significance in terms of gross domestic product? Which are the criteria of definition used for these sectors? As regards guidance planning, what are the means available to the authorities to ensure attainment of the targets (economic or other incentives)?

ANSWER

Except for the agricultural sector, mandatory planning is practiced as part of the planning system in almost all economic sectors. However, the significance of mandatory planning has been, and will be further reduced. Please refer to the last paragraph of the reply to 2-22.

In the days to come, except for a few items of capital goods vital to the national economy such as electric power and petroleum and consumer goods necessary for people's livelihood such as food and edible oil, all other products will be under guidance planning or market regulation. Even for products subject to mandatory distribution, the principle of exchange at equal value will apply in the implementation of contracts entered into between the State and the production enterprises.
With the deepening of economic reform and the establishment of a new system, guidance planning will become the principal form. Targets of guidance plans are to be attained through adjustment of taxes, interest rates and the exchange rate, increased investment in basic industries and infrastructure and improvement in the external conditions for the enterprises.

2-24

Reform of the urban economy is based on increasing the autonomy of the enterprises. In the memorandum China states that the State has responsibility for planning, cooperation, providing services and supervision. In these activities, how much decision-making power do the enterprises really have? As regards the provision of services, which are the services concerned? Can the State use these services in order to ensure attainment of the planning targets?

ANSWER

The production enterprises have decision-making powers in respect of operation, marketing, pricing, procurement, financing assets disposition, organization, personnel, wages and bonus, joint operation and technological transformation.

The provision of various services includes professional guidance, information, training, construction of public utilities. These services would enable the State to attain the objectives of the national economic development plans.

2-25

Page 5, para. 5: What time frame is contemplated for substantially increasing the scope of national economic adjustment through market forces? What criteria are used to determine when and what commodities will shift from State planning to guidance planning/market forces adjustment?
The shifts in product categories under State planning are determined according to the importance of the products in the national economy, the availability of resources and the conditions of supply and demand. The attainment of the short-term objectives of macro-economic controls might invoke five years or more.

How does the foreign trade plan fit in with general economic planning? Does it differentiate between mandatory targets and guidance targets? What proportion of China's total trade is covered by mandatory targets? Are the plans drawn up on the basis of geographical areas or by products? Are the targets in terms of quantity or of value? What is the planning breakdown (products, origins, values, quantities)? In practice, how is the mandatory plan coordinated with the guidance plan and with adjustment through market mechanisms?

The foreign trade plan is a component part of the overall plan of the national economy and social development, and it catalyzes and promotes national economic plan, ensuring economic and social development. The major aspect of the foreign trade plan, such as the annual rate of growth of trade, should be in proportion to the national growth rate of the economy envisaged in the plan. Likewise, development of the national economy sets out growth requirements in foreign trade. Please also refer to the reply to 6-31.

Page 5, para. 5 and continued: Please describe more fully the "multi-channel distribution system" referred to in this paragraph.

China adopts the policy of "the State, the collective and the individual getting involved together" in establishing a multi-channel sales and distribution system. Attention has been
paid to the development of collective and individual commerce while developing commerce of state ownership, with a view to establishing a new commercial structure, in which the various ownership forms of commerce co-exist, well distributed and proportionally developed. The state monopoly purchase and sale have been abolished. Markets are established, multi-channel distribution system adapted, and obstacles of trade flows reduced.

Page 5, second footnote: Please identify the "key enterprises" and "major products" subject to mandatory planning as referred to in this footnote. What products and services will ultimately remain under strict State planning, as opposed to other methods of operation?

ANSWER

It is difficult to list the enterprises subject to mandatory planning at present. Sixty product items are subject to mandatory production planning, including steel, chemical fertilizers, petroleum and coal.

Mandatory planning control over enterprises and products is not something perpetual. In terms of a specific product, such control is not total but partial. For those key enterprises subject to mandatory planning, the State refrains from direct interference with their internal production and operational activities.

Page 6, para. 1: Expand on the statement that "a multi-channel distribution system is being created and the markets for both consumer and capital goods developed".

ANSWER

Regarding markets for consumer goods, the reform in the past few years has led to the abolition of state-monopolized purchases, state-allocated purchases and state-monopolized marketing; the establishment of markets and price liberalization of most consumer goods. The variety and proportion
of goods under planned distribution are greatly reduced and, accordingly, the scope of market regulation has enlarged. Various forms of trade centers, wholesale markets, daily necessities markets and farm products markets have been established. As far as the markets for capital goods are concerned, machinery and electric equipment markets are entirely opened, cement and timber market almost formed, coal and steel markets greatly developed.

2-30

Page 6, para. 2, and footnotes: What control does the Government have over wage policy in the agricultural sector? How are wages determined in "reformed" enterprises that are responsible for their own profitability? What is the "duty salary" component of the structured wage system?

ANSWER

The Government exercises no control over wage policy for peasants and no interference with internal wage distribution of enterprises at township and county levels, except for taxation on excess bonus. The same flexible wage policy is applied to state-owned farms, pasture land, forestry centres and other agricultural production entities. The principle of distribution according to work is fully embodied in the wage system.

In industrial sectors, enterprises establish their own forms of distribution, such as time-rate wage plus bonus, piece-rate wage, floating wage, and wage content per-unit of products. In some enterprises the structural wage system is also practised. In that case, the duty salary component is decided by the enterprises. The State is supposed to improve the macro-control over the total consumption of the society, and to ensure that the increase of consumption is in proportion to the increase of production and national income.

2-31

Page 6, paras. 3-5: Please describe the current policy making and administrative process for setting and enforcing the three categories of prices in China's economy, i.e. State, guidance, and market-regulated. Please list the commodities, services and/or categories of commodities and services currently subject to each type of price system in China. What percentage of China's current output is subject to each type of price system?
The process of formulation and administration of the three types of prices is as follows:

1. State prices are determined by the administrative price departments or other competent authorities of government at and above county levels within their designated power upon the pricing recommendation of the production enterprises and their administrative authorities. Alteration can not be made without approval of the competent authorities.

2. Guidance prices are determined by enterprises according to the reference prices, floating margin, difference of grades, profit rate, ceiling and floor prices fixed by the price administrative departments and the competent authorities at and above county levels. Failure to observe State prices or overstepping of State guidance prices will be dealt with according to law. Price administrative departments are responsible for timely and proper adjustment to the State prices and the State guidance prices in light of the changes in the costs of products, market situation and state policies. The following elements are taken into account in the formulation of State prices or guidance prices: normal costs of production under rational operation, market supply- and demand situation, State policy and price parity of related products. Generally speaking, the price composition of manufactures includes average costs, taxes and profits.

3. Market-regulated prices are fixed by the enterprises, in accordance with market conditions to the extent permitted by laws and regulations promulgated by the State.

In the first half of 1987, the following agricultural products have been subject to State purchasing prices: rice, wheat, maize, rapeseed, cotton, flue-cured tobacco leaf, etc. These agricultural products subject to State guidance prices are live pig, timber processed in collective-owned forests, sheep wool, etc.

As to retail prices of consumer goods, State prices are applied to flour, rice, maize, soya bean, edible oil, cotton cloth, etc. Guidance prices are applied to pork, tea, timber (processed in the southern collective-owned forests), etc.
As to the ex-factory prices of industrial products, State prices are applied to cotton yarn, cotton cloth, cigarettes, salt, ferrous and non-ferrous metallic products, caustic soda, soda ash, sulphuric acid, hydrochloric acid, coal, electric power, heating, oil, natural gas and timber processed in state-owned forests, etc. Guidance prices are applied to household enamel ware, machine tools, automobiles, machinery of general purpose, most of the electronic products, etc.

The product coverage under the three types of prices will not remain unchanged. The tendency is that the number of products under State prices will be further reduced, and that of products under guidance or market-regulated prices will be on the increase. Please also see the replies to 2-3 and 2-4.

2-32

At present, there are three types of price in China: prices fixed by the State, guidance prices which are a kind of indicative price, and market regulated prices. Can China indicate the respective shares of agricultural products, energy sources, manufactures and services covered by each of these types of prices? On the basis of what criteria is the relevant type of price determined? Can these prices vary from one province to another? How much autonomy do the local price authorities have?

ANSWER

The respective shares covered by State price, guidance price and the market-regulated price in 1985 were: coal, 79.79%, 16.47% and 3.56%. Petroleum products, 42.63%, 56.91% and 0.46%. Electric power and heat, 96.14%, 0.23% and 3.35%. For shares of agricultural products and manufactures, please see the replies to 2-3, 2-4 and 2-31. No data has ever been processed regarding service charges covered by the three types of prices.

If raw materials are badly needed by production enterprises and their state prices are too low, temporary prices higher than the nationwide state prices may be fixed by provinces, autonomous regions and municipalities. The State practices a two-price system for capital goods—State price for the planned portion and market regulated price for non-planned portion. The latter varies in different provinces.
Pricing is administered by the Governments at different levels. The governing departments of provinces, autonomous regions and municipalities formulate pricing principles and procedures, and determine and adjust prices within their designated power. The fixing of prices and fees for important goods and services has to be approved by the respective governments. Prices can vary from one province to another.

2-33

Page 6, para. 3: How are State purchasing prices set and adjusted for agricultural products? For what proportion of China's current agricultural output are market-regulated prices allowed to apply? What proportion is covered by State guidance pricing?

ANSWER

Please see the reply to 2-3.

2-34

How are specific price margins for State-guidance prices determined?

ANSWER

Price margins for guidance prices are determined by the price administrative department or competent authorities of the government at and above the county level within their designated power. The overall balance of supply and demand is always taken into account. The ceiling is normally fixed a little bit lower than the free market price so as to be both conducive to increased production and acceptable to consumers. The floor is fixed at a point to promote consumption and maintain normal production.

2-35

Page 6, para. 3: Please describe more fully how the price administration over capital goods has been relaxed? What is the current percentage of non-agricultural imports priced under the agency system?
The relaxation in price administration for capital goods has three aspects:

1. part of the capital goods were switched over from the category of State price to that of guidance price;

2. part of the capital goods originally subject to the State or guidance prices were switched over to market regulation;

3. enterprises are authorized to fix prices by themselves or adopt market regulated prices for products in excess of planned targets.

In 1986, the proportion of imports priced under the agency system was 80% of total value of imports, most of which were non-agricultural products.

Page 6, para. 4: How are market-regulated prices determined? How restrictive are the State laws and regulations in limiting the freedom of enterprises to set prices according to market forces? How are these restrictions manifested? Please list the laws and regulations that govern the use of market-regulated prices.

For goods and services subject to market regulation, enterprises are entitled to fix prices and charges in accordance with the state price guidelines, policies and regulations. But they are not allowed to fix monopolistic prices among themselves.

Sanction on Violation of Pricing discipline (Revised)" issued by the State Administration of Commodity Prices also has legal effect.

Please also see the reply to 2-31.

2-37

When reference is made to market regulated prices, which is the market concerned - the Chinese domestic market or the world market? What are the legislation and regulations which limit the free play of supply and demand on the Chinese market? How do Chinese market prices compare with world prices? Does the profit concept apply to Chinese enterprises, and if so how?

ANSWER

The Chinese domestic market and the world market are both taken into consideration but with the emphasis put on the domestic one. There are no legislations and regulations which limit the free play of the forces of supply and demand on the Chinese market. The profit concept applies to all Chinese enterprises. For most products, the sale prices contain profit.

2-38

What are the effects of the price system including not only market regulated prices, but also State prices and State guidance prices for certain commodities on the prices of products aimed at exports?

ANSWER

Price administrations of different forms have direct influence on the prices of products aimed at exports. Please also see the reply to 9b-(8).
What are the "floating prices" at which many processed goods are sold? What is the percentage of processed products sold at these prices? What is the meaning of the statement that prices of consumer goods have been partly deregulated? How does the retail price index for 1985 compare with the trend in wages in the period 1979-1985?

ANSWER

For floating prices please refer to the second paragraph of the reply to 2-31. For percentage please refer to the reply to 2-3 and 2-4.

Price liberalization of part of the consumer goods denotes the shift from mandatory and guidance price to market regulation.

Wages in China are not indexed to retail prices. However, the retail prices factor has been fully taken into consideration for wage increase. From 1979 to 1985, retail prices went up by 28.1%, while average wages were raised by 86.97%.

Page 6, para. 5: Please describe in some detail China's plans for price reform in the period 1987-1990. For example, what commodities will be affected by these plans, and what percentage of national output do these products currently represent? For what commodities does the State intend to continue setting prices in this period, and what percent of national output do these commodities represent? How will the price reforms be implemented? Will "reformed" prices be set by enterprises based on market forces, or will they only be allowed to fluctuate within a margin of a mandatory or "guidance" level?

Please describe China's price reform plans in the post-1990 period. At the end of the price reform process currently envisioned, about what portion of domestic output (agricultural and non-agricultural) would the Government foresee being subject to sale at prices determined by market forces? To what extent would these liberal pricing policies be extended to import and export trade in similar goods?
During the period of the Seventh Five-Year Plan (1986-1990), and for a certain period after that, the following price reform is expected:

1. **consumer goods**: except for a number of important commodities such as grain, edible oil, cotton cloth, cotton yarn, salt and pork, which continue to be subject to State price or guidance price, the prices of the rest of ordinary consumer goods will be further liberalized according to supply and demand conditions of the market;

2. **capital goods**: according to the policy of readjustment and liberalization, State prices of the crucial capital goods would be readjusted, with product coverage further reduced. State price and market price are expected to get closer to each other;

3. **service charges**: service charges of railways, post and telecommunications, public transportation, air transport, ocean shipping would remain under state control and will be appropriately readjusted. Controls on other service charges will be gradually liberalized.

The three-form price system applies in principle to similar imported goods. Most of exports and imports will be priced under the agency system.

Please also refer to the replies to 2-35 and 2-39.

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**2-42**

*Page 7, para. 2: What are China's objectives for agriculture under the Seventh Five-Year Plan for National Economic and Social Development? What role do agricultural imports have in the plan? Will agricultural imports be liberalized as part of the plan?*

**ANSWER**

The objectives of agricultural development in the Seventh Five-Year Plan are as follows:

1. The average annual output of grain will reach 415 million tons (425 to 450 million tons in 1990), representing an annual increase of 12%, a rate above what has been recorded during the Sixth Five-Year Plan.
2. The average annual output of cotton will be 4.25 million tons (4.25 million tons in 1990), registering a small decline in the rate recorded in the period of the previous Five-Year Plan.

3. Oil plants are expected to register an increase of 42% over that of the Sixth Five-Year Plan, average annual output reaching 17.12 million tons (18.25 million tons in 1990).

4. The average annual output of sugar plant will be 63.85 million tons (68.75 million tons in 1990), with an increase of 40% which would be a rate above what has been registered in the period of the previous Five-Year Plan.

5. As regards forestry, 27.7 million hectares (415.5 million mu) will be afforested in five years. Efforts will be made to increase its progress all over the country from 12% in 1985 to 14% in 1990.

6. As for livestock and animal husbandry products, the total output of meat products in 1990 will be 22.75 million tons, 19.7% increase over that of 1985; dairy products will reach 6.25 million tons, 1.1 times higher than that of 1985; the output of eggs will be 8.75 million tons with an increase of 65% over that of 1985.

7. The total output of aquatic products in 1990 will be 9 million tons, with an increase of 29% over that of 1985.

No target for agricultural imports was established in the Seventh Five-year Plan. It is however indicated in the annual plan in the light of domestic harvests and the balance of payments.

3. CHINA'S OPEN POLICY TO THE OUTSIDE WORLD

3-1

In this section of the Memorandum, the different measures taken in the context of China's open trade policy are outlined. Please describe in more detail the specific objectives of this open policy in the near, medium, and long term. To the extent possible, please describe the developments foreseen in the special areas with regard to trade, external finance, and direct investment.
During the period of the Seventh Five-Year Plan (1986-1990), China's "open door policy" is aimed at increasing export earnings, promoting external economic, trade and technological exchanges, attracting more foreign investment and technology and expanding the scale of other forms of economic co-operation to facilitate socialist modernization. Relevant specific objectives are as follows:

1. Trade: The total volume of imports and exports will increase at an annual rate of 7%, reaching 83 billion US Dollars in 1990, of which exports by 8.1% and import by 6.1%. For the export commodity mix, the proportion of the manufactured goods is expected to increase. For import commodity mix, the stress is placed on software, advanced technology, key equipments, and the materials for production which are urgently needed and in short supply in the domestic markets.

2. Foreign Investment: Priority is given (1) to development of energy, transportation, communications and raw materials, particularly projects for electric power generation, port facilities, oil drilling, and technical transformation of machinery and electronics industries; (2) to export-oriented projects and import substitution.

3. Foreign Technology: Priority is given to technological transformation of existing enterprises, to export-oriented projects and import substitution. Foreign expertise of various forms is to be widely utilized through multi-channels.

4. Tourism: The number of foreign tourists is anticipated to grow at an annual rate of 11%, or to 5 million in the year of 1990.

5. Special Economic Zones: Efforts are to be made to complete projects of infrastructure and projects related to foreign investment; to construct projects of high intellectual and technological intensity by absorbing foreign investment; to develop a number of highly competitive export items; and to establish an export-oriented economy with major industries as its basis. And with appropriate co-ordination between industry and foreign trade, SEZs will serve as an open window for technology, knowledge, management and external relations.

6. Open Coastal Cities: These cities are expected to bring into full play their advantages, by expanding foreign economic and technological activities, particularly in the area of advanced technology, and by speeding up the technological transformation of the existing enterprises. For further development of an export-oriented economy, new projects will be constructed, new industries established, and export production bases set up.
7. Open Coastal Areas: Efforts will be made to develop a trade-industry-agriculture structure, that is, to develop processing industries according to the needs of exports and to develop agriculture and other industries of raw materials according to the needs of the processing industry. The stress is laid on import of foreign technology, technological transformation and continued product upgrading. The open coastal areas are to be developed into foreign trade bases.

3-2

Page 8, para. 1: How does the application of the Chinese Foreign Trading Regime differ among provinces, special economic zones (SEZs), cities and areas?

ANSWER

Please see the replies to 3-3 and 12-1.

3-3

How will implementation of reforms differ across the provinces, SEZs, cities and areas?

ANSWER

The implementation of the general principles and policies of economic reform, opening to the outside world and invigorating the domestic economy set forth by the central government is the same in the provinces, special economic zones, cities and areas. But concrete policies may differ in practice. For example, the fourteen open coastal cities (including thirteen economic and technological developing zones), four SEZs and Hainan Island apply more preferential policies and flexible measures with respect to foreign investment and foreign trade. Special policies are also implemented in autonomous regions of minorities, such as Tibet.
Page 7, para. 6 and continued: Does China foresee unifying and extending the "open" policies existing in the special areas, i.e. the Special Economic Zones, coastal cities, delta areas, etc., to the entire nation?

ANSWER

Please see the replies to 12-5 and 12-6.

3-5

Enterprises with foreign investment are eligible for many incentive measures. In particular, those which are export-oriented or technologically advanced have the benefit of still more favourable tax treatment - the twenty-two articles. In this context:

- What is an enterprise with foreign investment?
- What is an export-oriented enterprise?
- What is a technologically advanced enterprise?
- Who determines these definitions? In which legal texts are they published? What are the powers of the local authorities in this regard? Can they improve the conditions?

ANSWER

According to Article II of the Provisions of the State Council of the People's Republic of China for the Encouragement of Foreign Investment promulgated on October 11, 1986, an enterprise using foreign investment is referred to as a Chinese-foreign joint venture (equity joint venture), or a Chinese-foreign cooperative venture (contractual joint venture) or a wholly foreign-owned enterprise established within the territory of China.

According to the "Implementation Measures Concerning the Confirmation and Assessment of Export Enterprises and Technologically advanced Enterprises with Foreign Investment" promulgated on January 27, 1987, by the Ministry of Foreign Economic Relations and Trade, an enterprise which meets the following requirements can be confirmed as an export-oriented enterprise:
1. That the enterprise produces export products;

2. That no less than 50% of total value of the annual products in current year is exported;

3. That there is a foreign exchange balance or surplus at the end of the year.

A technologically advanced enterprise should meet the following requirements:

That the technology, process and major equipment adopted fall within the category of priority projects as announced by the State, and are both advanced and suitable; that they are in shortage in China, or can generate new or upgrade old products, or increase exportation or facilitate import substitution.

The departments in charge of foreign economic relations and trade in provinces, autonomous regions, municipalities directly under the Central Government or cities specially identified in the national plan or the People's Governments of special economic zones where the enterprises using foreign investment are located are competent authorities for confirmation and assessment of export-oriented and technologically advanced enterprises. Local authorities review the two types of enterprises annually after confirmation is granted.

According to the "Regulations on Tax Exemption and Reduction of the Chinese-foreign Joint Venture" promulgated by the Ministry of Finance, the People's Governments of provinces, autonomous regions and municipalities directly under the Central Government may determine the exemption from and reduction of local income tax, i.e. 10% surcharge on the tax charged on joint venture enterprises.

Article forty-nine of the "Regulations for the Implementation of the Law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment" (hereinafter referred to as Regulations for the Implementation) specifies that the standard for site use fee shall be fixed by local people's governments of provinces, autonomous regions or municipalities directly under the Central Government where the joint venture is located on the basis of the usage of site, geographical and environmental conditions, expenses of requisition, demolishing and resettlement, and requirements of joint venture enterprises in respect of infrastructure and other elements. Standards have to be reported for record to the Ministry of Foreign Economic Relations and Trade and the competent authorities of land administration.
Page 8, para. 3: In addition to your reference to the October 1986 regulations, what other developments have recently taken place with regard to foreign investment in China? What new measures have been taken to stimulate investment?

ANSWER

The environment for directly absorbing foreign investment has been further improved since the "Provisions of the State Council of the P.R.C. for the Encouragement of Foreign Investment" was promulgated on 11th, October, 1986. In the first four months of 1987, 328 investment contracts have been approved and the total value of foreign investment amounted to 550 million US Dollars. The situation is better than that of the corresponding period of last year, especially as the industrial structure of investment tends to be rational and the export-oriented enterprises and technologically advanced enterprises have notably increased.

In order to carry out the "Provisions of the State Council of the P.R.C. for the Encouragement of Foreign Investment", the following detailed rules have been promulgated by the relevant authorities:

1. Measures of the Customs Authority of the People's Republic of China for the Control of Materials and Parts Required to be Imported for the Performance of Product Export Contracts by Enterprises with Foreign Investment (24 November, 1986),


3. Provisional Measures of the People's Bank of China Concerning the Mortgages by Enterprises with Foreign Investment of Foreign Exchange for RMB Loans (4 January, 1987),


7. Implementing Measures of the Ministry of Finance for Putting into Effect the Preferential Terms on Taxation provided in the "Provisions of the State Council for the Encouragement of Foreign Investment" (30 January, 1987),


9. Provisional Regulations for the Proportion of Registered Capital to Total Amount of Investment of Joint Ventures Using Chinese and Foreign Investment (1 March, 1987), and


3-7

Page 8, para. 3, states "China grants foreign investors full decision-making power under conditions described by law". Specifically, what are the provisions in Chinese law granting foreign investors "full decision-making power"? What are the specific conditions which may limit this decision-making ability?

ANSWER

There are many provisions in China's laws granting foreign investors decision-making power, particularly autonomy in management. For instance, Article 7 of the "Regulations for the Implementation of the Law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment" specifies that "Joint ventures shall have the right of autonomy in operation and management within the limits and scope stipulated by Chinese laws and regulations, agreements, contracts and articles of association of the joint venture. All the departments concerned shall provide support and assistance".
Article 11 of the "Law of the PRC on Wholly Foreign-owned Enterprises" (promulgated on 12 April, 1986) specifies: "A wholly foreign-owned enterprise which conducts its operation and management activities in accordance with the approved article of association shall not be subject to interference".

A foreign investment enterprise has full right of autonomy in all of its business activities including "personnel, property, materials, production, supply and marketing".

In a joint venture enterprise, "the board of directors is the highest authority which shall decide all major issues concerning the joint venture". (Article 33 of the "Regulations for the Implementation")

A joint venture enterprise makes its own production and operation plan within the business scope and production scale stipulated by the joint venture contract and performs it after being approved by the board of directors and filed with the department in charge of the joint venture. Departments in charge of the joint ventures and planning departments at all levels do not issue mandatory plans to joint ventures regarding production and operation.

In the purchase of required machinery, equipment, raw materials, fuel, parts, means of transport and things for office use, etc., a joint venture has the right to decide whether it buys them in China or from abroad (Article 57 of the "Regulations for the Implementation").

A joint venture enterprise has the right to export directly its products (Article 62 of the "Regulations for the Implementation").

Article 15 of the Provisions of the State Council for the Encouragement of Foreign Investment stipulates that "People's Governments at all levels and relevant departments in charge shall guarantee the right of autonomy of joint venture enterprises and shall support them in managing themselves in accordance with internationally advanced scientific methods". Within the scope of the approved contracts, such enterprises have the right to determine production and operation plans, to raise funds, to use funds, to purchase production materials and to sell products; and to determine the wage levels, the forms of wages and bonuses and allowance system. They may, in accordance with their production and operation requirements, determine their organizational structure and personnel system, employ or dismiss
senior management personnel, increase or dismiss staff and workers. They may recruit and employ technical personnel, managerial personnel and workers in their locality. The unit to which such employed personnel belong should provide its support and permit their transfer. Staff and workers who violate the rules and regulations, and cause consequences may be given different sanctions, up to that of discharge, on the merits of each case.

On 27 November, 1986, the Ministry of Labour and Personnel promulgated the "Provisions on the Right of Autonomy of Enterprises with Foreign Investment in the Hiring of Personnel and on Wages, Insurance and Welfare Expenses of Staff and Workers".

3-8

As regards profit remittances by foreign investors, it is stated that profits which have been distributed legally are exempt from income tax. What is the relevant legislation? Can profits be repatriated freely, and at what exchange rate?

ANSWER

According to Article 10 of the "Law of the P.R.C. on Joint Ventures Using Chinese and Foreign Investment" promulgated on 8 July, 1979, the term "lawful profits" means "the net profits which a foreign participant receives as his share after executing his obligation under pertinent law, agreements and contracts", which can be remitted through the Bank of China in accordance with the foreign exchange regulations and in the currency or currencies specified in the contracts concerning joint venture.

The Article 4 of the "Law of the People's Republic of China on Income Tax of Joint Venture Enterprises Using Chinese and Foreign Investment" (promulgated on 10 September, 1980) specifies "in the case a foreign participant to a joint venture remitting its share of profit from China, an income tax of 10% shall be levied on the remitted amount".

Article 7 of the "Provisions of the State Council for the Encouragement of Foreign Investment" stipulates: "foreign investors in export-oriented enterprises and technologically advanced enterprises shall be exempted from income tax on the profits to be remitted abroad".
According to Article 7 of the "Law of the People’s Republic of China on Joint Ventures Using Chinese and Foreign Investment", foreign investors shall remit profits distributed to them by joint ventures through the Bank of China in accordance with the regulations of foreign exchange control. Foreign investment enterprises shall open foreign exchange deposit accounts with the Bank of China or other banks designated by the State Administration of Foreign Exchange Control. Payments in foreign exchange shall be made from its foreign exchange account (Please refer to Article 74 of the "Regulations for the Implementation" for details). Profit can be remitted freely, within the limit of foreign exchange deposit in the foreign exchange account, to the countries where the foreign investors are from.

Please also see the reply to 3-9 for the remittance of profit in foreign exchange.

3-9

Page 8, para. 3: What are China's plans concerning the ability of investors to convert their investment earnings in national currency into foreign currency?

ANSWER

The RMB earnings of foreign investors in China can not be directly converted into foreign exchange from the Bank of China at present. However the Chinese government has adopted a number of flexible measures, such as the foreign exchange adjustment transactions, purchase of domestic products for export, and reinvestment in export-oriented enterprises. No new plan is being worked out.

3-10

Page 8, para. 3: Are there minimum export requirements associated with the foreign investment incentives granted enterprises in the SEZs and other "open areas"?
There is no such regulation in China's laws.

Page 8, para. 3: For how long a period is there an income tax exemption on profit remittances for export-oriented or technologically advanced enterprises? What percentage of profits are permitted to be repatriated? What are some examples of eligible enterprises? What geographic areas are authorized to offer these incentives? Are such incentives applicable throughout China or only in Special Economic Zones?

The export-oriented and technologically advanced enterprises identified by the Ministry of Foreign Economic Relations and Trade are all exempted from income tax on their profit remittance, and there is no time limit at the moment. However, they will be listed out of the above two categories and considered not eligible for such preferential treatment when the export percentage drops below 50% or the technology they have adopted becomes no longer advanced. There is no percentage limit as to their legal profit remittance. These policies are applied across the country, and the difference is that all foreign investors in the special economic zones enjoy the income tax exemption on legal profit remittance regardless of their status as whether or not belonging to the above categories.

What obligations are imposed on joint-venture or foreign enterprises in respect of "local content" and "export requirement"?

Foreign investors decide upon the sales direction of their products by themselves, and there are no such obligations stipulated in the relevant laws. However, in many cases the two signatories of the foreign investment contract agree to assume
the obligations of "local content" and "export requirement" in order to maintain balance of payments in foreign exchange. Foreign investment in China is supposed to benefit development of national economy by adopting advanced technology and equipments, or by exporting part or all of its products.

3-13

It is difficult for a foreign undertaking to set up a distribution and marketing system for its products on the Chinese domestic market. Are any improvements envisaged in this respect in the context of the economic reform, in order to facilitate foreign investment?

ANSWER

There exist various channels for foreign enterprises to establish a marketing system for their products in China. Foreign investment will be further facilitated along with the economic reform. The existing channels are as follows:

1. Foreign enterprises, corporations and other economic entities may set up their representative offices in China and directly contact Chinese users;

2. They may entrust Chinese foreign trade corporations as their agencies;

3. They may establish enterprises through investment and their marketing systems in China;

4. They may participate in trade fairs and exhibitions and negotiate business;

5. They may advertise their products in China;

6. They may establish their own association;

7. They may consult foreign investment service centres.
What are the tax advantages granted to export enterprises? Are there preferential interest rates for such Chinese or joint-venture enterprises?

ANSWER

At present, the export enterprises in China consist of (1) export-oriented enterprises; (2) export corporations; and (3) export enterprises using foreign investment.

For the temporary economic assistance programme and encouragement measures to export enterprises exercised by the State, please refer to Page 10 of the Memorandum.

After the expiration of the period for the reduction or exemption of income tax, a further 50% reduction of income tax may be granted to an export enterprise using foreign investment, if its exports reach 70% of the total output value of the year.

Exemption of consolidated industrial and commercial tax is granted to export products of enterprises using foreign investment, except crude and refined oil, and other products provided by the State.

Income tax exemption is granted to profit remittance of export-oriented or technologically advanced enterprises of foreign investment.

Income tax may be wholly refunded by tax authorities to the profit of foreign investment to be re-invested in export-oriented or technologically advanced enterprises for a period over 5 years.

Export-oriented and technologically advanced enterprises may receive short-term loans from the Bank of China on a priority basis.
4. CHINA AND THE INTERNATIONAL ECONOMIC, COMMERCIAL AND FINANCIAL ORGANIZATIONS AND THE INTERNATIONAL TREATIES CONCERNED

4-1

Page, 9 para. 2, refers to the Chinese participation in numerous international organizations concerning trade. Do the Chinese intend also to become signatories to international agricultural conventions such as the Office International des Epizootes (OIE), International Plant Protection Convention and the Federation Internationale de Semence? If not, why?

ANSWER

China is conducting studies on these agricultural conventions, and decisions on whether to accede to the conventions will be made after the results of the studies are known.

4-2

Page 9, para. 2: Does China intend to sign GATT codes such as those on subsidies/countervailing duties, anti-dumping, government procurement, customs valuation, import licensing, technical barriers to trade?

ANSWER

Tokyo Round codes are not part of the GATT. It is not an obligation for the CPs to GATT to sign these codes. However, China is conducting studies on those codes and decisions on whether to sign them will be made upon the results of the studies.

4-3

Page 9, para. 3: What is the distinction, from China's perspective, between treaties which have been approved, and those which are merely acknowledged? Do the words "signed", "ratified", "approved", "accepted", and "acceded" signify different levels of obligation for China? Is China bound by all the terms of all these treaties and agreements, or does China find exception to some conditions?
Treaties acknowledged by the People's Republic of China denote exclusively those concluded or acceded by the defunct Chinese Government before the founding of the People's Republic of China, and acknowledged, after being reviewed, by the Government of the People's Republic of China. All the international treaties, approved or acknowledged by the Government of the People's Republic of China, have the same binding force upon China. The words "signed", "ratified", "approved", "accepted" and "acceded" have different meanings only in China's domestic legal procedures. However, all the international treaties which are effective to the People's Republic of China have the same binding force no matter what legal procedure they have gone through. The Chinese Government shall comply with and fulfill all the obligations of those international treaties which she concluded or acceded, except those reservations made in accordance with the provisions of the treaties concerned.

5. CHINA'S FOREIGN TRADE POLICY

5-1

How is the foreign trade plan allocated among the provinces? Does it establish detailed targets for the special economic zones and the cities with special status? If so, for the aggregate or for each of them? Which body determines the foreign trade targets for producing enterprises? Are they mandatory or indicative?

ANSWER

The foreign trade plan is allocated by the Central Government to the provinces through joint consultation and study according to their different levels of economic and foreign trade development, as well as the requirement of the national economy and foreign trade related to localities. Reference is also made to various specific requirements by local people's governments including the foreign trade departments.

The special economic zones do not have detailed targets. For the coastal cities with special status, some have detailed targets, some don't.
The State does not assign directly any foreign trade plan or target to production enterprises. Foreign trade corporations purchase export goods according to the international market situation, through contracts. Production enterprises approved to engage in export business can conclude contracts with foreign companies directly.

5-2

How is the foreign trade plan drawn up? In this process, what is the role of the enterprises and of the local and provincial authorities?

5-3

What is the role of the five-year plan in foreign trade? What are the mandatory and indicative shares? Is the plan published with an indication of the mandatory and indicative shares? Where are these details published?

ANSWER

The annual foreign trade plan is drawn up according to the Five-Year Plan for National Economic and Social Development and in the light of the medium and long-term foreign trade arrangement as well as the specific conditions of different localities, departments and enterprises.

The initial contributions to the export plan are made by import and export corporations of various ministries, foreign trade corporations and production enterprises authorized to engage in foreign trade at levels of provinces, autonomous regions, municipalities directly under the Central Government and cities separately listed in the plan. After careful study, analysis, and coordination of these contributions, MOFERT prepares a draft national export plan which goes first to the State Planning Commission for overall coordination and then to the State Council for examination. Finally the draft plan is submitted to the Standing Committee of the National People’s Congress as a part of the Annual Plan for National Economic and Social Development for approval. The State Planning Commission and MOFERT are responsible for the follow-ups of the approved plan.
The initial contributions to the import plan are made by the enterprises and institutions at levels of ministries, provinces, autonomous regions, municipalities directly under the Central Government and cities separately listed in the plan. After an overall coordination of these initial contributions in accordance with the Five-Year Plan for National Economic and Social Development and the ability to pay in foreign exchange, the State Planning commission, the State Economic Commission and the State Bureau of Materials and Equipment work out a national import plan and submit it first to the State Council for examination, and then to the Standing Committee of the National People's Congress as a part of the annual plan for National Economic and Social Development for approval. The State Planning Commission and MOFERT are responsible for the follow-ups of the approved plan.

The five-year plan for foreign trade serves as a link between the long-term plan and the annual one.

For the respective shares of mandatory planning and guidance planning, please refer to the reply to 6-31.

China's five-year plan (including the development programme of import and export) is published in newspapers. Detailed figures in annual export plan are a business secret which are not available for businessmen. But this does not prevent foreign businessmen from obtaining information on supply and demand of particular commodities through China's import and export corporations.

5-4

In what conditions can plans be changed in the course of the year? If such changes are in a downward direction, how do they affect contracts already concluded and deliveries under way?

ANSWER

The annual plan could be readjusted in the process of its implementation if unexpected and irresistible events occur, for example, a steep fall in oil price on the international market or bad weather leading to a decline in agricultural production.
Chinese corporations strictly abide by contracts and faithfully discharge the obligations thereunder. Even in cases which lead to the readjustment of foreign trade plan as mentioned above, they still perform contracts to the best of their ability.

5-5

With which countries does China use an annual plan for bilateral trade?

ANSWER

To some extent there is a planning element in trading with the USSR, Eastern European countries and some developing countries as this part of trade is conducted under bilateral trade agreements. China has no annual plan for bilateral trade with other countries.

5-6

Page 9, para. 4: Could China estimate the portion of its international trade conducted as barter or counter-trade? How are China's trade relations conducted with the members of the Council for Mutual Economic Assistance (CMEA)?

ANSWER

China maintains no relations with the Council for Mutual Economic Assistance (CMEA). The trade is carried out between China and the USSR and Eastern European Countries chiefly on a barter basis. In 1985, barter trade accounted for 8% of the total value of China's foreign trade.

5-7

Page 9, para. 5, sub-para. 1: Which countries, specifically, are covered under "first category" agreements? Are there explicit conditions/criteria which determine what category of agreement is negotiated with a country (e.g. income level, composition of trade, etc.)?
The division in the Memorandum of the trade agreements into three categories is simply for the sake of easy explanation. There is no criterion for such categorization, as the form of trade agreement is determined by both governments through consultation.

China has concluded trade agreements containing the most-favoured-nation clause with the following countries:

Rwanda, Burundi, Zambia, Madagascar, Ethiopia, Somalia, Zimbabwe, Mozambique, Angola, Kenya, Tanzania, Botswana, Nepal, Burkina Faso, Cameroon, Benin, Chad, Gabon, Cote d'Ivoire, Senegal, Central African Republic, Guinea, Mali, Congo, Zaire, Nigeria, Sao Tome and Principe, Gambia, Equatorial Guinea, Liberia, Togo, Mauritania, Egypt, Sudan, Algeria, Morocco, Tunisia, Libya, Yemen (YAR), Yemen (PDRY), Lebanon, Syria, Iraq, Jordan, Kuwait, United Arab Emirates, Oman, Singapore, Philippines, Turkey, Cyprus, Bangladesh, Burma, Pakistan, Nepal, Sri Lanka, Romania, German Democratic Republic, Hungary, Yugoslavia, Bulgaria, Albania, USSR, EEC, Austria, Australia, Finland, Norway, Switzerland and Brazil.
Page 9, para. 5, sub-para. 2: What sorts of commodities are on the indicative lists of agreements included in this category? Are these commodities to be exchanged on a barter/compensation trade basis? Which developing countries have such stated agreements with China? What criteria are used to determine eligibility for such agreement? What are the typical terms of "payment agreement" that accompany such agreements? Please list the countries with which China has concluded such "payments agreements". Why are such agreements being reduced, and what conditions have determined their lessened use?

ANSWER

Please see the reply to 5-7. Commodities listed on the indicative lists of the trade agreements of the second category are determined by the governments and corporations of both sides according to their needs and capabilities. The indicative list is for reference only, and very few of the commodities listed are exchanged on a barter basis. China has signed agreements of this category with the following developing countries: Ethiopia, Kenya, Tanzania, Burkina Faso, Cameroon, Cote d'Ivoire, Guinea, Nigeria, Equatorial Guinea, Liberia, Mauritania, Algeria, Sudan, Iraq, Morocco, Singapore, Cyprus, Iran, India, Bangladesh, Nepal, Pakistan, Sri Lanka, Afghanistan, Mexico, Chile, Ecuador and Brazil.

Countries with which China has signed payments agreements are indicated in the annex 9 to the Memorandum. The typical clause of this kind of agreements is the stipulation of trade through account clearing. The main reason for the reduction of the number of payments agreements is that transactions through account clearing are substituted by transactions in cash.
Reference is made on page 9, Part Two I, paragraph 1 to an indicative list. It would be appreciated if advice could be given on whether any priority is accorded to the import of those commodities nominated in the bilateral trade agreements. If affirmative, how is this priority exercised?

ANSWER

No priority is accorded to the import of those commodities listed in the bilateral trade agreements.

Page 9, para. 5, sub-para. 3: Please list the countries subject to this category of trade agreements with China. Is all trade with such countries encompassed by the detailed lists? What determines what goods or commodities are on these lists? What criteria determine that a trading partner participates in a third category trade agreement? Is the "protocol of exchange of goods" referred to in this paragraph a type of barter/countertrade treaty? What are the negotiations and conditions that comprise a protocol of exchange?
Please see the reply to 5-7. Countries with which China has signed annual protocols of exchange of goods include: Ethiopia, Sao Tome and Principe, Ghana, The People's Republic of Yemen, Thailand, Philippines, Iran, India, Turkey, Bangladesh, Pakistan, USSR, Poland, German Democratic Republic, Czechoslovakia, Hungary, Bulgaria, Albania, Romania, The Democratic People's Republic of Korea, Mongolia, and Cuba. Protocols with all these countries are annexed with indicative lists. Commodities on the indicative list are determined through consultation according to the needs and capabilities of both countries and are based on commercial considerations.

Since the 1950's, China has been maintaining with the USSR and Eastern European countries annual protocols of exchange of goods. The protocol of exchange of goods should be implemented by both sides under obligation unless something unexpected should occur. China has also signed protocols of exchange of goods with some developing countries, but the annexed lists are for reference only. The protocol of exchange of goods is negotiated and signed annually.

5-11

To provide in bilateral agreements "countertrading" which consists of allocating to specific countries, items and quantities of goods to be traded could, in some cases, contravene the m-f-n principle. Could China be kind enough to provide details of such bilateral agreements that she has concluded (including the attached protocols providing barter trade)?

China has barter trade in small amount with Tanzania, Zimbabwe, Sao Tome and Principe, Ghana, Algeria and Tunisia. The barter trade protocol of this category mainly stipulates transaction price fixed on the basis of prevailing market price, currency of account, date of delivery and validity of the agreement. Details of the bilateral trade agreements with contracting parties would be provided in accordance with Article X of the GATT.
Page 9, last 2 paras, refer to preferential agreement on trade and financial modalities between the people's Republic of China and some developing and socialist countries. Is the People's Republic of China prepared to review these agreements in order to determine if they are in conformity with GATT MFN principles?

ANSWER

The agreements of the second and third category referred to in the Memorandum do not include preferential forms of trade and financial arrangements. The trade agreements between China and these countries do not include preferences which are inconsistent with the principles of GATT.

Page 10, para. 1: What non-tariff measures are used to enact China's import priorities (e.g. in licensing and other administrative permissions, quotas, import taxes and surcharges, foreign exchange deposit requirements or permissions, etc.)? Concerning quotas, administrative permissions, and import licensing, are these measures in conformity with the provisions of Articles XI and XIII of the General Agreement? How will the measures used to restrict trade to conserve foreign exchange be justified under the General Agreement? Does China intend to notify such measures taken for balance-of-payments purposes?

ANSWER

China's import ability is subject to its foreign exchange availability. China guarantees import priorities by means of the mechanism of planning, import licensing and foreign exchange control. No discrimination against specific countries exists in trade measures. China consults with IMF on the measures taken for BOP purpose every year. For China's import licensing system, please see Section V, Part II of the Memorandum and the reply to 9a-(1). China does not provide indirect protection to domestic products through collecting fees other than internal taxes. Therefore, China's non-tariff measures can be reconciled with relevant provisions of the GATT.
Page 10, para. 1: What government agencies or bureaux determine import priority? How is priority administered, e.g. is there a list of priority import commodities? What commodities, specifically, are considered "necessary imports" for the purposes of these measures? How is their status determined?

Page 10, para. 1: What specific border mechanisms will China employ to "decide the structure of imports" and how are they seen as compatible with the GATT? Can the import priorities be elaborated in terms of the specific product areas which are seen as "advanced technology, key equipments and materials for production and construction which are absolutely necessary and in short supply"?

ANSWER

The import priority is determined according to the capability of payment in foreign exchange and the requirements of national economic and social development, and synthesized by the State Planning Commission and the State Economic Commission. The "border mechanisms" of China include tariffs, the import regulatory tax and the import licensing system. These mechanisms are compatible with the GATT. At the present stage, the specific import priority is accorded to the imports of advanced technology, key equipments and materials for production and construction which are badly needed and domestically in short supply, such as technologies on nuclear power station, steel, chemical fertilizer, etc.

Page 10, para. 1: Which Government Ministries are involved in approving imports of goods in cases where the Ministry also has jurisdiction for the domestic production of similar (i.e. competitive) products?

ANSWER

The State Machinery Commission, the Ministry of Electronics Industry, the Ministry of Public Health, the Ministry of Light Industry and the Ministry of Chemical Industry and other
governmental departments, while administering and organizing domestic production, are in charge of the justification of technical performance and specification of similar imported products and the import priorities. MOFERT is informed of the justification and decides whether or not to issue the import license.

5-17

Page 10, para. 2: What are the specific plans of China to prevent any further shortage of foreign currency?

ANSWER

Great efforts will be made to increase foreign exchange receipts and to spend foreign exchange economically.

5-18

Page 10, para. 3: In general, under sub-paras. 1-4, there is a need for greater specificity when China is indicating "efforts should be exerted", "further rationalization", "policy measures should be implemented", etc... What specific measures are the Chinese authorities considering? What is the timetable of these reforms?

ANSWER

In the period of the present Seventh Five-Year Plan (1986-1990) and early 1990's, the reforms would lay a solid foundation for the new economic structure including the new foreign trade system. The enactment of the Foreign Trade Law will guarantee the dominant role of the new economic structure. Because of the complicated situation in China and the arduousness of the reform, it is impossible for us to draw up a precise timetable for the reform.

5-19

Page 10, para. 2: Does the Ministry of Finance plan to continue to provide direct export subsidies to provincial export corporations (as reimbursement for losses incurred in overseas
sales of products below cost)? Can China confirm that the export subsidy system will be changed such that the Ministry of Finance will provide fixed subsidies to provinces to be further allocated by provincial planning commissions (retention by decentralization of export subsidies)?

5-20

Page 10: In cases where the price system leads to higher domestic prices of products than the prices on the international market, is there any direct subsidization to enable sales abroad?

5-21

Page 10, para. 2: Does China plan to phase-out export subsidies coincident with taking up contracting party status in the GATT? If not, how does it propose to justify such subsidies under the provisions of the General Agreement?

ANSWER

The Chinese Government provides temporary economic assistance to export enterprises. The issue of trade in agriculture could be dealt with in the New Round of Multilateral Trade Negotiations. Please also see the reply to 10b-2.

5-22

Page 10, para. 2: Is there a basis in law or regulation for the export performance/local content requirement included in contracts with foreign investors? Are such requirements applied anywhere to domestically-owned firms?

ANSWER

There are no explicit stipulations in China's law or regulations for export performance/local content requirement. It is stipulated in Article 75 of" Implementing Regulations of the Law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment" that "a joint venture shall in general keep balance between its foreign exchange income and expenses".
5-23

Page 10, para. 2, sub-para. 2: Specifically, how does China encourage the export of manufactured products over primary products?

ANSWER

As a strategy for export, efforts are made to change the structure of export commodities from primary products to manufactured products and from roughly processed products to finely processed products. The incentive measures for export listed in the Memorandum, in principle, are applicable both to primary products and manufactured products, among which preferential loans are granted to enterprises that produce machinery and electrical products.

5-24

Page 10, para. 3, sub-para. 3: What rationalization is being referred to and how will it be encouraged? We note that more details on foreign investment are provided on page 8, para. 3. Will the rationalization have an impact on approvals of future foreign investment?

ANSWER

The adjustment of export production mentioned here is aimed at more rational utilization of local resources by export production enterprises and raising their economic efficiency. Meanwhile, account is taken of the overall rationalization of distribution of industries.

Attention will also be paid to the rational programming of and providing guidance to foreign investment in respect of its direction, so as to make foreign investment enterprises conducive to the development of the national economy and to avoid repeated introduction which adversely affects their economic efficiency. This is to the benefit of both Chinese and foreign parties.
Page 10, para. 2, sub-para. 3: What measures does China employ to encourage a better geographical distribution of export-oriented production centres?

ANSWER

China has a vast territory. The economic development levels and the industrial structures vary in different places and, furthermore, there exists great difference in natural endowments. Therefore, in setting up the export-oriented production bases, we should follow the principles of scientific planning, maximizing favourable factors and structural rationalization. The specific approach is: firstly, the foreign trade departments along with other departments concerned put forward a guiding proposal for the layout of the export-oriented production bases, including the indispensable conditions needed for various export-oriented production bases, according to the main categories of export commodities, such as textiles and agricultural products; secondly, production units or production areas apply to the relevant departments for setting up the bases; and, finally, a bid-inviting or evaluating group composed of people from the State Planning Commission, the State Economic Commission, production sectors, foreign trade departments, banking consultancies and relevant experts study the applications and make final selections.

5-26-a

Page 10, para. 2, sub-para. 4 and continued: Regarding the policy measures listed in this sub-paragraph:

- Is it possible to list which products and industries receive the special export incentives listed here?

ANSWER

Enterprises receiving above-mentioned special export incentives are those export-oriented enterprises that manufacture machinery and electric products.

5-26-b

- Please elaborate on how export-oriented firms are selected to benefit from the incentives, how long the measures are applied, and, administratively, how firms apply for and receive the incentives.
- Please specify the manner in which incentives are tied to export performance.

ANSWER

The incentives to export of machinery and electric products are closely connected with export performance of the enterprises. If the export value of an enterprise takes up over 50% of its output value, it can be treated as an export-oriented base enterprise and loans at preferential rates can be secured. If the annual export value of an enterprise exceeds 3 million US dollars, it can be listed as an enterprise with more decision-making power, and is granted the right to engage in foreign trade in addition to the access to preferential loans. The amount of foreign exchange retention of these enterprises is directly linked to the amount of foreign exchange earned through exports. The incentive measure is temporary.

5-26-c

- What type of tax exemption or drawback is applied to export products, e.g. is an import duty drawback applied solely to the imported component of the item upon export, or is the rebate applied on inputs not previously imported?

ANSWER

According to our tax law, at present, the product tax and value-added tax levied on the products in the different stages of production will be reimbursed after the products have been exported. Drawback is also applied to the import component of the exports.

5-26-d

- Please indicate how preferential and low interest loans to such enterprises are provided in accordance with GATT principles and related instruments relative to subsidies. How are the other incentives listed in this sub-paragraph consistent with Article XVI of the General Agreement?

ANSWER

The monthly interest of loans on favourable terms is as follows: for those less than five years, 4.5 o/oo; 5-10 years, 5.1 o/oo; 10-15 years, 5.7 o/oo. The said loans are used to help the enterprises with their transformation of technology and renewal of equipment. They are consistent with relevant GATT provisions.
Page 10, last para., and page 11, para. 1: Please provide further comments on the temporary assistance measures adopted to assist export production. When were they introduced and is it known for how long they will remain in force? Is it possible to quantify the measures specified in sub-paragraphs (1) to (3) - to how many enterprises do they apply, what is their value etc.? Further elaboration of the specifics of all measures (i.e. sub-paragraphs (1) to (4)) would be appreciated. A comprehensive description of the system of FOREX retention outlined in sub-paragraph (4) would be particularly welcomed.

ANSWER

All these measures, which have been adopted successively since the restructuring of the economic system started in 1979, are temporary except the system of export tax reimbursement. As to export tax reimbursement, please see the reply to 5-29; foreign exchange retention, 11-16; loans on favourable terms, 5-26.

5-28

Page 11: What other measures exist than the four mentioned?

ANSWER

There are still some other measures taken in this respect, for instance, state investment in ports and railway construction which is favourable for export transportation; and foreign trade information service established by the State.

5-29

Page 11, point 1: Please list products currently eligible for this tax exemption, and for duty drawback. How are new products selected? How does a product lose its exemption? At what rates are taxes exempted or import duties forgiven? Are these exemptions(drawbacks) available for the exported output of foreign-owned firms as well as Chinese firms?
In accordance with the existing provisions, all exported industrial products except crude oil and petroleum products are eligible for tax exemptions/drawbacks with regard to the value-added tax and domestic product tax imposed on them at the production stage. Since the product tax is levied only on ten groups of agricultural, forestry, animal husbandry and aquatic products in China, the tax reimbursement is confined to the said products, after their exportation.

Export products eligible for tax exemptions/drawbacks refer to products that are declared to the customs and ready to leave the territory of China. In the cases that the products already exported return, for one reason or other, to China again, they lose their exemption right and the amount of refunded (exempted) tax, if there is any, should be paid back.

Customs duties on imported products and tax reimbursement on exported products are executed at the rates in accordance with the taxable items and rates as stipulated in the "Regulations of Product Tax of the People's Republic of China" and the "Regulations of Value-added Tax of the People's Republic of China". The rates of tax on imports are identical with the product tax rates of domestically produced goods stipulated in the "Regulations of the Consolidated Industrial and Commercial Tax of the People's Republic of China". The rates of tax reimbursement or exemption of exported products are also consistent with the rates at which product tax is calculated at the production stage.

Owing to reasons of legislative procedures, the Regulation of Product Tax and that of Value-Added Tax are only tentatively implemented at home. Therefore the provisions of exemption/drawback of Product Tax and Value-Added Tax on exported products are only applicable to domestic enterprises. To products exported by wholly-foreign-owned enterprises, Chinese-foreign equity joint ventures and Chinese-foreign contractual joint ventures, the "Regulations of Consolidated Industrial and Commercial Tax of the People's Republic of China" promulgated on September 13, 1958 by the National People's Congress is still applied, i.e. with the approval of competent authorities, the taxes can be reduced or exempted right at the production stage.
Page 11, point 2: What is the difference between loans available at "preferential" rates, and those available at "low interest rates" used for deciding if an "export-oriented enterprise" is eligible for such loans? Are foreign enterprises or joint venture enterprises eligible for such incentive loans?

ANSWER

Preferential and low interest rate loans are one of the temporary measures of incentives and economic assistance applied to some of the export-oriented enterprises by the State. There is no substantial difference between loans at "preferential" rates and those at "low interest rates". The said loans are not applicable to enterprises with foreign investment. Please also see the reply to 5-26.

Page 11, point 4: Is the system of foreign exchange retention applicable universally, or to only a few specific regions or types of enterprises? How are retained foreign exchange earnings divided or allocated between enterprises and local governments?

ANSWER

Please see the replies to 11-7 to 11-16.

Page 11: What concrete results are expected with the export development?

ANSWER

Please see the reply to 3-1.
As a consequence of the process of economic adjustment in the People's Republic of China, in order to facilitate the alignment of its price and international trade policy with a system based on the signals given by the international market, is it planned to request an "exception" or "waiver" for a given product category or sector to shield it from the basic principles affirmed in the GATT, such as the "most-favoured-nation" clause (MFN) or "national treatment on taxation and internal regulation"?

ANSWER

We will deal with this issue in the course of the negotiations on resumption of China's status as a contracting party to GATT.

6. REFORM OF CHINA'S FOREIGN TRADE SYSTEM

6-1

Pages 11-13: Please discuss prospects for further reforms in China's foreign trade regime through the end of the century. What were the reasons for the present slowdown (i.e., during the last year and a half) in the implementation of reforms in China's foreign trade system already announced?

ANSWER

By the end of this century, the following goals for the reform of China's foreign trade system will be achieved: The managerial authority of foreign trade is fully decentralized. The enterprises can choose the most economic and appropriate forms to conduct foreign trade and make their own decisions. Mandatory planning is basically abolished and replaced by guidance planning and market regulation. The State administers foreign trade mainly through legal and economic regulatory means without direct intervention of the operations of the enterprises.

Great changes have taken place in China's economic system as a result of several years of reform. The economic structural reform in China proceeded along the general principle of "consolidation, assimilation, supplement and improvement" over the past year. We are now in the process of drawing up a more practical plan for further foreign trade reform on the basis of previous experience.
Page 11, para. 2: A list of the over 800 import-export corporations (broken down according to main activity) with a clear indication of the reporting/management responsibility, level of decentralization, decision-makers, mechanisms through which foreign exchange and purchasing decisions are approved, etc. would be appreciated.

ANSWER

For the list of import and export corporations please refer to the "Directory of Foreign Economic and Trade Enterprises of China". With the approval of the competent authority, China's foreign trade enterprises have the autonomy to conduct business within their designated scope of operation. Departments of the Government do not interfere in the business activities of foreign trade enterprises and the enterprises can sign import and export contracts on the requests of customers.

6-3-a

Page 11, para. 3: Concerning the current role in trade of China's State-trading organizations (i.e. "national import export corporations" and "national foreign trade corporations");

Are there specific sectors, industries, or products for which import and/or export trade is still reserved solely to the State-trading organizations? If so, what are they?

ANSWER

Some commodities are handled by designated corporations, many others are cross-traded by different corporations within their approved scope of business. For commodities exported by the designated foreign trade corporations, please refer to the reply to 2-17. Commodities imported by the designated foreign trade corporations include steel, fertilizer, cereals, timber, chemical fibres, automobiles, disused ships, tobacco and rubber.

6-3-b

Are there sectors, industries, or products for which import and/or export trade is carried on by both the State foreign trade corporations and the decentralized import/export corporations and related enterprises authorized to trade by MOFERT? If so, can they be listed?
Commodities handled by the State foreign trade corporations are classified basically into bulk categories. Commodities handled by both the State foreign trade corporations and the local import/export corporations are too many to be listed.

6-3-c

What is the relationship between a producing entity such as a factory that needs to import a good and the foreign trade corporation which will do the actual importing? Do the foreign trade corporations charge a fee based on a percentage of the import transaction or is its service essentially free to the factory and paid for through general revenue funds?

ANSWER

The end-user obtains imported goods through foreign trade corporations which charge a fee based on the value of the import transaction.

6-3-b

In what sectors, industries, or products is trade conducted without reference to any sort of plan or approval, except as regards access to foreign exchange? Does China allow private, unregulated trade in conjunction with products that are also State-traded through the foreign trade corporations?

ANSWER

Trade of products which are neither under the foreign trade plan nor under the import licensing system, can be conducted by sectors and/or industries without reference to any sort of plan or approval, but has to be handled by corporations within their scope of business. In general, China does not allow private foreign trade and nor does it have unregulated external trade.

6-3-e

Please explain how China operates its State-Trading Organizations in conformity with Article XVII of the General Agreement, including non-discriminatory treatment and in accordance with commercial considerations? How does China allow for growth in imports in State-traded products?
ANSWER

There are no country-specific restrictions on the imports conducted by the State foreign trade corporations. The Chinese Government urges the State foreign trade corporations to operate independently and at their own profits and losses. The increase of imports by the State foreign trade corporations is based upon the demand and supply in the domestic and international market and the ability of payment in foreign exchange.

6-3-f

Which State-trading organizations or foreign trade corporations specialize/monopolize trade in agricultural products? Which agricultural products are imported solely by State-trading organizations? On what basis is the level of imports of these products determined?

ANSWER

The trade of agricultural products is, generally speaking, handled by China Cereals, Oils and Foodstuffs Import & Export Corporations and China Native Product and Animal By-Products Import & Export Corporations. The volume of agricultural imports depends on the demand and supply in the domestic and international market and the ability of payment in foreign exchange.

China National Cereals, Oils and Foodstuffs Import & Export Corporation mainly deals with cereals, pulses, bean cakes, oil seeds, vegetable, animal fats, tung oil, livestock & poultry, frozen meat & meat products, eggs, processed egg products, aquatic products, fresh fast frozen, salted & wild vegetables, assorted canned products, mushroom in brine, fine sugar, salt, confectionery & biscuits, rice & wheat flour products, dairy products, beverages, beers, groundnut products, condiments, wine & spirits.

China National Native Produce & Animal By-Products Import & Export Corporation deals with industrial raw materials, tea, tobacco and its products, jute and jute products, spices and essential oils, bamboo, wood and their products, dried fruits and dehydrated vegetables, daily necessities, foodstuffs, hog bristles, bristle brushes, casings, hair and wool, hand-woven carpets and rugs, feather and down, feather and down filled products, leather, fur and their products.
What Government agency administers the distribution of agricultural imports and exports? On what basis are domestic prices determined for agricultural products imported by the State?

**ANSWER**

The allocation of agricultural imports is administered by the Ministry of Commerce. The agricultural products for export are purchased by foreign trade corporations and the federation of supply and marketing cooperatives.

For domestic prices of imported agricultural products, please refer to answer to Question 10a-(5).

**6-4**

Page 11, para. 3: It would be appreciated if further information on the activities and responsibilities of agencies which it is understood have foreign trade functions (e.g. International Trust and Investment Corporations, China North Industrial Corporation, State Construction and Engineering corporation, Animal Breeding Stock I/E Corporation, etc.), but which do not fall under the MOFERT umbrella. Does decentralization also apply to them? What relationship (e.g. on trade policy questions) and/or responsibilities if any does MOFERT have with/for them?

**ANSWER**

The business activities of all enterprises involved in foreign trade are under the policy guidance of MOFERT and subject to the rules and regulations promulgated by MOFERT. Decentralization also applies to the agencies which have foreign trade functions.

**6-5**

Page 11, para. 3: Are the various departments, enterprises of industrial production, local governments of various levels, approved import-export corporations, and other trade-related entities authorized or licensed to engage in international trade anywhere listed for the information of those attempting to trade with China?
ANSWER

Please refer to the reply to 13b-(5).

6-6

Page 11, para. 3: How does an enterprise receive such permission? Are there governmental institutions or organizations that grant such authorization in addition to MOFERT?

ANSWER

For details of procedures for the enterprise to obtain licences, please refer to the "Interim Regulations on Licensing System for Import Commodities of the People's Republic of China" and its Detailed Rules for the Implementation, and the "Interim Procedures for the Export Licensing System of the People's Republic of China" (see Annex of the Memorandum). Only the Ministry of Foreign Economic Relations and Trade is vested with this power.

6-7

Page 11, para. 3: How do the additional entities or "syndicates" approved for exporting and importing differ from the other trading entities mentioned in this paragraph? What commodities do they trade, and is there a value limit to their operations? Do these entities require further approval from MOFERT to trade after the initial approval?

ANSWER

There is no difference among the foreign trade corporations (including syndicates) as far as legal status is concerned. They are all legal persons entitled to conduct foreign trade. Once a foreign trade enterprise is approved by MOFERT and registered with the industrial and commercial administrative departments, further ratification by MOFERT is not required. Re-examinations and ratifications by MOFERT are required for a few foreign trade enterprises due to their poor management and other reasons.
Page 11, para. 3: Concerning the reference in this paragraph to the development of border trade with neighbouring countries, are there unique or different regulations governing this trade, as compared with China's general foreign trade policy? If so, could you please describe them?

ANSWER

Special customs tariff is applied to the frontier trade between the Tibet Autonomous Region and Nepal, the structure of which is simple and tariff rates are relatively low.

Page 11, para. 4: To what extent is China's foreign trade system currently regulated by such mechanisms as exchange rates, customs duties, taxes, and credits, as opposed to government commands and administrative orders, e.g. what percentage of import and export trade?

ANSWER

It is difficult to measure in terms of percentage the function of economic measures in regulating foreign trade.

MOFERT is the State organization in charge of foreign trade. In this regard it has considerable powers: it draws up import and export plans and supervises their implementation; it has to approve the enterprises authorized to engage in foreign trade and likewise the establishment of foreign enterprises; it operates the import and export licensing system. Do these aggregate responsibilities not give MOFERT the powers of a foreign trade monopoly?

ANSWER

No. MOFERT is but a government administrative agency in the field of foreign trade. It does not engage in any trade transactions.
On the basis of which criteria does MOFERT give its approval to enterprises to engage in foreign trade? What are the procedures for revoking such approval? Are these procedures transparent, and do they allow recourse to a tribunal?

**ANSWER**

MOFERT grants its approval to enterprises to engage in foreign trade according to the following requirements:

a. The enterprise as a legal person should pay tax according to relevant regulations, and assume independent account and full responsibility for its own profits and losses.

b. It should have relatively reliable access to export resources and perspective channels for import and export.

c. It should be in possession of enough capital resources in conformity with the scale of its operations.

d. It should have competent executive and professional.

e. It should also be in possession of necessary installation and facilities.

When repealing an enterprise's foreign trade right, MOFERT shall issue a document to that effect and notify the Bank of China, the Customs and the Administration Department of Industry and Commerce. The latter will revoke the business licence of the enterprise. This procedure is open to the public. If the enterprise has objection to the revocation, it may sue at the court.

To what extent does MOFERT supervise the foreign trade corporations? Is there any publication of the guidelines set by MOFERT for the foreign trade corporations under its direct authority? Are there detailed guidelines regarding the choice of origin of various imports? Can MOFERT or some other body oblige an enterprise or a corporation to buy a product in a particular currency or from a particular origin rather than another, or in a country having a clearing arrangement for payment rather than in a country where payment must be made in convertible foreign exchange? For what reason are many import contracts cancelled, after having been signed by foreign trade corporations legally entitled to carry them out, the explanation given being that they have not been authorized by the competent trade authorities?
ANSWER

(1) MOFERT supervises foreign trade corporations in respect of their implementation of foreign trade policies, regulations (including the systems of licensing and quotas) and mandatory plans. MOFERT does not interfere in business activities of the corporations.

(2) MOFERT does not set guidelines for the foreign trade corporations, nor detailed rules regarding the choice of origin of imports. The origins of imports are decided by the corporations themselves upon requests of end-users and conditions of the international market.

(3) The forms of payment and the currencies payable in transactions are decided between the buyers and sellers. Instead of cash payment, the trade with the countries having entered into payments agreements with China and opened a special settlement account with the bank designated in the agreements is carried out by way of mutual exchange of commodities.

(4) The instances of foreign trade corporations unable to fulfil import contracts are very rare. It is mainly due to force majeure and fundamental change of circumstances.

6-13

Is it the intention in future to have a clearer allocation of responsibilities in regard to foreign trade aimed at a real diversification of responsibilities?

ANSWER

According to our understanding, the question refers to the direction and target of China's foreign trade reform, which aims to separate the functions of government departments from that of enterprises and to enable enterprises to run their business independently and to be responsible for their own profits and losses. This target will be gradually realized in the course of the foreign trade restructuring.
It is stated in the Memorandum that China intends to rationally regulate its foreign trade, chiefly by making use of exchange rates, customs duties, taxes and credits. Does this mean that administrative supervision will be abolished? What will be the essential objectives of such rational management of foreign trade?

**ANSWER**

The Government administers foreign trade mainly through such economic measures as exchange rates, customs duties and credits. Both the enterprises' business activities and the government's administration should be in compliance with law.

At present, the role of the administrative supervision in foreign trade is mainly due to the following reasons: the economic structural reform including the reform of foreign trade system in our country has not been completed; the economic levers have not been brought into full play; the market mechanisms not perfected; the decision-making power of some foreign trade enterprises has been limited. In future the administrative supervision in foreign trade will gradually be reduced.

**6-15**

How does guidance planning of foreign trade operate? How can MOFERT ensure that its plans are observed?

**ANSWER**

MOFERT ensures the implementation of the plans by virtue of laws and regulations set by the State and through its own policy and administrative measures.

**6-16**

In view of the importance of MOFERT's responsibilities in regard to foreign trade, how much discretionary power do the provincial authorities have and, ultimately, how much autonomy do the enterprises have?
Foreign economic relations and trade is administered at two levels of central and local government: MOFERT (including special commissioner offices located at some ports) and the Departments (or Commissions) of Foreign Economic Relations and Trade of provinces, autonomous regions and municipalities directly under the Central Government. The latter are administrative departments of the local governments responsible for implementing the directives, regulations, guidelines and policies laid down by the State, administering and supervising foreign trade of the area under the leadership of local governments. The departments submit reports on their work directly to MOFERT. Reports of work are also submitted to local governments. Decisions and instructions on special issues beyond the authorization of MOFERT are taken in consultations with other ministries of the Central Government if circumstance requires.

Foreign trade enterprises run their operations and make their decisions within the scope of their business, no matter where they are located.

The Memorandum mentions a multi-channel distribution system. Are these really different circuits or are they all supervised by MOFERT? does this imply that traders can obtain supplies freely (on the domestic and foreign market) and fix their prices?

The expression of "multi-channel management" is used as opposed to the monopoly management before the economic reform. The corporations authorized to engage in import and export should conduct their business within the approved scope of operation subject to the supervision of MOFERT and the administrative departments of industry and commerce. The corporations have to obtain licences if they import or export commodities which are under the licensing system. Foreign trade enterprises can obtain supplies freely on the domestic and foreign market and fix their prices to the extent permitted by laws and regulations of the State.
6-18

A few large and medium-sized enterprises can export their output and import raw materials for their own use. Do these enterprises have to refer at any stage to MOFERT or to any other body for their import/export activities?

ANSWER

The large and medium-sized enterprises approved to engage in foreign trade do not have to report to MOFERT on their import and export activities within their scope of business. But they are required to regularly submit statistical reports to the competent departments of the localities.

6-19

Although in recent years China has increased the number of invitations to tender at international level for projects financed by foreign organizations, the global level is still relatively low. Will this practice of inviting tenders at international level also be applied in respect of projects wholly financed by China? Does China intend to accede to the Code on Government Procurement?

ANSWER

The practice of inviting tenders at international market for projects wholly financed by China is not common at the moment. China has not yet considered the issue of acceding to the Code on Government Procurement.

6-20

Page 12, para. 1: Is MOFERT the only agency of the Government of China authorized to approve the establishment of foreign economic and trade enterprises or the conduct of international trade by established enterprises?
Yes, MOFERT is the only agency of the Government authorized by the State Council to approve the establishment of foreign economic and trade enterprises.

Page 12, para. 1: Are there any agencies of the Government of China other than MOFERT authorized to grant import or export licenses? If so, please list them, and describe in what sectors, industries, or products trade is subject to their approval.

No. MOFERT is the only agency of the Government authorized to grant import and export licenses on behalf of the State. MOFERT may authorize the departments of foreign economic relations and trade at the provincial level or the special commissioner offices located at the main ports to issue import and export licenses within their specified domain.

What is MOFERT's role in granting access to foreign exchange? What is MOFERT's role in developing and administering the Import Regulatory Tax and other non-tariff charges on imports?

MOFERT takes part in the policy-making discussion on the use of foreign exchange for the import priorities. MOFERT is a member of the Tariff Commission of the State Council. Other non-tariff charges on imports are administered by the competent authorities concerned.
Page 12, paras. 1 and 2: What is the organizational relationship between MOFERT and the subordinate Departments (or Commissions) of Foreign Economic Relations and Trade of the provinces, autonomous regions and municipalities? Do these organizations report directly to MOFERT? If so, to what section or sections? Are their operations and personnel considered to be part of MOFERT's own organization? Do they report to any other governmental bodies at the national, provincial, or local level?

ANSWER

Please see the reply to 6-16.

Page 12, para. 3: What functional responsibilities does MOFERT have in the implementation of the export-import plan, e.g. in monitoring, adjustment, or enforcement?

ANSWER

The main responsibilities of MOFERT in the implementation of the import and export plan are to administer and supervise the implementation of the import and export plan authorized by MOFERT and approved by the State, and to assist localities, sectors and enterprises concerned to fulfil the planned target of foreign trade; and to analyse and evaluate the general implementation of the national foreign trade plan, and put forward further proposals.

Page 12, para. 3: Are any portions of the foreign trade development programmes or the medium term and annual import-export plans developed by MOFERT in coordination with the State Planning Commission available for the information of those who wish to trade with China? If so, where? If not, please elaborate on why the plan, or information regarding its provisions, is not made available to the public and those interested in trading with China. Has China ever considered developing a method of sharing some of this information with interested foreign traders?
ANSWER

Please see the reply to 5-2 and the last paragraph of the reply to 5-3.

6-26

Page 12, paras. 3 and 4: Please describe the process by which the medium-term and annual import/export plans are formulated? What governmental organizations participate? With which agency does final approval lie?

6-27

Page 12, para. 3: There is no indication as to the role of the import-export plan concerning the overall level of imports. Is a target established in the plan and, if so, how is it set?

ANSWER

Targets are established in the plan. Please see the replies to 5-2 and 5-3.

6-28

Is there a "plan" for foreign exchange? How is it formulated and by whom? What are the criteria used by the Bank of China in determining whether or not to release foreign currency for payment of imports?

ANSWER

Please refer to the replies to 11-4, 11-9 and 11-15.

6-29

Page 12: To what extent can local authorities or local enterprises control expenditures of their foreign currency allocations? Have they the authority to pay for their imports without referring to MOFERT authorization?
ANSWER

Please see the replies to 11-7 to 11-16.

6-30

Page 12, paras. 3 and 4: How is it determined that trade in a certain commodity will be subject to "guidance" planning or "mandatory" planning? Are there any plans, currently published and under consideration, to reduce the number of commodities covered by mandatory planning?

6-35

Page 12, para. 4: "Only a few [commodities] such as oil, coal, grain, cotton, chemical fertilizer, lumber and steel remain under the mandatory planning". What are the criteria used in establishing the list of commodities to which this system applies; and to what extent will the foreign trade plan include detailed directives regarding the trade such as the source of supply or destination, price paid or asked, degree of transformation of the products?

ANSWER

It depends on the importance of a commodity in the development of China's economy and foreign trade as to whether the commodity should be subject to mandatory planning or guidance planning. The Programme for Reforming China's Foreign Trade System includes reduction of the number of commodities covered by mandatory planning.

The foreign trade plan does not include such directives as the source of supply or destination, price paid or asked, degree of transformation of the products as listed in the above question.

6-31

Page 12, para. 4: Please elaborate on the specific ways in which there are significant differences in the operation and effect on trade of mandatory and guidance planning. What percentage of current imports is exports and covered by each type of planning?
Page 12: What is the exact import quantity of each of the items subject to mandatory planning in the past three years?

Page 12, para. 4: What percentage of import and export trade is subject to indirect market regulatory controls (i.e. adjustment through market mechanisms) rather than mandatory or guidance planning?

ANSWER

A mandatory plan is an order with a legal compulsory nature imposed by the State and must be fulfilled. Any amendment or adjustment must be subject to the approval by the competent departments which made such plans. A guidance plan has no binding force, and its function largely depends on economic levers. (Please also see the footnote on Page 5 of the English version of the Memorandum).

Before 1984, products under mandatory foreign trade plan were over 3,000 items. Now only dozens of them remain as a result of the economic reform. The number will continue to decline in future. According to the Customs statistics, from 1984 to 1986 the volumes of import commodities under mandatory plan are respectively as follows: 10.41, 6.00 and 7.73 million tons for grain; 9.23, 7.61 and 5.10 million tons for chemical fertilizer; 7.91, 9.71 and 7.15 million C.M. for timber; and 12.30, 20.03 and 18.37 million tons for steel.

The compilation of the foreign trade plan is largely based on products. Indicators of volume or value are given in the plan according to different products.

The guiding principle for planning coordination is: appropriate administration at macro level, increasing vitality at micro level, and full use of the market mechanism.

Page 12, para. 4: Are the commodities listed the only items currently covered by "mandatory" planning in the import/export plan, or are products derived from these commodities included in the "planned" category? What percentage of national output does internal and external commerce in these products represent?
Presently, the products in the import and export plan which remain under mandatory planning include those products listed in the Memorandum and some other products. Most of the export commodities account for only a small percentage of the total output of the same kind of commodities. For instance, in 1985, the amount of grain export took up only 2.46% of the total grain output of the same year and coal 0.89%.

Page 12, para. 4: Why is lumber under mandatory planning? What is the rationale for China's "wood substitution" policy?

The reason why timber is under mandatory planning is that, in China, timber ranks among the important commodities which are crucial to the whole national economy. Meanwhile, the percentage of forest cover in China is rather small, which results in the shortage of timber. Therefore, we have to import some timber and develop "wood substitution" as well.

Page 13, para. 1, states that when unexpected developments or market changes occur "the State may make appropriate readjustment of the planned import and export targets including mandatory ones". How frequent an occurrence is this? What are some examples of such unexpected developments which have led to such action?

Are the adjustments mentioned on page 13, para. 1, made public?
ANSWER

Please see the reply to 5-4. Generally speaking, an adjustment of the plan is not made public.

7. TARIFF SYSTEM OF CHINA'S CUSTOMS

7-1

Given the importance of administrative supervision in China's foreign trade (virtual monopoly of MOFERT in regard to licensing, planning, prices and approval of enterprises, foreign exchange control), what is the reason for existence of the Chinese tariff? Is it essentially motivated by fiscal considerations? What was the amount of customs revenue collected in 1984, 1985 and 1986? What is the impact of the tariff in a system where trade is planned, or even negotiated under annual protocols and where prices of imported products are often fixed independently of real cost?

ANSWER

China attaches great importance to the use of economic levers in guiding the enterprises to accomplish the State's targets for national economic development. The customs tariff is mainly aimed at regulating importation and exportation, while revenue is a secondary consideration. The functions of the tariff are embodied in the following aspects: lower duty rates and duty exemption are introduced in order to encourage the import of technologically advanced equipment that China needs badly and can not manufacture domestically; relatively high duty rates are applied to certain industrial and agricultural products which need to be imported, with a view to protecting the competitiveness of domestic products on the domestic market and prompting development of the domestic products; high duty rates are applied to non-necessities and high-grade consumer goods in order to restrict such importation. With the intensification the reform of economic system including the foreign trade system, the scope of the State mandatory planning will be gradually reduced, whereas that of the guidance planning and market regulation will be greatly increased. Meanwhile, with regard to the reform of price administration, a system will be established in which the prices of a very limited number of import commodities are set by the State, while for the majority of commodities, State guidance prices or market regulated prices are applied.
China's Customs tariff, as an important price component of the imports, has played and will continue to play has been playing a more and more important role in regulating importation and exportation and in promoting and protecting domestic production.

The amount of customs revenue collected in the last three years is as follows: 10.4 billion Yuan (Renminbi, the same below) in 1984, 20.8 billion Yuan in 1985, and 14.4 billion Yuan in 1986. The Customs proportion of the national financial revenue for the corresponding years is 6.9%, 11% and 6.5% respectively. The reasons for the increase of customs revenue in 1985 were due to the increase of the import volume of the year, the change of import structure, and adjustment of customs duty rates for certain import products.

7-2

Is it the policy of the Chinese Government to apply the same rate of import tariff on products, regardless of the port of entry? Is there any legal justification if different rates are applied for the same import at various ports?

ANSWER

The "Regulation on Import and Export Duties of the People's Republic of China" and the "Customs Import and Export Tariff of the People's Republic of China" are implemented in a uniform way by all Chinese Customs except for Tibet. Therefore, customs duties are levied on all imports in accordance with the stipulations in the "Regulation" and the duty rates in the "Tariff".

7-3

Does China now have or intend to implement domestic countervailing duty and anti-dumping legislation? If currently legislated, how do these laws function?

ANSWER

There is no specific legislation concerning countervailing duty and anti-dumping in China. These matters are under consideration.
7-4

Does China have separate legislation providing relief to domestic products from (injurious) imports? If so, how does it function?

ANSWER

Currently, there is no separate legislation in China providing relief to domestic producers from injurious imports.

7-5

To what extent do Chinese enterprises depend on countertrade?

ANSWER

Only a few enterprises are engaged in countertrade which takes up 8% of China's total external trade value.

7-6

How is customs duty assessed on countertrade imports?

ANSWER

The duty-paying value of an import item is its normal CIF value, determined by the Customs. The same principle is applied to the countertrade products.

7-7

Are these imports priced according to the State price, State guidance price, market regulated price prevailing in the country of export?
The pricing principle applied to the products imported under normal market conditions is also applied to the countertrade products.

What tariff concessions does China envisage granting on the occasion of its accession to GATT?

China has clearly expressed the willingness of making tariff concession as a condition to resume its status as a contracting party to GATT. China is preparing to hold tariff negotiations with interested contracting parties, with a view to making tariff concessions consistent with the level of China's economic development.

Page 13, para. 1: Is China prepared to bind at a maximum ceiling its tariff schedule and to reduce substantially the scope of its duties in its tariff schedule?

As described in the reply to question P18-7-1, China's Customs duty serves as an important means to regulate importation and exportation. In determining the objectives of tariff negotiations, China has to take into full consideration the appropriate tariff concession as an obligation for resuming her status as a contracting party to GATT, on the one hand, and the protection of domestic industry on the other. Therefore different approaches have to be adopted for different products.
Page 13, para. 2: In the case of a State controlled economy country, the customs tariff is not the unique or main means of import control. Is China prepared to make commitments on its administration of quotas, import licensing, and on the phasing-out of its price control system? What specific changes does China see as necessary to bring these measures into full conformity with the GATT?

ANSWER

The Chinese Government is preparing to negotiate with contracting parties over the rights and obligations connected with China's resumption of its status as a contracting party. China's foreign trade system would be harmonized with the General Agreement in the course of the economic reform.

Page 13, para. 3: Is China prepared to include in its tariff schedule a clarification of tariff items that will be affected by price control and incorporate a phase-out period which will indicate the gradual elimination of the price control mechanism affecting specific products?

ANSWER

No.

Further information on China's Customs Tariff, referred to on page 13, paras. 3 and 4, would be appreciated. What are the strategic aims of protecting domestic production (e.g. selective infant industry protection, comprehensive self-sufficiency)? Are specific criteria used to decide which goods are needed for the national economy and the people's livelihood, and where does responsibility for making those decisions lie? Is duty drawback available for products imported by export industries? How are export duties treated when products have a higher import content (i.e. are producers required to pay both import and export levies)?
ANSWER

As a developing country, China applies, on the one hand, lower duty rates to technologically advanced equipment which can not be manufactured domestically in order to encourage importation; on the other hand, higher duty rates to those products which can be produced and supplied domestically with the view to restricting importation and to protecting the development of domestic industries.

Lower import duty and import duty exemption are applied to goods needed for the national economy and the people's livelihood. According to the present level of economic development, cereals, breeding animals and vegetable seeds, fertilizers, metallic ores and apparatuses for scientific research and educational use, etc., are considered to be goods needed for the national economy and the people's livelihood.

The specific criteria and products selection are examined and considered by the Tariff Commission and reported to the State Council for approval.

Raw materials specially imported by export-oriented enterprises for processing are supervised and controlled by Customs. The import duty is refunded at the time of re-exportation.

At present, all the items subject to export duties are all raw material products having no import content.

7-13

Is any special protection given in terms of international trade to the agricultural and industrial sectors as key sectors of the economic development of China?

ANSWER

Yes. Higher import duty rates are applied to some of the industrial and agricultural products.
What importance should be given to tariffs in regulating imports in comparison with MOFERT decisions on approvals for corporations to engage in imports, import licensing and financing of imports?

ANSWER

The tariff becomes ever more important in regulating China's foreign trade. Tariff and other measures adopted by MOFERT, such as import licensing, complement each other.

Page 13, para. 4: What Government organizations participate in determining and carrying out the basic principles of China's import tariff listed in this paragraph? Does the Government of China have administrative authority to change the applied tariff without recourse to the national legislature? If so, what agency or department administers such changes? How?

ANSWER

The Tariff Commission, which consists of top leaders from the Ministry of Foreign Economic Relations and Trade, the State Planning Commission, the State Economic Commission, the Legislative Bureau under the State Council, the Economic Coordination Office under the State Council, the State Machinery Industry Commission, the Ministry of Finance, the Ministry of Commerce, the Ministry of Electronic Industry, the Customs General Administration, the State Administration of Commodity Prices, the State Bureau of Materials and Equipment and the State Statistics Bureau, is responsible for the examination and implementation of the basic principles of tariff.

The comprehensive modification of the tariff is examined and approved by the State Council; the Tariff Commission has been authorized by the State Council to make adjustments.
Page 13, para. 4: How long does China foresee the need to use high tariffs to protect domestic industries? What criteria are used to determine which products receive such "infant industry" protection? Does China have a plan or process by which these tariffs can be reduced when such protection is no longer needed? Is there provision for the re-evaluation of the need of domestic industries for such protection as they become more developed?

ANSWER

Please see the replies to 7-1 and 7-15.

Page 13, para. 4: What are the averages (both arithmetic and trade weighted) of China's tariffs on all imports, and on dutiable imports?

ANSWER

The arithmetic average of the minimum rate of the Customs' Tariff of China on all imports is 37.8% and on dutiable imports is 38.8%. In accordance with the Customs Statistics of 1986, the weighted average rate of import duty was 16.7% and on dutiable imports was 17.4%.

Page 13, para. 4: Are there any charges on imports that are essentially for revenue purposes? What were the ratios of tariff revenues to total national revenues in recent years?

ANSWER

No charges which are mainly for revenue purpose are imposed on imports by the Customs. For China's tariff revenue for the last three years, please refer to the reply to 7-1.

Page 13, para. 4: Regarding the Customs Tariff, how, and by whom, is it determined which imports are "needed for the national economy and the people's livelihood" and should be imported duty free?
ANSWER

Please see the reply to 7-12.

7-20

Page 13, para. 4: The highest tariff rates are applied to imported products which can be produced domestically and which need protection. Please describe how these products are identified?

ANSWER

For the protection of domestic products, the enterprises concerned are supposed to bring up the issue first. The office of the Tariff Commission would then investigate the case. If protection is justified necessary, the Commission would recommend higher duty rates would be recommended to the commission or the State Council for approval.

7-21

Page 13, para. 4: Can China's import tariff be changed without public notice? Does the Chinese Government have the authority to change applied tariff rates without legislative approval?

ANSWER

China's import and export duty rates and their readjustment are made public. For the procedures of amendment, please see the reply to 7-15.

7-22

Page 13, para. 4: Are export tariffs applied essentially as a revenue measure, or are they applied for regulatory purposes? Which agency of the Chinese Government is responsible for determining the scope and level of such tariffs?
ANSWER

The main purpose for levying export duty is to maintain the orderly exportation. The category of dutiable goods and the tariff level are decided by the State Council. Subsequent partial adjustments of the export tariff are decided by the Tariff Commission of the State Council.

7-23

Page 14, para. 1: Which countries and customs entities are subject to "general rates" of tariff? To which countries or customs entities does China grant preferential tariff treatment (on a bilateral basis), i.e. treatment better than the application of "minimum rates" of tariff duty? If such preferential treatment is granted, please describe its provisions.

ANSWER

Imports originating from the countries with which China has not concluded trade treaties or agreements with a reciprocal favourable tariff clause are subject to the general tariff rates. The Chinese government provides no tariff treatment better than the application of "minimum tariff rates" to any countries or customs territories. Please also refer to the reply to 5-7.

7-24

Page 14, para. 1: Why does China deny MFN treatment to imports from Hong Kong? Does China apply tariffs to trade with Taiwan? If no, what other charges, if any, are applied to this trade?

ANSWER

The scope of application of minimum tariff rates is laid down in the "Regulations on Import and Export Duties of the PRC". Imports from Hong Kong do not come within this scope. Imports directly from Taiwan are not subject to import duties.
With the exception of the special customs treatment accorded to the trade between Nepal and Tibet, does China give any form of tariff or non-tariff preference to imports from other countries? If so, please explain.

ANSWER

No.

The Regulations of 24 November 1986 on joint-venture enterprises provides for customs duty exemption or reduction on goods imported by them. Is this a permanent provision in the Chinese tariff? Does the Chinese tariff provide for any other preferential duty, and if so, for what reasons? Are there other possibilities of exemption? If so, which and for what reasons?

ANSWER

The preferential tariff treatment is granted to the machinery, equipment and materials for their reinforcement and installation imported as foreign investment. This preferential treatment is expected to exist for a long time.

Duty reduction or exemption is granted to imports and exports of SEZs and other specially destined areas; to imports and exports for specific purposes; and to materials donated for public welfare undertakings. These provisions have been formulated by making reference to international practices and for purpose of implementing the general policy of opening to the outside world and invigorating the national economy.

Page 14, para.2; Are there any published regulations on the various charges incorporated in the CIF price?
The duty-paying value of an import item is its normal CIF price determined by the customs. The normal CIF price includes all charges incurring before discharge at the place of importation in China, such as packing charges, freight, insurance premiums and commissions.

Chapter three of "Regulations on Import and Export Duties of PRC" refers to the principle of customs valuation.

7-28

The duty-paying value is stated to be the CIF value of imported merchandise. The exchange rates of renminbi are fixed in administrative order. Could the competitiveness between supplying countries be affected by what currency is used for invoicing goods sold?

ANSWER

The exchange rate of Renminbi is not fixed by administrative directives. Please refer to the replies to 11-2 and 11-14. The exchange rates between Renminbi and foreign currencies are determined in the same manner as those in the international market. Therefore invoices in different currencies do not affect the competitiveness among foreign suppliers.

7-29

page 14, para. 2: Does China have "official" valuation provisions for certain products, i.e. is there provision for the valuation for customs purposes of certain imports based on the cost of domestic production or other arbitrary criteria? If so, in what way is this consistent with the provisions of Article VII of the General Agreement?

ANSWER

No.
Page 14: How is the c.i.f. value of the goods evaluated? Is the invoice price used in the evaluation? How is the case in which the invoice price is higher (or lower) than the "normal wholesale price prevailing at the place of purchase" handled?

ANSWER

The CIF price, which is determined by the Customs. The so-called normal CIF price includes the price of goods and all charges such as packing charges, freight, insurance premiums, commissions etc, before discharge at the place of importation in China. The Customs determines the duty-paying value on the basis of the transaction value of the goods on the true invoice submitted by the owner of the goods or its agent. If the invoice price is obviously unreasonable, the customs shall take the CIF value based on the transaction value of the similar or identical goods exported from the same country or the areas as the duty-paying value.

7-31

China's duty assessment is not based on GATT rules for valuation under Article VII or under the GATT Valuation Code. Would China accept the GATT rules? How will China modify its system to bring it into line with Article VII.

7-32

Does China intend to adhere to the Customs Valuation code?

ANSWER

China is studying the valuation code of the Tokyo Round.

7-33

Could China supplement the presentation of its customs tariff with the following data:
- number of tariff headings and sub-headings which are dutiable and duty-free respectively;
- weighted average tariff in relation to import levels;
- average tariff for the principal product categories (raw materials, capital goods, consumer goods)?

ANSWER

In the existing Customs Import and Export Tariff of the People's Republic of China, there are altogether 2,127 tariff headings and sub-headings, of which 2,072 are dutiable, 55 import duty-free.

The weighted average tariff rates (minimum rate) for the principal import product categories in China's foreign trade is: 11.3% for agricultural raw materials, chemical raw materials, metals and steel; 19.29% for capital goods such as machinery; 19.44% for consumer goods such as foodstuff, etc.

Please also refer to the reply to 7-17.

7-34

Could China furnish a table indicating the respective percentages of imports dutiable at rates of less than 10 per cent, between 10 and 25 per cent, between 25 and 50 per cent, between 50 and 100 per cent, and in excess of 100 per cent? Are there any products prohibited for import in the Chinese tariff? Are there any products which may only be imported by joint ventures or under countertrade arrangements? If so, which bodies establish the list of the products concerned, and on the basis of what criteria?

ANSWER

In the Customs Tariff, the "minimum rates" are fixed at 0%, 3%, 6%, 9%, 12%, 15%, 20%, 25%, 30%, 35%, 40%, 50%, 60%, 70%, 80%, 100%, 120%, 150%. The percentages of those grades are as follows: 12.9% for the grade of 0-9%, 34.3% for the grade of 12%-25%, 26.1% for the grade of 30%-50%, 26.1% for the grade of 60%-100%, 0.6% for the grade of 120%-150%.

There is no provision in the Customs Tariff concerning the last part of this question.
Page 14, para. 5: The Chinese import and export tariff schedule should be more descriptive and should contain additional sections, chapters and items. Does China intend to implement the Harmonized System and, if yes, in what time-frame?

ANSWER

The "Customs Import and Export Tariff of the People's Republic of China" is established on the basis of the Customs Cooperation Council Nomenclature, consisting of sections, chapters, headings and the principles of tariff classification and explanatory notes. It is convenient for the traders to find the relevant tariff heading numbers and duty rates for their imports or exports. Since the current Customs tariff has been applied for a comparatively short time, it needs to remain in force for some time. Therefore it is difficult for China to change the current tariff system to the Harmonized System in the near future.

However, the Harmonized System is being studied.

Page 14: What are the exact requirements for a duty payer to be able to demand a re-examination of his case concerning customs valuation?

ANSWER

In accordance with Article 46 of the "Customs Law of the People's Republic of China": "Where the person obligated to pay the duty is involved in a dispute over duty payment with the Customs, he shall first pay the duties and then, within 30 days of the issuance of the duty memo, apply to the Customs in writing for reconsideration of the case. The Customs shall reach a decision within 15 days of receipt of the application. If the person obligated to pay the duty refuses to accept the decision, he is entitled to apply to the Customs General Administration for a reconsideration of the case within 15 days of receipt of the decision. If the decision of the Customs General Administration is still considered unacceptable, the person concerned may sue at the People's Court within 15 days of receipt of the decision".
Page 14, para. 5: How often are the customs tariffs reviewed? Is this review carried out by MOFERT? What are the respective roles of MOFERT and the national legislature in determining, reviewing, and adjusting the national import and export tariff rates?

ANSWER

The Customs Tariff of China is reviewed and amended at intervals by the Tariff Commission, of which MOFERT is a member. Please see the replies to 7-15 and 7-39.

7-38

Page 14: What are the origin criteria adopted in the Chinese rules of origin? (For example, is it the place where a change of CCCN heading in the course of manufacturing or processing takes place, or the place where the proportion of the value-added is the biggest consideration essential in determining the origin?)

ANSWER

The criterion adopted in the Chinese rules of origin is "substantial transformation", which means that the manufacturing or processing operations of the products entail a change in the 4-digit tariff heading of the Customs Import and Export Tariff, or the percentage of the value added is over 30% of the whole value of new products.

7-39

Describe in detail the administrative procedures for amending the Chinese tariff. Do the enterprises have any possibility of intervening in the process? What amendments have been made to the Chinese tariff in the last three years (date of publication)?

ANSWER

The administrative procedures for amending the tariff are as follows: the domestic production enterprises, users of imports or departments of foreign trade put forward the proposals for
amending the existing duty rates; then the Tariff Commission surveys and works out a draft amendment to be submitted to the State Council for approval. The Tariff Commission meets every three months.

The existing Customs Import and Export Tariff came into force on 10 March, 1985. Afterwards, amendments were made to the tariff in April, August, December, 1986 and in June, 1987.

7-40

Page 15, para. 1: "At present, eight kinds of goods are subject to export duties". What are these goods? What was the rationale to impose an export duty on the trade of such goods? Are these applied on a MFN basis? Is China prepared to bind the reduction or the removal of these export duties? What will be the criteria for the removal of such export duties?

ANSWER

The 8 kinds of goods subject to export duties are eel fry, prawns, chestnuts, crude lacquer, tungsten ores, goat skins, crude antimony and raw silk. There is only one column of export tariff rate applied to all countries. The main purpose of levying export duty is to regulate and maintain orderly exportation. There is no intention to abolish the export duties at present, nor to bind them.

7-41

Page 15, paras. 2-3, regarding the Import Regulatory Tax:

- Is it applied equally to the imports of all China's trading partners? Are there any exceptions? Is it ever applied to domestically produced goods? Is it applied to products imported from the Special Economic Zones? If so, is it applied to the total value of the goods, or only to the dutiable (i.e. imported portion of the item)?

- What are the current levels, by import items, of the Import Regulatory Tax? Why is the Import Regulatory Tax applied rather than an adjustment in tariff levels?
- What is the decision-making process with regard to imposition of the regulatory tax, i.e. who decides which products are subject to the tax, and what formula is used to determine its level and its period of duration?

- Is any advance notice given of its implementation and is there an appeal process?

- Is the regulatory tax a temporary measure? If so, for how long is its imposition anticipated?

- Does China foresee expanding the scope of application of this tax? Does China have any plans to incorporate this tax into its tariff schedule? How is this auxiliary import charge consistent with the provision of Article III of the General Agreement.

7-42

Why does China apply an import regulatory tax on certain goods? What has been the impact of the tax on imports of the fourteen products to which it is applicable?

ANSWER

The purpose of levying the import regulatory tax is to regulate importation and protect the development of domestic industries. It is applied to products from countries (territories) all over the world. Dutiable products imported into special economic zones are subject to import regulatory tax as required. The import regulatory tax rates are decided according to the domestic demand and extent of necessary protection for domestic industries. It is a temporary measure to levy the import regulatory tax, and it is not intended to be incorporated into the tariff. The product coverage, tax rates and duration of their implementation are decided by the Tariff Commission under the State Council.

The implementation of the import regulatory tax is subject to advance notice. For settlement of dispute over tax payment, the appeal procedures for the Customs import duty apply.

The weighted average rate of the import regulatory taxes is 47% in 1986. The highest duty rate is 80%, the lowest 20%.

Because of the nature of the import regulatory tax, the provision of Article III of GATT would not apply.
Page 15, para. 3: Please describe the application of the "Consolidated Industrial and Commercial Tax on Imported Goods?" Which agencies of the Chinese Government decide the scope and level of this tax? On what kind of goods is this tax levied? What are its rates/levels of application? Is this tax applied only to imports? If not, how is its application consistent with the provisions of Article III of the General Agreement?

ANSWER

"The Regulations of the Consolidated Industrial and Commercial Tax" was adopted in principle on September 13, 1958, at the 101st Session of the Standing Committee of the National People's Congress and promulgated by the State Council for trial implementation. According to the provisions of the regulations all enterprises and individuals engaged in the production of industrial products, purchase of agricultural products, importation of foreign goods, commercial retailing, communications and transportation, and all other service trades are taxpayers of the CICT. The CICT rates are attached to "The Regulations of Consolidated Industrial and Commercial Tax".

The product coverage and level of tax rates are decided by the State Council of the People's Republic of China. The administration of this tax is the responsibility of the Ministry of Finance.

The CICT is levied on domestically produced goods (now termed as product tax and value-added tax) and imported goods in balance. This is consistent with the provision of Article III of the GATT.

Page 27, last para.: Further details on the product tax and value-added tax on import and export products mentioned would be appreciated.

ANSWER

China's tax system has undergone structural changes. The CICT, which used to be levied on domestic products, is now replaced by Product Tax and Value Added Tax. The Regulations for the two taxes are promulgated by the State Council for
implementation. For legislative procedural reasons, the Product Tax and the Value Added Tax are applied only to domestic products. Products of foreign enterprises, Chinese-foreign joint ventures and Chinese-foreign cooperative ventures are still taxed in accordance with relevant provisions of the CICT.

The product coverage of the Product Tax and the Value Added Tax is almost the same as that of the CICT. So is the level of tax rates with respect to most products. The tax rates of a very small number of products are a slightly higher than that of the CICT. Where the CICT rates are higher than the corresponding rates of the Product Tax and the Value Added Tax, they will be reduced to the same level of the Product Tax and the Value Added Tax.

Page 15: Do the duties levied on imported goods consist of:

(a) import duty (tariff); and

(b) import regulatory tax (in case of fourteen items only); and

(c) consolidated industrial and commercial tax on imported goods?

Are there other kinds of surcharges, levies, fees of "ministerial mark-ups" imposable only on imported goods? If the answers to the last question are affirmative, what are the exact tariff lines of the items subject to such payment and the rate payable?

ANSWER

Imported products are subject to Customs import duty, regulatory tax, consolidated industrial and commercial tax only.
8. CHINA'S IMPORT AND EXPORT COMMODITY INSPECTION

8-1

The Regulations on inspections are designed to strengthen the inspection of import and export products and protect the legitimate rights and interests of the parties concerned in foreign trade. Is this inspection carried out on all consignments or on the basis of samples? How much time does inspection take? Are there indications of possible administrative delays? How are the parties concerned in trade informed of the standards in force? Are there frequent changes and, if so, which authority is responsible?

ANSWER

Following the prevailing international practice, inspection of import and export products may be carried out by sampling in accordance with the principle of the statistic or by percent of consignments. However in certain cases, some commodities such as scientific instruments, complete set of equipment are inspected piece by piece (set by set, or package by package).

The inspection authority will do the inspection work without delay. For import commodities, inspection must be carried out within the duration of validity of claims as specified in the contracts. For export commodities, inspection must be conducted prior to shipment. Generally there would be no delays due to administrative reasons.

Usually, the import/export commodity standards are stipulated in the contracts signed by the two parties. So it is not necessary to inform them of the standards at all. The standards are usually re-examine and revised in every three or five years and promulgated by the State Bureau of Standards.

8-2

What products or product categories in the People's Republic of China are subject to special provisions differing from those agreed upon internationally, as regards import inspection (quality control, packing, etc.)?


For the inspection of imported medicines and crude drugs, sanitary inspection and quarantine of foodstuffs, quarantine of animals and plants, calibration of weighing and measuring instruments, supervision and inspection of the safety of boilers and pressure vessels, survey of ships including offshore platforms, ship's main equipments, materials and containers, the Chinese government has promulgated special regulations respectively such as the "Law of PRC on Pharmacy Administration,"Law of People's Republic of China on Food Hygiene", "Quarantine Regulations of the People's Republic of China on Import and Export Animals and Plants", "Law on Metrology", "Provisions for the People's Republic of China on Supervision and Control of the Import and Export Boilers and Pressure Vessels","Regulations of the Registration of Shipping and Regulations for Survey of Marine products". But generally speaking, they are not more strict than the international standards.

8-3

The inspection authorities issue certificates valid for other purposes such as customs declaration, payment of duties, etc. To some extent this is a duplication of the tasks of the customs. How are the respective responsibilities of the inspection authorities and the customs defined?

ANSWER

Inspection certificate issued by China inspection authority is not a duplication of the tasks of the customs. The Commodity Inspection Authority is the competent authority in charge of import and export commodity inspection of quality, weight, quantity and packing. The Customs is responsible mainly for the supervision and administration of import and export of goods/articles; collecting customs duties; preventing smuggling. The export inspection certificate is one of the documents required for customs clearance.
Does China intend to accede to the Code on Standards?

**ANSWER**

China is carefully studying the Agreement on Technical Barriers to Trade and exploring the feasibility for acceding to the Agreement.

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Page 15, Para. 4: Are price comparisons done for commodity inspection?

**ANSWER**

At present, China's inspection authority has not started the price comparison work yet. As some countries in Asia, Africa and Latin America require the price comparison in accordance with the Comprehensive Import Supervision Scheme (CISS) stipulations, China National Import and Export Commodities Inspection Corporation is designated by the State Administration of Commodity Inspection to handle the affairs upon application.

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What are the possibilities for foreign quality-control enterprise to operate in China, having regard, inter alia, to Article 19 of the Regulations of 28 January 1984 on inspection which stipulates "No establishment of foreign inspection agencies is permitted in China"? Are there any possibilities of this provision being relaxed in future?

**ANSWER**

According to the Commodity Inspection Regulation, establishment of foreign inspection agencies is not permitted in the territory of China. But foreign inspection agencies may send representatives to visit China to carry out technical exchange or consultative activities. Whether there is the possibility of relaxing the above-mentioned regulation in future, is hard to foretell at the present stage.
Page 15, Para. 5: Are the technical standards applied to imports applicable to Chinese domestic products as well?

ANSWER

Normally, a unified quality standards for import commodities are not drawn up in China. The standards of quality requirements of import commodities are stipulated in the contracts agreed by sellers and buyers. The drafting of China National Standards is made according to the conditions of natural resources, production facilities, technological level in production and the demand of domestic consumers. The standards of import commodities and that of export commodities are becoming nearer as China increases the adoption of international standards.

Page 15, para. 5: Why is the inspection of domestic and import/export commodities apparently not carried out by the same administrative body? What are the commodities falling under "special provisions"?

ANSWER

Inspection and administration of import and export commodities is undertaken by the State Administration of Import and Export Commodity Inspection, while that of domestic commodities by the Quality Administration of the State Economic Commission respectively. The division of work and responsibility has been practiced for many years.

As regards the question of "special provisions", please see the reply to 8-2.

Page 15, para. 5: Where are standards for products sold in the Chinese market published? What agencies of the Chinese Government develop product standards? Do importers and exporters have recourse to appeal when they are subject to an unfavourable commodity inspection ruling?
The competent departments in charge of production are responsible for preparing the draft of National Standards. The above-mentioned departments, having solicited opinions from relevant manufacturers users, sellers scientific research institutes etc. should submit the standards to the China Standards Bureau for approval and promulgation. The standards for inspection method of import and export commodities are established and issued by the State Administration of Commodity Inspection. The National Sanitary Standards are worked out and promulgated by the Ministry of Public Health.

The standards catalogues are issued in the "National Standards Catalogue of the People's Republic of China", the journal"Standardization of China" and "New Standards Catalogue".

According to the Commodity Inspection Regulation, if the parties involved in foreign trade have objection to the findings regarding the inspection and survey of the import and export commodities, they may apply for a reinspection of the original inspection organizations. If the objection still persists after the reinspection, they may appeal to the State Administration of Commodity Inspection. They may also appeal to an arbitration body according to arbitration clause in the contract.

8-10

Page 15, para. 5: Concerning inspection of exports, please specify what is meant by the phrase "relevant provisions of the State"?

ANSWER

Please see the reply to 8-2.

8-11

Page 15-Page 16 "Inspection": Is there a different treatment according to the nature of the goods, exporting country and importing country?
Irrespective of import or export commodities, the inspection shall be carried out in accordance with the clauses provided in the contract. In the absence of such stipulations or if they are not clearly or distinctly stated in the contract, inspection shall be performed according to the relevant standards of the producer's country or international standards. Also see the reply to 8-1.

8-12

Page 15, para. 5: Does China refer to international standards for its national standards? How, and by whom, is it determined whether commodities imported into China shall be subject to the standards of the exporting country, international standards, or Chinese standards?

ANSWER

It is one of the important policies of China to introduce international standards and the standards of advanced countries.

According to the "Commodity Inspection Regulation" and its "Detailed Rules", the inspection of import commodities is carried out in accordance with the stipulations provided in the foreign trade contract. In the absence of such stipulations or if they are not clearly or distinctly stated in contract, the inspection should be performed according to the relevant standards of the producers' country. If standards of producers' country are not available, they should be inspected according to the international standards. Only when all these two standards are absent can we use China National Standards.

8-13

Page 15, para. 4: What are the cases where foreign trade contract stipulations on inspection are absent and there are relevant provisions in Chinese laws and regulations?

ANSWER

Inspection clauses are sometimes absent in foreign trade contracts. For example:

(1) The specifications include only trade mark or type number but without detailed technical specifications.
(2) As the parties involved in foreign trade are not familiar with the specifications of commodities, there are no specifications stipulated in the contract.

(3) In contract as per seller's sample, no technical specifications are defined in the contract.

8-14

Page 14, para. 5: Please state under what conditions, or for what import items, Chinese authorities consult "special provisions" in the standards area? What are these "special Provisions"?

ANSWER

Please see the reply to 8-2.

8-15

Page 16, top of page: What agencies function as the "independent third parties" designated to inspect commodities along with the various commodity inspection bureau? Can these agencies act as independent assessors in the event of claims and disputes? If not, does such a facility exist?

ANSWER

Those test laboratories and inspection bodies which possess the required advanced equipment, qualified inspection personnel, technical capability and perfect inspection rules and regulations can be, on the basis of assessments and authorization by the State Administration of Import and Export Commodity Inspection of the People's Republic of China, designated as the independent third party to inspect the import and export commodities. At present, they are divided into two types:

1. China National Import and Export Commodities Inspection Corporation, which is the only inspection corporation designated by the State Administration of Import and Export Commodity Inspection of the People's Republic of China. This Corporation is, upon request by foreign clients, engaged in a wide range of inspection activities. The Corporation can act as the independent assessors in the event of claims and disputes.
2. Accredited laboratories, the laboratories under the departments both at the national and local level, accredited by the State Administration of Import and Export Commodity Inspection, are in charge of inspection of some products, most of which are machinery and electrical products. Some of the laboratories have been accredited by the international accreditation organizations, such as IECQ.

8-16

Page 15: In the Memorandum it is explained that inspections are made not only by the Import and Export Inspection Bureau but also by designated bodies. What are exactly those designated bodies? In what circumstances are the inspections made by those designated bodies?

ANSWER

Please see the reply to 8-15.

8-17

Page 16, para. 1: Do the "Regulations concerning the Quarantine of Animals and Plants of the PRC" conform to the guidelines for plant quarantine practices and procedures of the International Plant Protection Convention, administered by FAO? How are changes in quarantine regulations promulgated?

ANSWER

These regulations, on the whole, conform to the guidelines for plant quarantine practices and procedures of the International Plant Protection Convention, administered by FAO.

Any changes on these regulations must be approved by the State Council and then published in the "People's Daily" and other major papers.
Page 16, para. 1: What regulations apply to the use of additives in food products? Do they apply equally to domestic and imported products? What review process is there for approval of new additives?

ANSWER

The "Law of the People's Republic of China on Food Hygiene" issued on November 19, 1982 defines the use of additives in food, which is applicable to both domestic and imported products. China National Standard GB 2760-80 "The Sanitation Standard for Additives in Food" is applied to all domestic and imported products.

The procedure for introducing new additives requires that an application with its safety evaluation and specification be submitted, by the producers or users, to the China Food Additive Technical Committee for examination and then to the Ministry of Public Health for approval.

9. CHINA'S IMPORT AND EXPORT LICENSING SYSTEM

9-1

Page 17, para. 1: Will China bring its import and export regulations into conformity with normal GATT provisions, especially Article XI?

ANSWER

China will perform GATT obligations according to the terms of resumption of contracting party status reached through negotiations with other contracting parties to GATT.
9-2

How does China operate its import and export quota systems for various commodities? What are the criteria for quota allocation?

ANSWER

There is no import quota system in China. The import licensing system exercises restriction on part of the imports. Quota restriction is applied to some of the export commodities. Please refer to the reply to 9b-(2).

9-3

Who bears the cost of an individual import or export license? How is the overall licensing system funded?

ANSWER

The cost of import and export licences is borne by the licence issuing department in its administrative expenditure. A small of fee is charged to the applicants.

9-4

With respect to licenses issued under delegated authority at provincial and port level, are limits placed on the nature or value of the products concerned and in what circumstances is authority delegated?

ANSWER

There is no limitation as to the value or quantity of the products concerned with respect to the import licences issued by the administrative departments of foreign economic relations and trade at provincial level and the special commissioners offices at main ports. The difference exists only in the items of commodities and the administrative areas. As for the products subject to export plan or quotas, MOFERT sets out plan targets or quotas while delegating powers to issue export licenses.

(a) Import Licensing System
Page 16, last para.: Will China commit to apply restrictive import licensing requirements consistently with the provisions of GATT Articles governing quantitative restrictions on trade?

ANSWER

China applies no import quotas but import control in the import licensing system, which is in compliance with the relevant provisions of the GATT.

9a-(2)

Does China intend to adhere to the Import Licensing Code?

ANSWER

Please refer to the reply to 4-2.

9a-(3)

Since 2 January 1987, China has applied import licensing to forty-two kinds of products. What percentage of the total value of imports do these products represent? Are the licenses of the "monitoring" type or are they non-automatic licenses, i.e. used for the administration of quantitative restrictions? If the licenses are used for restrictive purposes, can we be informed of the quota levels? Is there any increase from year to year?

ANSWER

In June, 1987, China applied import licensing system to 45 kinds of commodities. Their import value accounts for about 30% of the total value of China's imports. The import licensing system is non-automatic, with no quotas, and the commodities listed in import licensing system can be readjusted according to the ability of payment in foreign exchange and the situation of domestic and international market. Please also see the reply to 9a-(16) and 9a-(18).
9a-(4)

Other products can be imported without a licence, but only by approved corporations and for products within their scope of operation. These are in fact two restrictive conditions on imports which could exclude a great many products. How is the scope of operation of approved corporations defined and by whom? Is the number of products subject to licensing (forty-two kinds) not increased considerably by the requirement to apply for licence in advance in respect of all products which are not within the scope of operation of the corporations?

ANSWER

The business scope of the approved import and export corporations is defined by MOFERT by considering factors such as the application of the corporations, their business capabilities and the characteristics of the import commodities, etc.

There are few cases of applications for license for products other than the 42 items subject to licensing, as the importation of products outside the scope of operation of the corporations seldom occurs. Please refer to para. 5 of page 17 of the Memorandum.

9a-(5)

Is the Chinese import licensing system administered globally or allocated among supplying countries?

9a-(6)

If the Chinese import licensing system is administered globally, what is the size of the global quota determined? Is the global quota published? Is the quota decided annually?

9a-(7)

If there are quotas allocated among supplying countries, what are the items subject to them? What is the size of the quota (the total size of the quotas and the size of quotas allocated to respective supplying countries)? How are the total size of the quotas and the size of quotas allocated to respective supplying countries decided and how are they published? Are the quotas allocated among supplying countries determined annually?
The Chinese import licensing system is administered globally without quota. Although the import of some commodities under mandatory planning is subject to restriction in total volume, it is not allocated among supplying countries.

9a-(8)

The administrative procedure for a licence application (application letter signed by the Department, import certificates endorsed by the competent and specific departments as well as certificate of approval for using foreign exchange) seems so complicated as to tend to discourage initiative on the part of enterprises. Is this so?

ANSWER

The import license is easily granted so long as the user has got foreign exchange and the import is necessary. The procedure will not discourage the initiative of the enterprises. An import license is granted within 3 working days after submitting an application. For certification of foreign exchange, please refer to the reply to 11-4.

9a-(9)

Page 17, para.1: The Memorandum refers to the licensing regulations as "interim regulations". Are these regulations actually temporary? Are subsequent regulations expected to replace these? If so, when? Will there be a revision in the number and kinds of licensed commodities in the future? If so, when? How often are such revisions undertaken?

ANSWER

The reason for "interim" regulations is that China is not sufficiently experienced in the administration of the import licensing system. There will be subsequent regulations to replace these interim ones.

The list of commodities under the import licensing system can be adjusted, in the light of the need of the national economy, foreign exchange situation etc. Such adjustments were not frequent. Since 1980, three major adjustments have been announced.
Noting that approximately one-third by value of China's imports were covered by import licensing in January 1987, we would appreciate information on China's future intentions with regard to licensing policy. In particular, is it intended to expand or reduce the scope of items covered by licensing?

ANSWER

An immense amount of imported commodities will be needed for China's modernization drive, but the resources in foreign exchange comes mainly from export. The commodity coverage of import licensing is largely determined by China's export earnings.

Page 17, para. 1: What is the functional relationship between acquisition of an import license and the availability of foreign exchange to pay for the import? Does acquisition of the import license guarantee the availability of foreign exchange? Are licensing restrictions applied for reasons other than to control foreign exchange outflows? How is the system implemented such that it is consistent with Articles XII and XVIII? Will licensing be reduced as foreign exchange limitations ease? Are there published or unpublished quota levels associated with China's licensing system?

ANSWER

Under the Chinese import licensing system, foreign exchange must be obtained before filing an application for an import license. The main purpose of administering the import licensing system is that China should spend the limited foreign exchange on import of much-needed goods. Meanwhile, it also serves statistical purposes and the necessary protection of national industry. The administration of import license will be relaxed with the improvement of the situation of China's foreign exchange reserves.
What are the legal conditions to be fulfilled so that a Chinese partner (enterprise, corporation or other) can sign a contract for the import of capital goods? What prior authorization does that partner need? In this context, what is the basis of the tendering system recently presented by Vice-minister Zhu Rongji with a view to replacing machinery imports by domestic production? What does it mean that in this system Chinese enterprises will have first opportunity to tender?

ANSWER

The import of capital goods must be endorsed by the competent departments and the availability of foreign exchange currency for the import must be assured before the contract is formally signed. For some capital goods, import licenses issued by MOFERT are required.

The tendering system of replacing machinery imports by domestic production recently presented is based on Premier Zhao Ziyang's "Report on the Work of Government" in March this year at the National People's Congress regarding import substitution. This proposed tendering system will be a domestic tendering system aimed at easing the burden of trade deficit.

Page 17, para. 2: Are licenses issued to end-users or to foreign trade corporations? How are importing firms and entities selected to receive import license authority? Are the import licensing requirements applied equally to domestic and foreign enterprises?

ANSWER

Some of the import licenses are issued to the foreign trade corporations, some to end-users. The domestic and foreign enterprises are treated equally. The enterprises using foreign investment are facilitated in obtaining the import licenses. (Please refer to the "Procedures for the Implementation of the Regulation on Application for Import Licence by Enterprises Using Foreign Investment of the Ministry of Foreign Economic Relations and Trade" for detail.)
Page 17, para. 2: Does the Chinese Government restrict the number or kind of importing enterprises which may compete for available import licenses? Would the Government deny a trading entity the right to import a certain product by never granting it approval to import that product or to acquire the necessary license?

ANSWER

There are no quantitative restrictions to the foreign trade corporations which apply for import licenses within their scopes of business. The government would not deny any other enterprises the right to import a certain product by never granting it approval to import that product or to acquire the necessary license, except the imports of the few commodities prohibited by State regulations. (Please see P17, para. 5 of the Memorandum.)

Page 17, para. 3 and 4: What criteria are used to decide which products require import licenses? What regulations and procedures are used to evaluate license applications?

ANSWER

The products that require import licenses are decided on the basis of supply and demand conditions, domestic production and foreign exchange earnings. Generally speaking, the import of the products which can be manufactured and supplied at home is restricted. The "Interim Regulations on Licensing System for Import Commodities of the People's Republic of China" and the "Detailed Rules for the Implementation of the Interim Regulations" are used to evaluate applications for licences.

What are the tariff lines of the forty-two commodities subject to import licensing (Annex VII)?
ANSWER

By June, 1987, the tariff lines of the commodities subject to import licensing were as follows:

<table>
<thead>
<tr>
<th>Description of goods</th>
<th>Tariff No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Steel</td>
<td>Chap. 73</td>
</tr>
<tr>
<td>2. Billets of Steel</td>
<td>73.07</td>
</tr>
<tr>
<td>3. Scrap Steel</td>
<td>73.03</td>
</tr>
<tr>
<td>4. Scrap Vessel</td>
<td>89.04</td>
</tr>
<tr>
<td>5. Natural Rubber</td>
<td>40.01</td>
</tr>
<tr>
<td>6. Timber</td>
<td>Chap. 44</td>
</tr>
<tr>
<td>7. Ply Wood</td>
<td>44.151</td>
</tr>
<tr>
<td>8. Wood</td>
<td>53.01</td>
</tr>
<tr>
<td>9. Man-made Fibres</td>
<td>56.04</td>
</tr>
<tr>
<td>10. Wood Pulp</td>
<td>47.01</td>
</tr>
<tr>
<td>11. Petroleum Oil</td>
<td>Chap. 27</td>
</tr>
<tr>
<td>12. Sugar</td>
<td>17.011</td>
</tr>
<tr>
<td>13. Fabrics of Man-made Fibres</td>
<td>51.04</td>
</tr>
<tr>
<td>14. Monomers of Man-made Fibres</td>
<td>Chap. 39</td>
</tr>
<tr>
<td>15. Garments of Man-made Fibres</td>
<td>Chap. 61</td>
</tr>
<tr>
<td>16. ABS Resin</td>
<td>39.022</td>
</tr>
<tr>
<td>17. Synthetic Rubber</td>
<td>40.02</td>
</tr>
<tr>
<td>18. Polycarbonate</td>
<td>39.012</td>
</tr>
<tr>
<td>19. Sodium Cyanide</td>
<td>28.431</td>
</tr>
<tr>
<td>20. Disinfectants, Insecticides, Fungicides, Herbicides and Similar Products for Agricultural Use</td>
<td>38.11</td>
</tr>
<tr>
<td>21. Vehicles Tyre</td>
<td>40.11</td>
</tr>
<tr>
<td>22. Tobacco Products</td>
<td>24.02</td>
</tr>
<tr>
<td>23. Demolition Chemicals and Equipment for Civil Use</td>
<td>Chap. 36</td>
</tr>
<tr>
<td>24. Southern Chinese Medicines</td>
<td>Chap. 5</td>
</tr>
<tr>
<td>25. Television Kinescope</td>
<td>85.2112</td>
</tr>
<tr>
<td>26. Motor Vehicles</td>
<td>87.02</td>
</tr>
<tr>
<td>27. Crane Lorries</td>
<td>87.03</td>
</tr>
<tr>
<td>28. Civil Aircraft</td>
<td>88.02</td>
</tr>
<tr>
<td>29. Open-end Spinning machines</td>
<td>84.36</td>
</tr>
<tr>
<td>30. Electronic Microscopes</td>
<td>90.11</td>
</tr>
<tr>
<td>31. Electronic Colour Scanners</td>
<td>84.34</td>
</tr>
<tr>
<td>32. X-Ray Tomographic Scanner</td>
<td>90.20</td>
</tr>
<tr>
<td>33. Computers</td>
<td>84.53</td>
</tr>
<tr>
<td>34. Audeo and Video Tape Duplicating Machines</td>
<td>92.113</td>
</tr>
<tr>
<td>35. Video, Cassette Recorders</td>
<td>92.113</td>
</tr>
<tr>
<td>36. Duplicating Machines</td>
<td>90.102</td>
</tr>
<tr>
<td>37. Air Conditioning Machines</td>
<td>84.12</td>
</tr>
</tbody>
</table>
Page 17: It is stated in the Memorandum that "as of 2 January 1987, China applied import licensing to forty-two kinds of commodities...", and again that "corporations, which are approved by MOFERT to engage in the import business, can import, without getting licenses, commodities other than the above-mentioned forty-two kinds...". can it be inferred from the above that, apart from certain exceptions, there would be no authorization to import commodities, other than the forty-two kinds of commodities, since one would have no license for the purpose?

ANSWER

Yes.

Page 17, para. 4: What percentage of China's imports, by volume and by number of tariff lines, are covered by restrictive import licensing requirements?

ANSWER

The percentage of China's imports covered by import licensing system was 27% by value, and 2% by number of tariff lines in 1986.
Page 17, para. 5: It is explained that corporations, which are approved by MOFERT to engage in the import business can import, without getting licenses, commodities other than the forty-two commodities subject to import licensing which come within their scope of operation. In this connection, how is it determined whether it is within the scope of "operation"? Is there a difference of treatment between foreign corporations and domestic corporations in this regard? What are the special circumstances due to which enterprises not dealing with import could be issued import licenses? By which section of MOFERT are such decisions made?

ANSWER

The business scopes are decided at the time when the corporations are approved by MOFERT to engage in import business and they are published. The departments concerned can thus examine and verify the operation of the corporations according to their approved business scopes. The domestic and foreign corporations are treated equally in this respect. In many cases, the industrial enterprises which are not approved to engage in import business, can be granted import licenses. (Please refer to Articles 7 & 8 of the "Detailed Rules for the Implementation of the Interim Regulations on Licensing system for Import commodities"). This is handled mainly by the Department of Foreign Trade Administration of MOFERT.

Page 17, para 5: Please provide a list of corporations, and the commodities falling within their scope, which can import without getting licenses.

ANSWER

For the list of the corporations engaged in import business, please refer to the "Directory of Foreign Economic and Trade Enterprises of China" compiled by MOFERT.
Page 17, para.5: Can it be confirmed that all commodities other than the forty-two specifically mentioned can be freely imported by at least one existing agency?

ANSWER

Commodities other than the 42 items (now 45 items) can be freely imported by foreign trade corporations within their scopes of business.

Page 17, para. 6: How is import licensing integrated into the annual import plan? Is each province given an import license quota by MOFERT? Each industry? Is there only one type of import license? If there are more than one type, please list them, and describe how, and for what purpose, they are issued. Is the licensing system used as a mechanism to prohibit some imports? Can licenses be traded, exchanged, bought, or sold by importers?

ANSWER

Not all commodities subject to the import licensing are listed in the annual import plan and vice versa. Only when the commodities subject to the import licensing are listed in the annual import plan with product names, quantities and names of users, can import licensing be integrated into the annual import plan. The State distributes the total import volume of some commodities to some specific regions, departments or enterprises within which import licenses are issued. China has only one type of import license. The purpose of the import licensing system is simply to regulate, not to prohibit, the import. The licenses cannot be traded, exchanged or sold.

Page 17, para. 6: Do the special commissioner offices of MOFERT issue licenses only in Guangzhou, Shanghai, Tianjin and Dalian? What are the guidelines indicating whether MOFERT, the special commission offices of MOFERT or some other entity is responsible? How can foreign exporters to China determine this information?
ANSWER

Special commissioner offices of MOFERT are authorized to issue the import licenses within their respective administrative areas. The responsibilities of MOFERT, its special commissioner offices and other provinces are published in the newspaper "International Business".

9a-(24)

Page 18, top of page: Why are the nine products listed treated differently from other imports for the purpose of license acquisition? Are these imports, in essence, prohibited?

9a-(25)

Why has MOFERT not delegated authority to issue import licences for nine items (automobiles, TV sets, etc.)? For other products, MOFERT has delegated authority to issue license to its local offices or to other bodies. How much autonomy do those bodies have (do they receive detailed instructions from the central offices of MOFERT?) and what is the extent of that autonomy? Can they modify the system applicable to the imported product in terms of restrictions and/or pricing?

ANSWER

The nine categories of products listed (now fourteen) in the Memorandum are massively imported and highly competitive in the international markets. Therefore MOFERT has not delegated authority to issue import licenses for them. The import licencing does not mean prohibition of the imports.

The provincial foreign trade administration, authorized by MOFERT to issue import licenses, operate in compliance with the import licensing system and regulations of import administration. They have no right to modify the regulations. They must consult MOFERT when they encounter problems.

9a-(26)

Page 18, para.1: Why is it necessary for an applicant for an import license to have additional import approvals in the form of import certificates or approval from departments of the State Council and certificates approving foreign exchange? How does China justify the requirement for industry-specific approval for imports of competing goods?
ANSWER

For lack of foreign exchange, China restricts imports of those commodities that can be satisfied in quality and quantity domestically, so that limited foreign exchange can be used to import important goods that can not be secured domestically. MOFERT, which issues import licences, does not have command of production of various sectors in the national economy. Therefore, it is necessary for the departments concerned to put forward proposals.

9a-(27)

Page 18, para. 2: Who issues the certificates of approval for using foreign exchange required in applying for import licences? What are the criteria governing their issue? Are certificates required for imports of products not subject to import licensing control?

ANSWER

The certificates of approval for using foreign exchange are issued by the foreign exchange administrative authorities depending on whether the applicants have legitimate foreign exchange. All certificates are subject to import licensing administration.

9a-(28)

Page 18, para. 1: Concerning the administration of import licenses:

-How many entities currently have authority to import under licenses? Is there an available list of which corporations or enterprises are approved under the licensing system and which includes the list of commodities of which they have approval authority? If not, will China provide such a list?

-Are all products for import under some import entity or are some products virtually banned due to the lack of an approved importer?

-Are there some commodities not under licenses that are severely limited in import ability because there are no corporations that have that commodity "within their scope of operation" as defined by MOFERT and, therefore, importation is impossible without an import license?
The names of corporations, which are approved to engage in import business, can be found in the "Directory of Foreign Economic and Trade Enterprises of China". The corporations, which are not approved to engage in import business, can request those approved to purchase on their behalf the products they want. The importation of products which are not subject to the import licensing will not be excluded in the absence of agent corporations. It can be conducted by the corporations which have the right to handle the said category of products or through the agency system.

9a-(29)

Page 18: Which importers and products are listed in the State import plan? Is this plan published? Is it set up by sector, region or on some other basis?

ANSWER

The import plan is made, partly by the Central Government, partly by the local governments, on the basis of the demand of the users. In general, the annual import plan is not published. Also see the reply to 2-26.

9a-(30)

Page 18, para. 1: How detailed is the information required on the license? Is the list of imports subject to licensing restrictions reviewed on a periodic basis? By whom and how often?

ANSWER

The contents of import license are: name of applicant, name of corporation which has concluded the transactions with foreign parties, serial number of import license, date of issuance, period of validity, name of the commodity to be imported, specifications, quantity, total value, exporting country and port of delivery, etc. The list of commodities under the import licensing system is readjusted by MOFERT at intervals.
9a-(31)

Page 18, para. 2: What items, specifically, are subject to "state import restrictions" and why? Which regulations determine what items are restricted? How are "examinations" by the licensing issuing organs conducted? Is there an appeal process?

ANSWER

Commodities under "state import restrictions" refer to the item subject to import licence. Disputes can be resolved through consultation or conciliation by the higher authorities. Please refer to the reply to 9a-(15).

9a-(32)

Page 18, para. 3: What are the rules allowing/preventing an import licence to be issued?

ANSWER

Please see the reply to 9a-(15).

9a-(33)

Page 18, para. 3: What is the process by which these enterprises obtain an exemption from import licenses? What authority or department determines and approves exemption from import licenses? How will import license application formalities be facilitated, i.e. will the process of waiting time be shortened?

ANSWER

Please refer to the "Implementing Measures of MOFERT Concerning the Application for Import and Export Licenses by Enterprises with Foreign Investment".

9a-(34)

Page 18, para. 4: What is the normal period for which a license can be extended when necessary?
An import license can normally be extended for half a year.

9a-(35)

Are there any special provisions on licensing for imports from Hong Kong and Macau? If so, which?

ANSWER

Imports from Hong Kong and Macau are treated as if they are imported from abroad and import licenses should be obtained if so required.

(b) Export Licensing System

9b-(1)

What is the purpose of the export licensing system?

ANSWER

It is to ensure a healthy and orderly development of export. Reasons for commodities subject to export licensing are partly because China must restrict exports in accordance with the obligations as stipulated in bilateral and multilateral agreements, partly for the consideration of the international market capacity and avoidance of indiscriminate exports. Some products that are essential to the national economy and people's livelihood are also placed under export restriction.

9b-(2)

Does the export licensing system result in quantitative restrictions of exports? If so, what extent of the exports is restricted?

ANSWER

Quantitative restriction is applied to some of the commodities which are exported to Hong Kong and Macau, and under quotas decided in relevant bilateral trade agreements.
9b-(3)

What are the application procedures for export licensing? Does it occur that different requirements are applied according to the country of destination?

ANSWER

The procedures of application for an export licence are not complicated. The applicants can simply go up to MOFERT with letters of application and documents required (documents of approval for the establishment of the enterprises, export contracts or letter of credit) to apply for licenses. The procedures are the same for all export destinations.

9b-(4)

In the case of products subject to export licensing and for which quotas are allocated to the various provinces and cities, who fixes the quotas? On what bases? What are the differences between the export licensing system for Hong Kong and for other countries?

ANSWER

The quotas of export to Hong Kong and Macau under the export licensing are allocated according to the market capacity of Hong Kong and Macau and export capabilities of provinces, autonomous regions and municipalities. The allocation of export quotas under bilateral trade agreements is determined in accordance with the quotas of the agreements and export capabilities of localities. Please also see the reply to P29-9b-(1).

9b-(5)

Page 18, last para.: Why are these regulations "interim"?

ANSWER

The export licensing system in China is in the process of gradual improvement. After a certain period of time of trial, subsequent regulations will replace the present ones.
What are the differences between the regulations of 1 December 1986 and those of 28 January 1987 regarding the issue of licenses, in particular for joint-venture enterprises? Do the regulations of 28 January 1987 introduce new restrictions?

**ANSWER**

(1) There were 235 kinds of commodities administered under export licensing system in 1986 and the number was reduced to 212 on January 1, 1987.

(2) On January 28th 1987, stipulations on application for export licences by foreign investment enterprises for products not produced by themselves are promulgated as follows: "Foreign investment enterprises exporting products which are not produced by themselves, in order to solve their foreign exchange balancing problems, should obtain export licences by presenting required documents if the products are under the export licensing. If the products are not subject to licensing, customs clearance will be given after examination has been made by the customs on the strength of contracts and other relevant documents." No new restrictions are contained in this provision.

Page 19, para. 1: How is export licensing decided? What criteria determine the availability of an export license? Who is eligible to apply for an export license? Is approval of the application in any way dependent on how the export is priced?

**ANSWER**

The criteria for granting export licenses include the following factors:

(1) the applicants should have letters of justification or the right to deal with export trade;

(2) the quantity of export should be within the quotas;

(3) the commodities to be exported are at reasonable prices; and

(4) all documents required are completed.

Please also see the reply to 9b-(1) and 9b-(4).
Given the role of international market conditions in export pricing decisions, are any safeguards imposed by foreign trade corporations to ensure that exports are not made at below cost prices? What criteria and arrangements are used to ensure that export pricing would be consistent with, inter alia, the provisions of GATT Article XVI: 3 and 4?

ANSWER

The economic assistance and encouragement measures listed in the section of China's Foreign Trade Policy in the Memorandum help the linkage of the price of Chinese products with the international market price. The purpose of pricing administration of some commodities under the export licensing is to prevent selling them at a price lower than the cost.

9b-(9)

Page 19, paras. 1-2: Does MOFERT announce the quantity of products which are licensed for export on a timely basis, so as to allow traders anticipate changes in market conditions?

ANSWER

Yes. It is published in the Newspaper "International Business".

9b-(10)

What are the fees for processing a licence application form?

ANSWER

5 RMB Yuan is collected for each licence.
10. PRICING OF CHINA'S IMPORTS AND EXPORTS

10-1

Page 19: How are domestic costs (particularly those set by the State without reference to the supply and demand on the domestic market) reconciled with international market conditions?

ANSWER

According to Article 7 of the "Regulations on Price Control of the People's Republic of China", State fixed prices should be close to the value of products, and reflect supply and demand. Please also see the replies to 10b-(3) and 10b-(5).

10-2

Does China intend to accede to the Code on Subsidies and Countervailing Measures and the Anti-Dumping Code?

ANSWER

Please refer to the reply to 4-2.

(a) Domestic Pricing for Import Commodities

10a-(1)

What is the meaning of the statement that most imports are priced through the agency system? Are the "Provisional Regulations on Import Commodity Pricing" of 1980 still in force? To what extent do those regulations allow the "departments concerned" to fix unilaterally a domestic price for imported products? As a general rule, is the price of imported products fixed in the same way as prices of directly comparable domestic products? Do the Chinese enterprises fix different price for foreigners than for domestic clients?
The "Provisional Regulations on Import Commodities Pricing" (1980) here mentioned possibly refer to the "Interim Regulations on Price Administration of the People's Republic of China" promulgated by the State Council on August 6th, 1982, and this regulation is already replaced by "Regulations on Price Control of the People's Republic of China" promulgated on September 11, 1987. It is applicable to pricing of import commodities.

The total value of the imports handled under the agency pricing system by the foreign trade enterprises accounts for 70 percent of the total import value as mentioned in the Memorandum. Like domestically produced products, there are also three forms of pricing for import products which are sold domestically, namely, State fixed price, State guidance price and market regulated price. No matter which form is chosen, import costs and supply and demand relationship are taken into consideration. The same pricing is applied to foreign and domestic clients without any discrimination.

10a-(2)

Page 19, para. 4: What specific "internal taxes" are being referred to here? Are these "internal taxes" applied to Chinese goods as well as imports? On what basis are banking charges levied? What authority is responsible for administration of banking charges? What other charges are denoted by "etc."?

ANSWER

Internal taxes levied on the import products are consolidated industrial and commercial taxes analogous to the product tax and value-added tax levied on similar domestic products.

Banking charges are levied on the basis of CIF price of the goods, and are administered currently by the bank itself.

The "etc." denotes, inter alia, the reasonable profits of both wholesale and retail, and necessary management cost.
Page 19, para. 4: Please list all of the components of the "agency price" system applied to imports, including the industrial commercial tax, import regulatory tax, etc. How are these calculated, i.e. to what base are they applied? Is the agency price system an attempt to establish a more realistic price system for imported goods? Is something similar contemplated for domestic goods prices?

Page 19, para. 4: In determining the "agency price" are domestic producers of competing goods consulted? How much flexibility/variability is permitted the importer in determining the final price for sale under this system?

ANSWER

Please refer to Part 2, Section 6 of the Memorandum for the components of the "agency pricing" applied to imports.

Import duties, industrial and commercial taxes are levied on the basis of CIF price of the import products.

Prices of import commodities for domestic sale are determined independently by the principals to the extent permitted by the State laws and policies concerning price administration. It is not needed for the principals to consult with the domestic manufacturers of the competing products. As agents, the foreign trade corporations don't participate in the price determination of the imports which are sold domestically.

The reform of China's pricing system aims at making the price of the commodities, no matter whether they are imported or domestically produced, reflect their real value and supply and demand conditions of the market.

Page 19, para. 6: What are the commodities other than steel, fertilizers and grains, the price of which are set by the State? How is the setting of the price being done by the State if such commodities are imported? In case of such commodities, is there a difference of price between imported and domestic ones?
ANSWER

At present, there are altogether 28 import commodities subject to State pricing, namely: steel products, non-ferrous metals, fertilizers, wood pulps, timber, plywood, linear alkyl benzene, sodium tripoly phosphate, non-ionic surface active agent, tallow, coconut oil, cocoa beans, foodstuffs, pig iron, sulphur, cow hide, caustic soda, soda ash, glycerline oil, phosphate rock, butanol, zethyl hexanol, xylere, refined naphthalene, ortha nitrochloro benzene, aniline oil, dioxide titanium, agro-chemicals intermediates. Categories of the commodities vary according to circumstances. The prices of imported products are set with reference to the prices of similar domestic products.

10a-(6)

What agency sets the prices? What is the projected timetable for the "number of State-priced commodities" to be reduced?

ANSWER

For a great number of other products, prices are set by enterprises themselves or relevant agencies in the light of market situations. There is no exact timetable for the price reform. Please see the reply to 2-3.

10a-(7)

Page 19, para, 5: How are import prices determined for those agricultural commodities for which import (and domestic) pricing is not determined by the State? Are there guideline prices on these other commodities?

ANSWER

Domestic prices of agricultural products other than those state-priced, are basically determined, in the light of supply and demand of the market, by the enterprises which order the imports to the extent permitted by the State laws and regulations concerning price administration (see the reply to P6-2-36). The State provides guidance to the enterprises in terms of pricing policies. It is the market force that plays the decisive role in determining the prices of these agricultural products.
Page 19: Is China prepared to phase out current distinctions in establishing prices as between domestic and imported commodities?

ANSWER

The 28 import commodities under State pricing as listed in the reply to 10a-(5) are subsidized by the State, and this issue is expected to be resolved gradually in the course of price reform.

(b) Pricing of Export Commodities

10b-(1)

Among all the possibilities for fixing prices, how does China determine the price of export products? How does China consider it can determine the amount of real cost and of any subsidies in those prices? When presenting the budget, the Minister of Finance Wang Bingqian, stated that export costs must be reduced; what does this mean? Which body at present covers the difference between foreign prices and domestic costs? Is the difference financed by special subsidies or by general subsidies to enterprises?

10b-(2)

When world market prices are lower than prices in China, what measures are taken to continue to export? For what percentage of products is the domestic price higher than the world market price? Do Chinese enterprises receive export subsidies? Can the enterprises be obliged to export?

ANSWER

Please refer to Section 2, Paragraph 2 of the Memorandum for the pricing of exports.

By reduction of export costs, the Minister of Finance, Mr. Wang Bingqian, meant that the export production enterprises should lower their production costs and the foreign trade enterprises improve their management.
Export tax reimbursement is practised in China. But there is still part of the product tax and value-added tax not completely reimbursed for the export commodities. Efforts are being made to correct the irrational price system of a historical nature, particularly the relatively higher pricing of manufactured goods. However, the aim of price rationalization is yet to be achieved. Before the tax reimbursement system and price system are perfected, the State provides temporary economic assistance as a supplement to the incomplete export tax reimbursement and an adjustment of the irrational price system when linked to the international market. The purpose of the assistance is to enable Chinese products to compete with foreign products under same conditions. In the process of the economic reform, the state assistance will be gradually reduced and eventually eliminated.

No enterprises can be obliged to export.

10b-(3)

Page 19: "In case of export business entrusted to foreign trade corporations on a commission basis, prices are determined on the basis of domestic costs and international market conditions. The foreign trade enterprises charge a commission". In export price determination, how is the relationship established between the domestic costs which are incurred in non-convertible Renminbi and the international market prices which are usually a convertible currency rendered more valuable to the Chinese recipient than the official exchange rate would indicate because of the current foreign exchange retention system?

10b-(5)

Page 19, paras. 6-8: Considering that China is only beginning its process of economic reform, how can export prices be determined on the basis of domestic costs so as not to conflict with the provisions of Article XVI of the GATT? How are "supply and demand conditions on international markets" taken into account in determining export prices? Is this a reference to sensitivity to international prices?

ANSWER

The domestic prices and international market prices are getting closer as the price reform proceeds. Exporters have greatly benefited from devaluation of the RMB. Generally speaking, it is not too difficult to link the domestic costs to international market prices after export tax reimbursement is implemented and State economic assistance is provided.
In determining an export price, the foreign trade corporations give priority to domestic costs. The administrative organs of the Government do not interfere with the setting of the export prices by the corporations. The rate of commission is decided by the principal and the agent.

The cost data of export products are compiled by enterprises themselves rather than government departments. These data might be published if the enterprises believe that their business interests will not be injured by doing so.

No maximum profit margin is fixed by the State.
10b-(8)

How are prices determined for joint-venture products intended respectively for the domestic market and for export?

ANSWER

Prices for joint-venture products intended respectively for the domestic market and for export are decided by the enterprises themselves in a manner not inconsistent with the State laws and regulations concerning price administration (see the reply to 2-36).

10b-(9)

For many horticultural products, e.g. fresh apples and canned mushroom, China's cost of production, processing, and transportation seem to exceed the price which can be obtained on the world market. Will China end the subsidization of exports of these products through its foreign trading companies upon accession to the GATT?

ANSWER

China will deal with the issue of trade in agriculture in the New Round of Multilateral Trade Negotiations.
11. CHINA'S EXCHANGE CONTROL SYSTEM

11-1

China states that centralized control is exercised to ensure effective utilization of foreign exchange. What are the respective responsibilities of the SAEC and the People's Bank of China? In this regard, how are the State objectives defined? Is there a plan? Are there priority criteria? If so, are they known? Are decisions on the allocation of foreign exchange to foreign trade corporations made in advance or upon application?

ANSWER

As to the functions of SAEC, please see Memorandum Page 20, and as to that of PBC, Memorandum Page 24. The State objectives for use of foreign exchange are defined while making the annual plan for national economic and social development. The availability of foreign exchange for state priority importation of advanced technology and equipment, materials and grains is guaranteed while making the import plan. As for foreign exchange plan and allocation, please see the replies to 11-4, 11-9 and 11-15.

11-2

What is the role of the exchange rate, taking into account government intervention on import prices and the separation of domestic and foreign prices? What are the modalities for fixing the exchange rate of the Renminbi?

11-14

Page 21, para. 1: Please elaborate on China's plans for changes/reforms in the foreign exchange allocation system. Does the phrase "economic means as the main levers" refer to the possible institution of an "interest rate" price system for foreign exchange allocation? If not, please elaborate on the "economic" levers contemplated.

ANSWER

China now practises a managed floating exchange rate system, under which the RMB yuan-US Dollar rate is calculated and adjusted directly by SAEC, on the basis of relative purchasing powers of the Chinese currency against foreign currencies, the status of China's balance of payments and exchange reserve, and the fluctuations of exchange rates and indexes of international competitiveness between China and its main trade partners while rates for other currencies are determined from the cross rates.
The state pricing for most import commodities is replaced by cost-determined pricing. As a result the discrepancies between domestic and international prices has been corrected increasingly. The exchange rates have direct effect on the export receipts, the import costs and its pricing, and play a significant role of adjusting imports and exports. After RMB exchange rates devaluated by 13.16% against foreign currencies in July 1986, according to the Customs Statistics, the export in the first half of 1987 reached 16.6 billion US Dollars, with an increase of 24.2% over the same period of 1986; while the import is 18.6 billion US Dollars, with a decrease of 6.2% compared with the same period of 1986, the trade deficit narrowed from 6.4 billion to 2 billion US Dollars. It is believed that adjustment of foreign exchange rates is one of the reasons for the increase of exports.

11-3

Page 10, para. 1: When China states in its Memorandum that "the scale of import being limited by the capability to earn foreign exchange through export", is this an economic finding or a legal constraint? Was there not a deficit of nearly $15 billion in 1985?

ANSWER

This is not a legal constraint. The phenomenon of "the scale of import being limited by the capability to earn foreign exchange through export" is not uncommon in developing countries. China's foreign trade deficit in 1985 was nearly 15 billion US$.

11-4

Page 20, para. 1: Concerning the State Administration of Exchange Control (SAEC):

- Does SAEC have exclusive foreign exchange approval authority, or are there other offices/agencies of the Chinese Government authorized to approve foreign exchange expenditure?

- How is the authority of the SAEC to control foreign exchange distribution coordinated with the import licensing system previously described in the Memorandum? Is the allocation
of foreign exchange for importing coordinated with the import licensing system? Does the SAEC have authority to withhold foreign exchange allocations for a product for which an import license has been secured? Is a foreign exchange certificate needed in addition to and prior to an import license?

- How does the SAEC act so as to assure that there is foreign exchange available to be allocated within the guidelines of the annual and medium term import-export plan to guarantee foreign exchange availability for approved projects? How is this coordinated with the import licensing system administered by MOFERT?

- Does SAEC authority extent to the approval of individual import contracts for availability of foreign exchange, or is SAEC control exercised by setting broad exchange availability quotas in import sectors?

- How centralized is the foreign exchange access decision making-process? What authority, if any, do regional offices of SAEC have to determine access to foreign exchange for imports?

- At what stage of the transaction process is foreign exchange allocation given? How long does SAEC approval take on average?

**ANSWER**

At present, China exercises planned distribution and control over foreign exchange. All the items in foreign exchange receipts and expenditure plan, including the import and export plan, shall be examined and compiled by various competent departments within their jurisdictions stipulated by the the State Council. After the overall balance is made by State Planning Commission, the foreign exchange plan will be reported to the State Council for approval and then incorporated into the national economic and social development plan which will be submitted to the National People's Congress for examination and approval. If approved, the plan will be sent back to various localities and the ministries through the State Planning Commission and SAEC for implementation.

China controls the foreign exchange distribution by way of a quota system. The foreign exchange quota is the amount of foreign exchange that can be used. After the plan for foreign exchange distributions is approved and sent back, the users may open a
foreign exchange quota account in SAEC or its branch offices within the approved amount. They may buy foreign exchange from State banks when needed. The amount of foreign exchange retention is subject to the stipulations governing utilization of foreign exchange retention.

SAEC is not the only authority entitled to approve utilization of foreign exchange. The Ministry of Finance, MOFERT and SAEC approve it respectively within their scope of responsibility. SAEC does not withhold foreign exchange allocations for the import within the plan or for the import using foreign exchange retention as approved by the competent departments.

The import licensing system is consistent with the foreign exchange distribution system. For the import of the designated commodities with specified volume and import-restricted commodities for certain importing departments listed in the state plan, the importing units may apply for import license against their certification of approved import plan. The foreign exchange control authority shall guarantee the payment of foreign exchange. It takes two or three days, on average, to go through the procedures.

11-5

Page 20, para. 2: Do the "other banks and financial institutions" referred to in this paragraph include foreign banks? What does the phrase, "approved scope", mean in this context? Does the "approved scope" of banking operations vary between institutions or locations of institutions?

ANSWER

Other banks and financial institutions, including foreign banks and Chinese-foreign joint venture banks, may handle transactions within the SAEC approved scope of business. Their scopes of business are basically the same with some variations relating to their different nature and locations.

11-6

Page 20, para. 3: Does China intend to notify its foreign exchange control system as a balance-of-payments restriction under the appropriate GATT Articles? Will China commit to administer its foreign exchange control system within the provisions of GATT Articles and related decisions and declarations?
ANSWER

In China, foreign exchange remains in short supply. In order to maintain the balance of international payments, foreign exchange is allocated and controlled in a planned way. After resumption of its status as a contracting party to GATT, China will administer its foreign exchange control system in conformity with provisions of the General Agreement.

11-7

Is it mandatory for authorities, departments and enterprises to sell their FOREX to the SAEC or can they elect to retain it? To what extent do enterprises in fact sell FOREX surpluses to other enterprises? Is a margin applied to such transactions? If so, is it fixed and if so, by what body?

11-8

Page 20, para. 4: Is the Bank of China and/or the SAEC and its branch offices the only approved repository of the retained foreign exchange held for local and provincial governments, for government departments, for enterprises that engage in international trade? What procedures and approvals are necessary for each of these entities to actually use the retained foreign exchange? What conditions must be met to obtain necessary approval?

11-10

Page 20, para. 4: What is the proportion of foreign exchange earned that may be retained for further imports? Does this proportion vary by enterprise or type of product exported, or is it fixed? If it varies, what criteria are applied to decide the proportion? If it is fixed, what is the ratio? How is this proportion determined specifically, and under which "State regulations"? Does the SAEC or Bank of China retain the authority to approve or reject foreign exchange quota surplus selling/buying, or may the exchanges be made more or less automatically?

11-11

Export enterprises have foreign exchange retention rights. What percentages of foreign exchange are they allowed to retain? Are those percentages uniform and known? Is it intended to increase that proportion? What interest does an enterprise have in exchanging foreign exchange surpluses with another enterprise? What rate does such exchange take place?
In order to improve the utilization of foreign exchange, are there any prospects for lowering barriers at various operational levels between the current holders of foreign exchange (corporations, local authorities, etc.)?

Are there any restrictions on the utilization of foreign exchange which enterprises are allowed to retain? Can those enterprises purchase products which they re-sell on the market, or solely raw materials and capital goods for their own use?

**ANSWER**

Since 1979, China has been practising the foreign exchange retention system. Those local authorities, departments and enterprises that have earned and sold their foreign exchange to the State banks, are offered corresponding foreign exchange quotas, in proportion to the amount of their sales and according to the percentages prescribed by the State. They can keep foreign exchange quota accounts with the SAEC or its branch offices and purchase foreign exchange from a State bank against the quota to meet their need within the limits prescribed.

The system of foreign exchange retention is as follows:

1) The system of foreign exchange retention is applicable universally. The units attached hereby and the percentages of foreign exchange retention are subject to the approval of the State Council or the foreign exchange authorities;

2) The percentages of the retention are fixed within a certain period of time. At the present stage: for the export of ordinary products, the percentage is 25%; ordinary non-trade receipts, 30-40%. In special economic zones and the minority nationality areas, the percentages are higher, some of which are 100%;

3) The retention of foreign exchange is allocated evenly between the local authorities and the enterprises, i.e. 50% for each in general cases;

4) The foreign exchange retained can be used autonomously to import necessary technology, equipment, raw and processed materials and spare parts, purchase apparatus for scientific, medical and educational purposes;
5) The units to use the retention of foreign exchange must submit a written application indicating currency, the amount and usage, together with the document of justification of competent departments to the SAEC or its branch offices for examination. Only upon approval can they use the foreign exchange;

6) If the enterprises with the foreign exchange retained do not use the retention, they may register in the SAEC or its branch offices for selling the retention to the enterprises in need of foreign exchange. No limit is imposed on the amount of retention transacted. The SAEC or its branch offices adjust foreign exchange according to supply and demand, and usually do not intervene. The adjusted portion in recent years is not substantial, usually not more than 5% of the foreign exchange earnings of the year.

Please also see the reply to 11-4.

11-9

Page 20, para. 4: How specific is a foreign exchange allocation document? Does it include ceiling or floor price indicators? Does it specify brand or product number? How long is an allocation valid? Is the system for allocating foreign exchange sufficiently transparent and non-discriminatory to conform to GATT provisions? Is the foreign exchange allocation process standardized?

ANSWER

In the foreign exchange allocation plan only the foreign exchange quota is fixed. For the import commodities under mandatory plan, only the quantity is fixed without indicating the brand and the ceiling or floor price. The allocation is valid for one year. The system of foreign exchange control is transparent and non-discriminatory.

11-14

Page 21, para. 1: Please elaborate on China's plans for changes/reforms in the foreign exchange allocation system. Does the phrase "economic means as the main levers" refer to the possible institution of an "interest rate" price system for foreign exchange allocation? If not, please elaborate on the "economic" levers contemplated.
ANSWER

Please see the reply to 11-2

11-15

Page 21, para. 1: How does "guidance planning" operate in the context of the foreign exchange system? On what sort of priorities or criteria do the State Planning Commission and State Council base their plans for use of foreign loans?

ANSWER

Guidance planning in the context of the foreign exchange system mainly includes utilization of retained foreign exchange and adjustment of foreign exchange. At present stage, priorities for the use of foreign loans are given to such areas as energy, transport and communications and raw and semi-finished materials, and especially to construction of projects for generating power, port facilities and projects in the petroleum industry as well as to the technological transformation of the machine-building and electronical industries. Foreign loans should also be used for expanding production of export commodities and import substitution so as to earn more foreign exchange and spend it in an economical manner.

11-16

Page 21, para. 1: What is the difference between the process of applying for foreign exchange retained from previous export sales and applications tendered for a foreign exchange transaction that is not related to previous exports?

ANSWER

The two processes are basically the same. But for the latter process, application for foreign exchange must be submitted first. When the foreign exchange is in short supply, it may not be obtained.
Page 21, para. 2: What is China's current debt-service ratio? Is it possible to describe what portion of China's foreign debt is held by private banks or entities? What portion is held by official lending organizations or guaranteed by foreign governments? Are Chinese trading enterprises allowed to contract debt on their own account with foreign organizations? If not, is this an option for future operations?

ANSWER

By the end of 1986, the composition of China's foreign debt is as follows: government loans, 23%; loans from international financial organizations, 12%; buyer credit, 3%; loans from foreign banks and other financial institutions, 19%; borrowings from foreign enterprises and individuals, 3%; private deposits held by overseas branches of the Bank of China, 18%; bond issuing in foreign countries, 13%; deferred payments, 5%; and other forms of borrowings, 4%. China's present rate of debt redemption is 8%.

According to the regulations of foreign exchange control, all loan agreements entered into by and between Chinese enterprises (including foreign trade enterprises) and foreign organizations are subject to approval of the PBC in advance. Foreign trade enterprises, when dealing with imports, are permitted to accept forward transactions and deferred payments.

Page 21, para. 3: Is China planning to move over time toward convertibility of the Renminbi? If so, what is the proposed time-frame of this transformation? What mechanisms does the People's Bank of China utilize to adjust the exchange rate of the Renminbi relative to other currencies?

Page 21, para. 4: In 1986, the Chinese Press reported plans to abolish the Renminbi foreign exchange certificate (the international convertible currency). Does this signal an intention to make the Renminbi convertible at some future stage and, if so, when is this likely to be?
The free convertibility of RMB is not under consideration at present. For the exchange rate mechanism of Renminbi, please see the reply to P32-11-2. In 1986, the abolition of foreign exchange certificates (FEC) was considered. The action has been postponed due to the complexity of the problem. There is no relation between the abolition of FEC and the free convertibility of RMB.

11-20

Page 21, para. 4: Is there any fixed relationship between increases in the general price level and devaluation of the Renminbi?

ANSWER

No. In recent years, with the development of the reform and the commodity economy, China has relaxed restrictions on pricing for agricultural and side-line products and some of the industrial products, thus caused a certain degree of price rise. The exchange rates of RMB, therefore, was devaluated correspondingly. However, in the adjustment of RMB exchange rates, consideration should also be given to other factors, such as balance of international payments, foreign exchange reserve and fluctuations of other currencies. The change of price level is not the sole determinant for RMB adjustment.

12. CHINA'S SPECIAL ECONOMIC ZONES AND OPEN COASTAL CITIES

12-1

China's open policy is essentially limited to a coastal region. How are these special rights affording greater autonomy granted? Do they concern facilities only for foreigners or also for Chinese operators in those zones?
Opening to the outside world is one of China's basic national policies applied nation-wide. The special economic zones and the open coastal cities are open to the outside world on a larger scale with better environment than the rest of the country.

The specific policy applied to special economic zones and open coastal cities is twofold: firstly, the local governments are granted more autonomy in their foreign economic activities. For instance, the People's Governments of SEZs are empowered to formulate any procedures suited to the reality of the special economic zones in accordance with the relevant state laws; and to examine and approve investment projects within the fixed amount set by the State and also to adopt different financial and foreign exchange control systems; secondly, both the foreign and the Chinese investments are accorded with the preferential tax treatment; banks with sole foreign capitals and banks with Chinese and foreign capitals are also allowed to be established in the special economic zones.

12-2

It is stated that a breakthrough was made between 1979 and 1985 in absorbing foreign investment, both in the coastal areas and in other parts of the country. How can one explain that development? Would one not have expected a concentration of investment in the special zones? What proportion of trade and what proportion of foreign investment are covered by those territories?

12-3

How important are the "special economic zones" and the "open coastal cities" as regards the levels of trade, production and employment they generate?

ANSWER

The Chinese Government has made greater efforts to create a more favourable environment with a view to attracting more foreign investment. From 1979 to 1986, the Chinese Government has approved 7778 contracts signed by the enterprises with foreign investment, of which, 3235 by joint ventures using Chinese and foreign investment, 4405 by co-operative enterprises and 138 by
the enterprises with sole foreign investment, with the total foreign investment amounting to 16.3 billion US Dollars. During this period, the actual amount invested by foreign enterprises is about 4.54 billion US Dollars, among which 1.6 billion US Dollars in the special economic zones, accounting for 35%, and 1.1 billion US Dollars in the open coastal cities, taking up 24%, and 1.27 billion US Dollars in the coastal economic development areas, making up for 28% and 13% in other areas.

In 1986, the industrial-agricultural output of the four SEZs accounted for 0.5% of the total of the country, the foreign trade volume, for 3.5%. Full employment is achieved in the SEZs. The population of the fourteen open coastal cities accounts for 8% of the total population of the country. The industrial output accounts for 21% of that of the country and export volume, 25%. Since more opportunities for employment are created as a result of the rapid economic growth in these coastal cities, employment for the newly-emerged labour force is basically provided.

12-4

Under the new plan, China intends to grant preferential treatment to textile enterprises and manufacturers of certain products in the coastal zone. Of what does that preferential treatment consist?

ANSWER

The state policy of incentives and economic assistance to the textile export-oriented enterprises is the same as those to other export-oriented enterprises. There are no other special measures of incentives, except those listed in the Memorandum.

12-5

Page 22, para. 1: Does China intend to establish other SEZs or open coastal cities?

12-6

Page 2, para. 2: Are there any plans to extend the measures developed in the SEZs to China proper?
As for the special policies China has adopted in SEZs, open coastal cities and open coastal areas, the extent where these policies are applied has been strictly defined. So far, we have not yet considered to have these policies extended nationwide. However, the possibility cannot be ruled out that some of these policies be made applicable to the other parts of the country.

12-7

By acceding to the GATT, does China intend to adopt a uniform Foreign Trade Regime which would apply equally all across the Chinese territory? If so, what timeframe would be envisaged?

ANSWER

China applies the foreign trade system in a unified way. Under this system, the preferential policies implemented in the Special Economic Zones will last for a long time to come. After the reunification of the Mainland and Taiwan, "One country, two systems" will be put into practice, which is also applicable to the foreign trade system.

When China regains its sovereignty over Hong Kong and Macau in 1997 and in 1999 respectively, Hong Kong and Macau Special Administrative Regions will formulate their own economic and trade policies autonomously.

12-8

Page 22: If Japanese enterprises wish to invest in special economic zones and open coastal cities, are any conditions required? If the answer is in the affirmative, what kind of conditions?

ANSWER

The enterprises of any country including Japan are welcome to invest in any parts of China's territory, unless otherwise provided by Chinese laws and regulations. There are no preconditions for their investment. The application of Chinese investment law is non-discriminatory towards all countries.
Page 22, para. 3, point 1: What criteria determine what is defined as "key equipment and instruments imported to help accelerate the technical transformation of China's enterprises" and what organization makes that decision? What is the tariff treatment accorded to other items imported into the special economic zones and coastal cities? Are such imports also exempt from the Import Regulatory Tax, "internal taxes", or any other import taxes or charges normally levied? Is there a specific list of commodities and goods that are now exempt, under the conditions stated? What are the conditions of importation of items not subject to the exemption?

ANSWER

The imported commodities enjoying preferential tax-exemption treatment are:

(1) a) equipment and machinery, spare parts and other materials imported and financed by foreign investors, imported by enterprises with sole foreign investment, or imported and financed by the wholly foreign-owned enterprises either out of their total investment or as their additional capital; and b) raw materials, accessories, components, spare parts and other articles and materials imported by the wholly foreign-owned enterprises manufacturing export products. All the above goods are exempted from customs duty, consolidated industrial and commercial tax and regulatory tax no matter whether the enterprises are in the special economic zones or open coastal cities or in other areas of China.

(2) In addition to the above, a) the exemption of customs duty, consolidated industrial and commercial tax and regulatory tax shall also be accorded to imports of the equipment and machinery, components, trucks, raw materials and fuels necessary for the construction and production of the special economic zones, and to the imports of ingredients for catering trade operation, tourism and the office supplies and means of transportation imported by administrative departments, enterprises, and institutions in reasonable quantity and for their own use; b) goods and components whose import are restricted by the State shall not be exempted from taxes in accordance with the relevant regulations unless they are imported by the administrative departments, enterprises and institutions for their own use; c) goods that are not included in the a) and b) of this paragraph shall be granted a 50% tax reduction; d) the required duty shall be levied retroactively on products manufactured from the tax-exempted imported materials and elements when they are moved into the Chinese territory other than the special economic zones.
(3) In the open coastal cities, the import duty, consolidated industrial and commercial tax duty and the regulatory tax shall be exempted, before 1990, for key equipment, instruments and meters imported to help accelerate the transformation of the old enterprises, and for the goods that cannot be produced and sufficiently supplied domestically, aside from the tax-exempted goods manufactured by the wholly foreign-owned undertakings. The customs shall levy no import duty on the said goods upon the presentation of the approval documents issued by the city's Economic Committee.

Page 22, para. 3, point 2: Why is a 15 per cent income tax "preferential"? At what rate are other enterprises in the special economic zones taxed? Are there any other preferential tax provisions available to enterprises established in the special economic zones? What are the provisions for indigenous enterprises that operate in the special economic zones?

ANSWER

(1) As stipulated by China's law, a 30% income tax shall be levied on the income of equity Chinese-foreign joint ventures and 20 to 40 per cent of progressive taxation on the enterprises with sole foreign investment. Therefore, a 15% of income tax applied in the special economic zones is said to be preferential.

(2) Foreign enterprises operating in the special economic zones are to pay a 15% income tax and enjoy other preferential treatment like tax reduction and tax holiday, and all foreign investors are exempted from income tax on their legal profit remittance.

(3) Chinese enterprises from other areas operating in the SEZs are to pay a 15% income tax and 20% income tax retroactively on their profit remittance outside SEZs. Although the general tax rate is 35%, it is still lower than 55% income tax rate levied on the income of the domestic enterprises in other areas of China.

Page 22, para. 3, point 2: Concerning profit remittances, is there any distinction made in the remittance rights among enterprises established in the special economic zones?
Foreign investors who set up enterprises in SEZs are allowed to remit their profit either outside China through their foreign currency account or to other areas of China for reinvestment purpose. Chinese enterprises are allowed to remit their profit derived from their operation in SEZs to other areas of China, but not outside China.

Page 22, para. 3, points 2, 3 and 4: What tax rate is applied to enterprises in the special economic zones and the coastal cities which do not meet the requirements listed in these points? What other eligibility requirements for the preferential enterprise income tax exist that are not listed here?

(1) Enterprises with sole foreign investment in SEZs and in the economic and technological development areas within the open coastal cities as listed in point 2 shall pay 15% income tax and are exempted from income tax on their profit remittance.

(2) In the open coastal cities, 24% income tax shall be levied for the Chinese-foreign joint ventures that do not belong to the above-mentioned category. A 30% of income tax shall be levied for those non-productive enterprises.

(3) Other tax reductions and tax holidays are determined in accordance with tax laws without special preference.

Page 22: Please describe the tariff treatment accorded items produced in the special economic zones, wholly or in part from imported components, when they are sold in China?

When a product manufactured from the tax-exempted imported articles and materials within SEZs is sold to the interior areas of China, the customs duty, and the consolidated industrial and commercial tax in the course of import shall be levied retroactively on the said tax-exempted imported articles and materials.
Page 158

12-14

Page 22: What kind of fiscal arrangement, if any, is made when a product imported to special economic zones and open coastal cities exempted of tax or a product manufactured by tax-exempted imported raw materials is moved into Chinese territory other than special economic zones and open coastal cities?

ANSWER

We have mentioned in the reply to the previous question the retroactive taxation on the tax-exempted imported articles and materials from which a product being manufactured is to be sold. Generally, the tax-exempted goods are imported by enterprises only for their own use, not for sale. If it is really necessary to sell the goods inland, the goods whose imports are under the State restriction shall be subject retroactively to the required customs duty and the consolidated industrial and commercial tax in the course of import upon the approval by the competent authorities.

12-15

Page 22: Please describe any other incentives or special fiscal treatment accorded to enterprises established in the special economic zones or open coastal cities? Please describe differences in wage or price policy, or in energy, raw material, or other input prices that obtain in these regions.

ANSWER

Details have been given in regard to the policy on tariff and tax for the enterprises in SEZs and open coastal cities in the Memorandum and in the replies to previous questions, and there are no other special treatments. The enterprises with sole foreign investment can have their own wage system. In respect of energy, raw materials and other inputs provided to the enterprises with foreign investment, market prices are applied to as in other areas of China.
Page 22: Is the more favourable treatment accorded in special economic zones and open coastal cities with regard to the acquisition of domestic goods or their utilization? If the answer is in the affirmative, is similar favourable treatment accorded in the case of imported goods?

ANSWER

No.

13. INSTITUTIONS AND PUBLICATIONS RELATING TO TRADE

(a) Institutions

13a-(1)

Page 22, para. 4 and continued: Can the State Council "alter or annul" without due process a regulation or decision established by a ministry or agency, such as those described in previous sections of the Memorandum, that affects the economic viability of foreign investments or ability to export to China? If not, what procedures or protections exist?

ANSWER

By virtue of the Constitution of the People's Republic of China and the Organizational Law of the State Council of the P.R.C., the amendment or annulation of the regulations and decisions taken by the ministries and commissions must be conducted in accordance with procedures given below:

1) the State Council can issue orders, directives or take other administrative measures to make explicit correction; or

2) the State Council can issue new administrative regulations to alter or annul the previous ones.

If any one believes that the regulations and decisions of the ministries or commissions should violate laws and administrative regulations of the State, he may put forward his complaints or opinions to the competent ministries and
commissions or up to the State Council. For example, Article 16 of the Provisions of the State Council of the People's Republic of China for the Encouragement of Foreign Investment provides that "Enterprises with foreign investment that encounter unreasonable charges may refuse to pay and may also appeal to the local economic committees up to the State Economic Commission".

13a-(2)

Page 23, para. 1: Please describe in more detail how the State Council coordinates the work of the Ministries and commissions.

ANSWER

Ministries and commissions are subordinate bodies of the State Council. The State Council exercises the leadership and makes arrangements for the work of ministries and commissions through its plenary sessions and routine meetings.

13a-(3)

Are all rules, regulations, decisions and orders of the State Council relating to foreign trade, including financial controls, made public and available to China's trading partners? Are there other sources of relevant administrative regulation in addition to the State Council, and are all their decisions also publicly available?

ANSWER

The rules, regulations and orders of the State Council relating to foreign trade are all published. So are the regulations issued by ministries and commissions within the competence of their respective departments. Such laws and regulations are available, in the Bulletin of the State Council of the P.R.C., Collection of the Laws and Regulations of the P.R.C., etc. Meanwhile, all the administrative regulations and department regulations are also published in various newspapers, periodicals and other publications.
Page 23, para. 2: How does the State Planning Commission determine which products are to be subject to production and trade controls? How are these controls implemented? How do the various economic ministries respond to or relate to the Planning Commission and to each other? How are import levels determined for raw materials or other inputs for these controlled industries?

ANSWER

The State Planning Commission determines the products subject to production and trade controls according to the importance of the products in the national economic and social development as well as the balance of the production and demand, and exercises administration through mandatory and guidance plans and marketing regulation.

While the specialized economic departments are responsible for the administration and development of the industry concerned, the State Planning Commission is responsible for overall balance of national economic and social development, industrial restructuring, long-term programmes, guidance for economic planning of other economic departments.

The import levels for raw materials and other inputs for the controlled industries are determined in accordance with the amount of inputs and outputs required by other industries and the situation of international payments.

Page 23, paras. 2 and 3: How do the State Planning Commission and the State Economic Commission coordinate their responsibilities? Does the Economic Commission serve as an "implementing" organ, to carry out the policies of the State Planning Commission? How are responsibilities and jurisdictions divided over different levels (central government level, provincial/autonomous regional level/municipality level, special commissioner offices)?
ANSWER

The State Planning Commission is responsible mainly for working out the annual, medium-term and long-term programmes of national economic and social development, making decision on major investment projects, organizing their implementation as well as coordinating with the State Economic commission in solving problems occurring during the implementation of the plans. The State Economic Commission is responsible for supervising and inspecting the implementation of national annual economic plan and coordinating various economic and technological activities, technological transformations, enterprise management as well as production and transportation.

Before the reform for economic structuring, the central authorities exercised excessive control and over-centralized power over the economy. In recent years, in respect of capital investments, introduction of foreign funds, etc., the central authorities have delegated decision-making power and power for examination and approval to the provinces, the autonomous regions, municipality directly under the Central Government, open coastal cities, special economic zones and other cities according to scale, value and the importance of the products.

13a-(6)

Page 23, para. 4: Concisely, what are the responsibilities of the various departments of MOFERT relating to the formulation and execution of trade policy and administration?

ANSWER

There are 26 departments in MOFERT. The following departments are more concerned with foreign trade policies and administration:

- Department of Treaties and Laws, which is responsible for drafting of important laws and decrees of foreign economic relations and trade and participating in examining some important agreements, contracts and articles of association;

- Department of Foreign Trade Administration, which is responsible for the administration of foreign trade activities of the relevant departments and localities, issuing the import and export licenses, allocating quotas, and approving the establishment of import and export enterprises;

- Import and Export Department, responsible for coordination of import and export of the whole country;
- First, Second, and Third Departments for Regional Affairs, responsible for bilateral economic relations and trade;

- Department of International Relations, responsible for multilateral economic relations and trade.

13a-(7)

Page 24, para. 1: Apart from issuing import/export licenses, what, if any, are the additional responsibilities of MOFERT’s "special commissioner offices", i.e. please list concisely their activities to "administer and supervise foreign trade".

P38-13a-(8)

Page 24, para. 2: In addition, please relate the duties of regional and local MOFERT offices to the central ministry. What are the powers authorized by MOFERT of the special commissioner offices, as compared with the provincial and local level offices and the central ministry?

ANSWER

The staff of the special commissioner offices at main ports belong to MOFERT. They are not under the authority of the local government. The special commissioner office is the executive body of MOFERT disposed in cities other than the capital. The responsibility of the commissioner offices is to carry out the regulations, instructions and their work strictly according to the circumstances of the respective areas, as authorized by MOFERT, for instance, to check and issue part of the import and export licenses and to investigate and handle problems which should occur in the foreign trade activities of the localities. For the duties of local MOFERT offices, please see the reply to 6-16.

13a-(9)

Page 24, para. 3: What role does the Ministry of Finance have in the determination of prices of domestically or internationally traded goods?
The Ministry of Finance is not involved in the determination of prices of commodities traded at home and abroad.

13a-(10)

Page 24, para. 4: Is it the Bank of China that negotiates international loan terms? In addition to managing foreign exchange acquisition and allocation, what other "international financial activities" relating to international trade are pursued by the Bank of China?

ANSWER

The Bank of China is a state bank specialized in foreign exchange operations, dealing with all kinds of foreign exchange business. As authorized by the State and entrusted by the People's Bank of China, it signs agreements with foreign governments and central banks. It also participates in international financial activities and also conducts foreign exchange business for the State. The Bank of China does not manage foreign exchange acquisition and allocation, which is the responsibility of SAEC under the People's Bank of China.

13a-(11)

Page 24, para. 5: While trade statistics have improved, information is still unavailable for some products such as oilseed meals. What plans does China have for improving the timely transmission of complete trade statistics by country of origin and destination? Will the statistics gathered by the Customs Administration become the single official trade statistics of China?

ANSWER

The figures published by the State Statistics Bureau are that of the customs statistics, which are calculated according to country of origin and consumption, that is, statistics of import commodities by country of origin, and export commodities by country of consumption. If the country of consumption can not be determined, the country of destination is regarded as country of consumption.
(b) Publications Relevant to Foreign Trade

13b-(1)

Could China furnish an update of the trade statistics furnished to the GATT Secretariat, to cover the years 1985 and 1986?

ANSWER

Yes. China will provide customs statistics on foreign trade for these two years.

13b-(2)

Is China in a position to submit regularly trade statistics to the different GATT groups or committees requiring this information for the updating of GATT material?

ANSWER

Yes. Customs statistics published every quarter will be provided.

13b-(3)

In China, what access do economic agents have to basic economic statistics (production, consumption, trade, price level, etc.)? Are there regular publications? If so, which are they?

ANSWER

Page 25: Please list the official publications in which tariffs, trade regulations, standards, taxes, licensing requirements, customs valuation or classification rulings, and any other governmental regulations or changes in regulations relating to or affecting import and export trade policy and administration are published, and indicate their frequency of publication.

ANSWER

Please see Page 25 of the Memorandum for the frequency of the publications, among which "International Trade", "International Economic Cooperation" and "China Foreign Trade" are published monthly; "International Business" and "International Trade News" are published twice a week. Besides the publications and materials listed in the Memorandum, there are the Bulletin of the State Council, Collection of Laws and Regulations of the People's Republic of China once a year, the Almanac of Standardization of China, etc.

Page 25: Are there any governmental publications in existence or planned to list entities authorized to import, entitled to import licenses, or are eligible for foreign exchange allocations?

ANSWER

There are many publications of this kind, for instance, "Directory of China's Foreign Economic Relations and Trade Enterprises", "China's Foreign Trade Corporations and Organizations", etc.

Page 25: Are there any governmental publications where information concerning the import/export and economic plans is regularly published?
ANNEX: REPLIES TO ADDITIONAL QUESTIONS

1. The Memorandum on China's Foreign Trade Regime states that Ministry of Foreign Economic Relations and Trade (MOFERT) re-adjusts the items of restricted import commodities in the light of the availability of foreign exchange and the changes of domestic production and market situation and duly makes them public. Could China state how often such re-adjustment of items is made?

ANSWER

Please see the reply to 9a-(9).

2. On what basis have 42 kinds of commodities been selected for applying import licensing? Regarding the source of imports, please explain how and by whom the decision is taken?

ANSWER

The source of imports is determined by enterprises themselves on the basis of the supply and demand conditions and the international market and commercial considerations. Please also see the reply to P27-9a-(15).

3. The duty paying value of imported merchandise is the c.i.f. value of goods, i.e., the normal wholesale price prevailing at the place of purchase plus all charges, freight, insurance premiums, commissions, etc., according to the Memorandum. Please provide details of the method used in calculating the duty paying value for imports. What is the extent of deviation involved from the transaction value?
ANSWER

China's customs valuation system is in conformity with that of GATT. Please also see the reply to 7-27.

4. It has been stated in the Memorandum that "Agency Pricing System" is largely applied to domestic pricing of imported commodities. What is the system of pricing followed with respect to pricing of similar or identical goods produced domestically? Please illustrate with example.

ANSWER

There are three kinds of prices, namely the State price, the State guidance price and the market regulated price, in the pricing of domestic products which are like or similar to the imported goods. Taking agricultural products for example, State prices are applied to wheat, flue-cured tobacco leaves, etc., State guidance prices are applied to jute, sheep wool, etc., and market regulated prices are applied to other products which account for the most part of the agricultural products.

Please also see the reply to 2-31.

5. The Memorandum states that for a few import commodities such as steel, fertilizers, and grains which have an important bearing on the national economy, their domestic prices are set by the State and State assumes responsibility for all the profits and losses therefrom. Could China explain the parameters on which the domestic prices are set in respect of these commodities?

ANSWER

Please see the reply to 2-31.

6. With regard to pricing of export commodities, it has been stated that prices are determined on the basis of domestic costs and international market conditions. Who suffers the losses in cases where the domestic prices are higher than the export price? Please throw light on the manner of determining prices for domestic sales and exports by giving examples and illustrative calculations.
7. Some of the measures providing incentives and assistance for export production have been stated on pages 10 and 11 of L/6125 (the Memorandum). Please provide full details of:

(i) the schemes for tax/duty exemptions and/or drawback for export products;

(ii) The schemes providing interest rebates, preferential loans, etc. to export-oriented enterprises;

(iii) other incentives and schemes for promotion of export.

ANSWER

Please see the replies to 5-26, 5-27 and 5-28.

8. Please provide information as to how the quantities of exports of various goods are determined especially where there are domestic shortages.

ANSWER

The quantity of export of a product is determined by the supply and demand conditions of the market. In the cases of commodities which are domestically in short supply, exportation is either restricted or encouraged by the State according to the importance of the products in the national economy.

9. Does China have a clearing account system with any country and, if so, how does the mechanism work?

ANSWER

Please see the reply to 5-8.
10. What function does the tariff perform and to what extent does it influence the quantities to be imported.

ANSWER

Please see the reply to 7-1.