

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Folder Title:

China WTO Key Elements [3]

Staff Office-Individual:

National Economic Council-Brainard, Lael

Original OA/ID Number:

CF 1193

Row:	Section:	Shelf:	Position:	Stack:
23	4	10	3	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	China and the GATT (3 pages)	c. 1996	P1/b(1)
002. paper	China and Least Developed Country (LDC) Status. (2 pages)	c. 1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Lael Brainard
OA/Box Number: CF 1193

FOLDER TITLE:

China WTO Key Elements [3]

2010-1024-F

vz1800

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Attached are:

- 1) Background Paper on China and GATT
- 2) Paper on Special and Differential Treatment
- 3) Rostenkowski Letter on China's GATT Accession
- 4) Paper on Some Basic Issues to be Resolved

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	China and the GATT (3 pages)	c. 1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Lael Brainard
OA/Box Number: CF 1193

FOLDER TITLE:

China WTO Key Elements [3]

2010-1024-F
vz1800

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. paper	China and Least Developed Country (LDC) Status. (2 pages)	c. 1996	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Lael Brainard
OA/Box Number: CF 1193

FOLDER TITLE:

China WTO Key Elements [3]

2010-1024-F
vz1800

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

9464/3040

ONE HUNDRED THIRTH CONGRESS
DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN

SAM M. GIBBONS, FLORIDA
J.J. PICKLE, TEXAS
CHARLES B. RANGEL, NEW YORK
FORTNEY PETE STARK, CALIFORNIA
ANDY JACOBS, JR., INDIANA
HAROLD E. FORD, TENNESSEE
ROBERT T. MATSUI, CALIFORNIA
BARBARA B. KENNELLY, CONNECTICUT
WILLIAM J. COYNE, PENNSYLVANIA
MICHAEL A. ANDREWS, TEXAS
SANDER M. LEVIN, MICHIGAN
BENJAMIN L. CARDIN, MARYLAND
JIM McDERMOTT, WASHINGTON
GERALD D. KLECZKA, WISCONSIN
JOHN LEWIS, GEORGIA
L.F. PAYNE, VIRGINIA
RICHARD E. NEAL, MASSACHUSETTS
PETER HOAGLAND, NEBRASKA
MICHAEL R. McMULTY, NEW YORK
MIKE KOPETSKI, OREGON
WILLIAM J. JEFFERSON, LOUISIANA
BILL K. BREWSTER, OKLAHOMA
MEL REYNOLDS, ILLINOIS

BILL ARCHER, TEXAS
PHILIP M. CRANE, ILLINOIS
BILL THOMAS, CALIFORNIA
E. CLAY SHAW, JR., FLORIDA
DON SUNDQUIST, TENNESSEE
NANCY L. JOHNSON, CONNECTICUT
JIM BUNNING, KENTUCKY
FRED GRANDY, IOWA
AMO HOUGHTON, NEW YORK
WALLY HERGER, CALIFORNIA
JIM McCRERY, LOUISIANA
MEL HANCOCK, MISSOURI
RICK SANTORUM, PENNSYLVANIA
DAVE CAMP, MICHIGAN

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6348

April 12, 1994

JANICE MAYS, CHIEF COUNSEL AND STAFF DIRECTOR
CHARLES M. BRAIN, ASSISTANT STAFF DIRECTOR
PHILLIP D. MOSELEY, MINORITY CHIEF OF STAFF

The Honorable Michael Kantor
U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20506

Dear Mr. Ambassador:

In view of the recent activity surrounding China's accession to the General Agreement on Tariffs and Trade (GATT), and in response to Beijing's expression of interest in becoming an original member of the World Trade Organization (WTO), we thought it appropriate to outline our views on this matter. While we recognize that the U.S. Government, in the October 1992 "Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China Concerning Market Access," agreed to "staunchly support China's achievement of contracting party status to the GATT," we note that this commitment was contingent on reaching agreement with the Chinese government on an acceptable protocol of accession.

We believe that, given the current size of the Chinese economy as well as its future growth potential, China's entry into the GATT/WTO is likely to have a dramatic effect on the dynamic between and among contracting parties. Furthermore, China has an economy in transition, that is, one evolving from a centrally planned to a free market operation. As such, its accession to GATT/WTO will be especially complex.

For the above reasons, we feel that China's accession should be handled cautiously, methodically, and with due deliberation. In this regard, we wholeheartedly agree with the U.S. delegation's statement at the March 18 Working Party meeting advising against the establishment of artificial deadlines in China's accession process. China's accession process should take whatever time is necessary, whether that be months or years, to ensure that it is done properly.

The Honorable Michael Kantor
April 12, 1994
Page Two

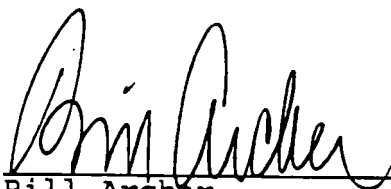
On the substance of China's accession protocol, we should insist above all that China enter the GATT/WTO system on a sound commercial basis. This is particularly important since Beijing still relies to a significant extent on state trading enterprises. In addition, we should insist that China be willing to adhere, without exception, to basic GATT principles and to the obligations under the Uruguay Round agreements as a prerequisite for entry into the GATT/WTO. In this regard, for example, China should be under the same obligations as are other developed contracting parties on transparency, national treatment, and exchange arrangements.

We also believe that China must commit to a uniform and unified national trade regime. In this regard, the United States, as well as the other contracting parties, must be assured of the compliance of the Chinese provinces with multilateral obligations undertaken by the central government in Beijing. Finally, we would protest strongly against affording China any of the special and differential treatment afforded developing country contracting parties.

In conclusion, we accept that China's eventual entry into the global community of GATT/WTO trading nations is both logical and probably inevitable. However, we strongly believe that the process through which China accedes to the GATT/WTO system should not be accelerated or subject to artificial deadlines. There should be a rigorous review of the Chinese trading regime coupled with the formulation of a comprehensive protocol that ensures China's entry on a sound commercial basis.

We look forward to working with the Administration on this important matter.

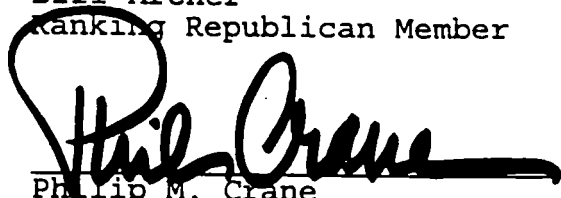
Sincerely yours,



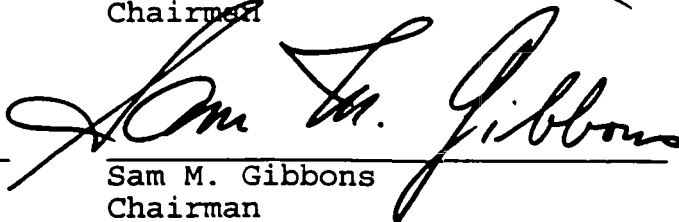
Bill Archer
Ranking Republican Member



Dan Rostenkowski
Chairman



Philip M. Crane
Ranking Republican Member
Subcommittee on Trade



Sam M. Gibbons
Chairman
Subcommittee on Trade

DRAFT PROTOCOL FOR CHINA'S ACCESSION TO THE GATT

CHAIRMAN'S DRAFT (7/19/94)

Preamble

The governments which are contracting parties to the GATT, the European Community and the Government of the People's Republic of China,

Taking note of the request of China dated 10 July 1986 for the resumption of its status as a contracting party to the GATT,

Considering that China is in a process of transition to a market oriented economy,

Having regard to the results of the negotiations concerning the status of China as a contracting party,

Have through their representatives agreed as follows:

DRAFT PROTOCOL FOR CHINA'S ACCESSION TO THE GATT

CHINESE DRAFT (7/26/94)

Preamble

The governments which are contracting parties to the GATT, the European Communities, and the Government of the People's Republic of China,

Taking note of the request of China dated 10 July 1986 for the resumption of its status as a contracting party to the GATT,

Taking note of the fact that China is a developing country with a low per capita income,

Taking note of the fact that China is a signatory to the Final Act and has accepted the results of the Uruguay Round negotiations;

Having regard to the results of the negotiations directed towards this end,

Have through their representatives agreed as follows:

Members of the World Trade Organization and the People's Republic of China,

Taking note that China is a signatory to the Final Act and has accepted the results of the Uruguay Round negotiations,

Considering that China is in a process of transition to a market oriented economy,

Having regard to the results of the negotiations concerning China's membership in the WTO

Have through their representatives agreed as follows:

Part I. General Provisions

I. General

1. The status of China as a contracting party to the GATT shall, upon entry into force of this Protocol pursuant to paragraph __, be governed by the provisions of this Protocol. China shall apply to contracting parties provisionally and subject to this Protocol:

(a) Parts I, III, and IV of the GATT, and

(b) Part II of the GATT to the fullest extent not inconsistent with its legislation existing on the date of entry into force of this Protocol. The legislation deemed to be covered by this Protocol shall be that set out in Annex __.

Part I. General Provisions

I. General

1. China shall, upon entry into force of this Protocol pursuant to paragraph __, resume its contracting party status with the GATT, and shall apply to contracting parties provisionally and subject to this Protocol:

(a) Parts I, III and IV of the GATT, and

(b) Part II of the GATT to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

The obligations incorporated in paragraph 1 of Article I by reference to Article III and those incorporated in paragraph 2(b) of Article II by reference to Article VI of the GATT shall be considered as falling within part II for the purpose of this paragraph.

2. (a) The provisions of the GATT to be applied to contracting parties by China shall, except as otherwise provided in this Protocol, be the provisions contained in the text annexed to the Final Act of the second session of the Preparatory committee of the UN Conference on Trade and Employment, as rectified, amended or otherwise modified by such instruments as may have become effective on the day on which China is resuming its status as a contracting party.

(b) In each case in which paragraph 6 of Article V, subparagraph 4(d) of Article VII, and subparagraph 3(c) of Article X of the GATT refer to the date of that Agreement, the applicable date in respect of China shall be the date of this Protocol.

2. Administration of the Trade Regime

(A) Uniform Administration

1. The provisions of the GATT establishing the WTO and the Multilateral Trade Agreements annexed thereto (hereinafter referred to as "WTO Agreement") shall apply to the entire customs territory of China, including border trade regions, minority autonomous areas, Special Economic Zones, open coastal cities, economic and

The obligations incorporated in paragraph 1 of Article I by reference to Article III and those incorporated in paragraph 2(b) of Article II by reference to Article VI of the GATT shall be considered as falling within part II for the purpose of this paragraph.

2. (a) The provisions of the GATT to be applied to contracting parties by China shall, except as otherwise provided in this Protocol, be the provisions contained in the text annexed to the Final Act of the second session of the Preparatory committee of the UN Conference on Trade and Employment, as rectified, amended or otherwise modified by such instruments as may have become effective on the day on which China is resuming its status as a contracting party.

(b) In each case in which paragraph 6 of Article V, subparagraph 4(d) of Article VII, and subparagraph 3(c) of Article X of the GATT refer to the date of that Agreement, the applicable date in respect of China shall be the date of this Protocol.

2. Administration of the Trade Regime

(A) Uniform Administration

1. The provisions of the GATT establishing the WTO and the Multilateral Trade Agreements annexed thereto (hereinafter referred to as "WTO Agreement") shall apply to the entire customs territory of China, including border trade regions, minority autonomous areas, Special Economic Zones, open coastal cities, economic and

technical development zones and similar areas, and other areas where special tariff and tax regimes have been established.

2. China shall ensure that the provisions of the GATT/WTO AGREEMENT and this Protocol are applied uniformly throughout its customs territory, including by government entities below the national level.

3. China shall administer in a uniform, impartial and reasonable manner all its laws, including the Foreign Trade Law, decrees, regulations, decisions, rulings and guidance pertaining to or affecting trade in goods and services.

4. China's laws, regulations, decisions and rulings mandated by government entities below the national level shall conform to the obligations undertaken in this Protocol and the GATT.

5. China shall establish a mechanism under which domestic and foreign persons can bring to the attention of the central government cases of non-uniform application of the trade regime.

(B) Special Economic Areas

6. As of the date of entry into force of this Protocol, China shall notify to the GATT/WTO all the relevant laws and regulations relating to its special economic areas, listing these areas by name and indicating the geographic boundaries that define them. China shall notify the GATT/WTO promptly, but in any case within _ days, when additional special regimes are established or when the relevant laws

technical development zones and similar areas, and other areas where special tariff and tax regimes have been established.

2. China shall ensure that the provisions of the GATT/WTO Agreement and this Protocol are applied uniformly throughout its customs territory, including by government entities below the national level.

3. China shall administer in a uniform, impartial and reasonable manner all its laws, including the Foreign Trade Law, decrees, regulations, decisions, rulings and guidance pertaining to or affecting trade in goods.

4. China's laws, regulations, decisions and rulings mandated by government entities below the national level shall conform to the obligations undertaken in this Protocol and the GATT.

(B) Special Economic Areas

1. As of the date of entry into force of this Protocol, China shall notify to the GATT/WTO all the relevant laws and regulations relating to its special economic areas, listing these areas by name and indicating the geographic boundaries that define them. China shall notify the GATT/WTO promptly, and shall make available to them such information regarding the additional special regimes that are

and regulations relating to existing special economic areas are modified, and shall submit copies of the applicable laws and regulations within _ days thereof for GATT/WTO review. China shall also provide information in its notifications describing how the special trade, tariff and tax regulations applied are limited to the designated areas, including information concerning relevant enforcement measures.

7. China shall progressively liberalize and adjust its economic and trade policies throughout its customs territory, with a view to narrowing the differences between the policies in the special economic areas and those in other parts of China's customs territory. Within _ years of the date of entry into force of this Protocol, China shall unify the application of its trade regime throughout its customs territory. China shall apply to imported products, including physically incorporated components, introduced into the other parts of China's customs territory from the special economic areas, all taxes, import restrictions, and customs and tariff charges that are normally applied to imports into the other parts of China's customs territory.

8. Upon request of any contracting party/WTO member, and as part of the review by the Working Party provided for in paragraph _ of this Protocol, the documents submitted by China, other developments affecting trade in the special economic areas, and progress towards the elimination of the policy differences between the special economic areas and the other parts of China's customs territory shall be examined.

established. China shall also provide information in its notifications describing how the special trade, tariff, and tax regulations applied are limited to the designated areas, including information concerning relevant enforcement measures.

2. China shall progressively adjust its economic and trade policies throughout its customs territory, with a view to narrowing the differences between the policies in the special economic areas and those in other parts of China's customs territory, and eventually unify the application of its trade regime throughout its customs territory. China shall apply to imported products, including physically incorporated components, introduced into the other parts of China's customs territory from the special economic areas, all taxes, import restrictions, and customs and tariff charges that are normally applied to imports into the other parts of China's customs territory.

9. China shall strengthen the enforcement of taxes, tariffs and non-tariff measures on trade between its special economic areas and the other parts of China's customs territory. Statistics on such trade shall be maintained and improved, and shall be notified to the GATT/WTO. China shall strictly enforce relevant laws and regulations in order to eliminate all illegal practices in such trade and smuggling between special economic areas and the other parts of China's customs territory. In providing preferential arrangements for enterprises within such special economic areas, non-discrimination principles and in particular national treatment, shall be fully observed.

(C) Transparency

10. In implementing the provisions of the GATT/WTO Agreement, China shall enforce only those laws, regulations, rules, decrees, administrative guidance, policies and other measures pertaining to or affecting trade in goods and services, trade-related aspects of intellectual property rights (hereinafter referred to as "TRIPS"), and the control of foreign exchange, that are published and readily available to other governments and foreign traders. In addition, China shall make available to contracting parties/WTO Members all laws, regulations, rules, decrees, administrative guidance, policies and other measures pertaining to or affecting trade in goods and services, TRIPS and the control of foreign exchange, translated to the maximum extent possible into one of the official languages of the GATT/WTO, __ calendar days before such measures are implement or enforced. Any publication relating to such measures shall include the effective date of these measures and the products

3. China shall strengthen the enforcement of taxes, tariffs and non-tariff measures on trade between its special economic areas and other parts of China's customs territory.

(C) Transparency

1. Without prejudice to the requirement of Article X of the GATT, China undertakes that only laws, regulations, rules, decrees, administrative guidance and policies pertaining to trade that are published and readily available to other governments and foreign traders shall be enforced. In addition, new laws, regulations, rules, decrees, administrative guidance and policies pertaining to trade shall be published before these measures are made effective. Any publication relating to such matters shall include the effective date of these measures and the products affected by a particular measure identified by tariff line as appropriate.

affected by a particular measure, identified by appropriate classification.

11. China shall apply on a most favored nation basis all transparency commitments agreed bilaterally with other countries and separate customs territories.

12. China undertakes not to invoke provisions of the GATT/WTO Agreement concerning the disclosure of confidential information as justification for withholding information on import or export quotas or other information required by this Protocol to be published or disclosed.

13. The types of information deemed "confidential for the purposes of Article X:1 of the GATT are set out in Annex

14. China shall establish or designate an official journal dedicated to the publication of all laws, regulations, rules, decrees, administrative guidance, policies and other measures pertaining to or affecting trade in goods and services, TRIPS and the control of foreign exchange, and shall provide a period of _ calendar days for comment to the appropriate authorities after publication in this journal before such measures are implemented. Any publication relating to such matters shall include the period for comment, the effective date of these measures and the products (identified by HS tariff line) and services affected by a particular measure. China shall publish this journal on a regular basis and make copies of all issues of this journal readily available to Chinese and foreign nationals.

3. China shall apply on a most favored nation basis all transparency commitments agreed bilaterally with other countries and separate customs territories.

2. Information the disclosure of which would prejudice legitimate commercial interests of particular enterprises, public and private, or would impede law enforcement, shall be deemed to be confidential and its disclosure is not required by the provisions of this Protocol.

4. The Government of China shall establish or designated an official journal dedicated to the publication of laws, regulations, rules, decrees, administrative guidance and policies pertaining to trade. The Government of China shall publish this journal on a regular basis and make copies of all issues of this journal readily available to domestic and foreign nationals.

15. Any publication relating to trade in services shall specify, by appropriate classification, the services affected.

16. China shall publish in the official journal, by appropriate classification and by service where relevant, a list of all organizations, including those organization delegated such authority from the central government, that are responsible for authorizing, approving or regulating services activities whether through grant of license or other approval procedures and the conditions for obtaining such licences or approval shall also be published.

17. China shall establish or designate enquiry points where, upon request of any domestic or foreign individual or entity, all information relating to the laws, regulations, rules, decrees, administrative guidance, policies and other measures pertaining to or affecting trade in goods and services, TRIPS, and the control of foreign exchange, as well as the published texts, can be obtained. This information shall include the names of national or sub-national authorities (including contact points) responsible for implementing a particular measure (either directly or in a supervisory capacity), and any interests or relationships such authorities may have in the production, use or other form of utilization of the regulated product or service. Replies to enquiries for information shall generally be provided within _ days after receipt of a request. In exceptional cases, replies may be provided within _ days after receipt of a request. Notice of the delay and the reasons therefor shall be provided in writing to the interested party. Replies shall be complete and shall represent the authoritative view of the Chinese government, both at the central and local levels.

5. The Government of China shall institute or designate an inquiry point where all information relating to the provision of this Protocol can be obtained. The inquiry point shall provide replies to inquiries raised by interested governments of contracting parties within 40 working days in principle after receipt of a request.

18. One enquiry point shall be established for the central government. At the sub-national level, one enquiry point shall be established for each of the so-called first level administrative divisions, including provinces, autonomous regions and municipalities.

19. China shall supply contracting parties/WTO Members with statistical data and other information describing China's economy and trading system specified in Annex _ of this Protocol not less than once every two years, and thirty calendar days prior to a meeting of the Working Party provided for in paragraph _ of this Protocol.

(D) Judicial Review

20. China confirms that the tribunals and procedures referred to in Article X:3(b) of the GATT shall review promptly all disputes relating to, inter alia, laws, regulations, judicial decisions and administrative rulings of general application referred to in Article X:1 of the GATT.

21. China shall establish or designate tribunals, contact points and/or procedures required for implementation of provisions of the GATT. The tribunals shall be independent of the agencies entrusted with administrative enforcement of provisions contained in the GATT/WTO Agreement and the decisions of such tribunals shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed.

6. China shall supply contracting parties with the statistical data and other information describing China's trade regime specified in Annex _ of this Protocol not less than once every two years, and thirty days prior to a meeting of the Working Party provided for in paragraph _ of this Protocol.

(D) Judicial Review

1. The Chinese government will maintain administrative and judicial tribunals and procedures for the purpose, inter alia, of the prompt review and correction of administrative action relating to customs matters, including customs valuation.

22. Procedures implemented shall include the opportunity for appeal, without penalty, by individuals or entities affected by the relevant decision. If the initial right of appeal is to an administrative body, there shall also be the opportunity for appeal of the decision to a judicial body. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. The appellant shall also be informed of any right to further appeal.

23. For the purposes of this Protocol, the judicial review tribunals, contact points, and/or procedures established by China shall cover, but not be limited to: customs classification, charges, and valuation; taxes and tariffs applied to imports and exports; the availability and distribution of import and export licenses, permits or quotas; application of measures for safeguard or balance-of-payments purposes or to protect against unfair trade; and other measures applied to protect the domestic market.

24. Such tribunals, contact points, and/or procedures shall also cover measures pertaining to or affecting the TRIPS Agreement and the General Agreement on Trade in Services (hereinafter referred to as GATS), including, but not limited to, any measure affecting in any way the regulation, control or promotion of transportation services, insurance and insurance-related services, banking and other financial services, telecommunications services, distribution services, entertainment services, information processing services, construction and maintenance services, professional services, and retail sales services.

2. China confirms that the tribunals and procedures referred to in Article X:3(b) shall review promptly all the customs matters. Decisions of tribunals or procedures shall be motivated and the opportunity for appeal without penalty shall be communicated in writing. Notwithstanding the provisions of Article X:3(c), if an initial right of appeal is to an administrative body, there shall also be the opportunity for timely appeal of the decision to a judicial body.

3. Special Trade Arrangements

China shall, by (x date), bring into conformity with the GATT/WTO Agreement all special trade arrangements, including barter trade arrangements, with third countries and separate customs territories.

4. Trading Rights of Enterprises

1. In implementing the provisions of the GATT/WTO Agreement, and subject to the provisions set out below, China's national and sub-national authorities shall take no measure to limit the trading rights of individuals or enterprises, foreign and domestic.
2. As of the date of entry into force of this Protocol, China shall not grant special or exclusive trading rights to enterprises other than to the designated enterprises for the products specified in Annex . China shall thereafter progressively phase out the products affected, and shall ensure that by (x date) no more than _ products shall be subject to trading or distribution by designated enterprises.
3. China shall progressively liberalize trading rights of Chinese foreign trade corporations in such a way that, from (x date), all such entities shall be free to trade in all products and services throughout the customs territory of China.
4. China shall progressively liberalize the trading rights of individuals and enterprises, foreign and domestic, in such a way that, from (x date), all such entities shall be free to trade in all products and services throughout the customs territory of China.

3. Special Trade Arrangements

China shall, by (x date), bring into conformity with the GATT/WTO Agreement all special trade arrangements, including barter trade arrangements, with third countries and separate customs territories.

4. Trading Rights of Enterprises

1. China confirms that, pursuant to Articles 8 and 9 of the Foreign Trade Law, legal persons or other organizations may obtain the permit to handle import and export of goods and technologies upon meeting the qualifications provided for in Article 9 of the said Law.
3. As of the date of this Protocol, China shall not grant special or exclusive trading rights to enterprises other than the designated enterprises for those products specified in Annex .
2. China shall progressively liberalize foreign trade corporations and other enterprises with special or exclusive privileges in such a way that, by the date _ , such corporations or enterprises are free to trade in all products and throughout the customs territory of China, except for those products specified in Annex .

5. China shall, by (x date), ensure that foreign funded production enterprises, with respect to the conditions affecting their establishment, the procurement of inputs and products necessary for production and the conditions under which their goods are produced, marketed or sold, throughout China and abroad, are granted treatment no less favorable than that accorded to domestic producers.

6. China shall publish objective criteria for the granting of trading rights and, from the date of entry into force of this Protocol until the elimination of all restrictions on trading rights, apply such criteria in a uniform manner. During this transitional period, China shall also publish on a regular basis the number of entities to be granted trading rights, including provisions for annual increases.

7. For the purposes of this Protocol, "trading rights" include the right to import and/or export goods and services, and to trade, invest, produce, sell, transport and/or distribute goods and services in China.

5. State Trading.

1. In implementing the provisions of the GATT concerning the obligations in respect of the activities of state trading enterprises, including those set out in the Understanding on the Interpretation of Article XVII of the GATT 1994, China shall observe the additional obligations provided for in this Protocol.

5. State Trading.

1. The activities of state trading enterprises shall be conducted in accordance with Article XVII, including notification requirements. Those enterprises covered by the notification requirement are listed in Annex .

2. China shall ensure that any fees or charges assessed to end-users by designated trading enterprises shall not afford protection in excess of the tariff rate provided for in China's schedules referred to in Part II of this Protocol, plus fees and charges consistent with Article VIII of the GATT.
3. China shall ensure that import purchasing procedures of state trading enterprises are fully transparent and in compliance with Articles I, II, III, XI and XVII of the GATT, and China shall refrain from taking any measure to influence or direct these enterprises as to the quantity, value, or country of origin of goods purchased, except as consistent with Article XX of the GATT.
4. Upon request of any contracting party, China shall provide full information on the pricing mechanisms of its state trading enterprises for exported goods, including, but not limited to, domestic procurement prices, contract terms for delivery of exported goods, and financing terms and conditions.
5. China shall not establish a price pooling mechanism for procuring goods for export nor shall it operate targeted discriminatory export pricing practices.
6. The availability of goods and services supplied by national and sub-national authorities in areas including, but not limited to, transportation, energy, basic telecommunications, other utilities and factors of production, shall not vary with the nationality of the individual or the nationality of the entity requesting them.

7. For the purposes of this Protocol, "state trading enterprises" shall be defined according to the working definition in the Article XVII Understanding.

6. Non-Tariff Measures.

1. In implementing the provisions of Articles III and XI of the GATT and the Agreement on Agriculture, China shall eliminate, as of the date of entry into force of this Protocol, and shall thereafter not introduce, re-introduce or apply restrictive licensing requirements, quotas, import prohibitions or other controls, quota certificates, tendering requirements, mandatory import or production plans, permits, guidance plans, import substitution or export performance requirements, administrative guidance or approvals, foreign exchange balancing requirements, or other measures having similar effect, that cannot be justified under the provisions of the GATT/WTO Agreement, except as provided for in the schedule for phased elimination of such measures contained in Annex _ of this Protocol.

2. During the periods specified in Annex _, the protection afforded by the measures listed in that Annex shall not be increased or expanded in size, scope, or duration, nor will any new measures be applied, unless in conformity with the provisions of the GATT/WTO Agreement. For restrictive licensing requirements, quotas, import prohibitions or other controls, quota certificates, tendering requirements, mandatory import or production plans, permits, guidance plans, import substitution or export performance requirements, administrative guidance or approvals, foreign

2. For the purpose of this Protocol, "state trading enterprises" shall be defined according to the working definition in the Article XVII Understanding.

6. Non-Tariff Measures.

1. With respect to quantitative restrictions on imports, including restrictive licensing requirements, prohibitions and other measures having a similar effect, China will convert all such measures in the agricultural sector to ordinary customs duties. In the textile and clothing sector, all restrictions will be brought into conformity with the GATT or be phased out over a ten year period according to a program to be presented to the Textiles Monitoring body. For other industrial products, such measures, unless they are taken in accordance with specified relevant provisions of the GATT, will be subject to a schedule contained in Annex _ to this Protocol.

exchange balancing requirements, or other measures having similar effect, that are applied after the date of entry into force of this Protocol consistent with specific obligations in the GATT/WTO Agreement or this Protocol, China shall allocate and otherwise administer them in strict conformity with the provisions of Article XIII of the GATT and the Agreement on Import Licensing Procedures, including notification requirements.

3. China shall ensure that the distribution of import licenses, quotas, tariff-rate quotas, quota certificates or other certificates or permits or any other means of approval for importation or the right of importation by national and sub-national authorities shall not be conditions on whether competing domestic suppliers of such products exist or on performance requirements of any kind, including but not limited to local content or mixing requirements, the transfer of technology, the conduct of research and development, minimum export requirements, or on the nationality or nature of the enterprise.

4. Import and export restrictions, such as import or export bans, quotas, licensing requirements, restrictions and other controls, shall only be imposed and enforced by the central government or by sub-national authorities with authorization from the central government. Import bans, quotas, licensing requirements, restrictions and controls which are not imposed by the central government or by sub-national authorities with authorization from the central government, shall not be implemented or enforced.

5. China shall, by the date of entry into force of this Protocol, eliminate all special taxes or other charges on imports of goods or services, whether applied by laws, regulations or other charges, which are related to the conditions under which export credit arrangements are granted, including on contractual export credits granted at market rates, Commercial Interest Reference Rates or Special Drawing Rights based rates as determined in the OECD arrangement on Guidelines for Officially Supported Export Credits.

7. Import and Export Licensing

1. (see below, opposite Chinese draft 1.7.3.)

2. In implementing the GATT/WTO Agreement, China shall ensure that the distribution of import and export licenses or quotas is consistent with the provisions of the GATT/WTO Agreement and this Protocol, and that they are not conditioned upon the nationality of the individual or nationality of the entity making the request.

3. In implementing the GATT/WTO Agreement and provisions of the Agreement on Import Licensing Procedures, China shall undertake the following measures to facilitate compliance with these agreements:

(a) China shall publish at least once per year the following in the official journal referred to in paragraph _ of this Protocol:

-- by product, the list of all entities that authorize or approve imports or exports, through grant of license, quota certificate or

7. Import and Export Licensing.

1. In implementing the GATT and provisions of the Agreement on Import Licensing Procedures, China shall take measures as necessary to facilitate compliance with these agreements.

2. The Government of China shall publish the following in the official journal referred to in paragraph _:

-- by product, a list of all organizations, including those organizations delegated such authority from the central Government,

other certificate, permit, or other approvals, including import and export chambers of commerce and other organizations of whatever character. This list shall be updated and republished in this official journal every six months.

-- the procedures in effect for obtaining such import or export licenses, quota certificates or other certificates, permits, and approvals, and the conditions for deciding whether they should be granted.

-- a list of all products, by tariff number, that are subject to tendering requirements, including information on products subject to such tendering requirements and any changes, pursuant to the Agreement on Import Licensing Procedures.

-- a list of all the goods and technologies whose import or export are restricted or prohibited under the 1994 Foreign Trade Law (in particular under Articles 16, 17 and 18) and other relevant laws and regulations. These goods shall also be notified under the GATT and the Agreement on Import Licensing Procedures; and

-- any changes to the list of goods and technologies whose import and export are restricted or prohibited under Articles 16, 17 and 18 of the 1994 Foreign Trade Law.

Copies of these submissions in one or more official languages of the GATT/WTO shall be forwarded to the GATT/WTO for circulation to contracting parties and for submission to the Committee on Import Licensing within thirty days of each publication.

that are responsible for authorizing or approving imports or exports whether through grant of licenses or other approval.

-- procedures and criteria for obtaining these import or export licenses and the basis for their granting and/or allocation shall also be published.

-- a list of all products, by tariff lines, that are subject to tendering requirements, including information on products subject to such tendering requirements and any changes, pursuant to the Agreement on Import Licensing Procedures.

-- a list of goods and technologies whose imports or exports are restricted or prohibited under the 1994 Foreign Trade Law (in particular Articles 16, 17 and 18) and other relevant laws and regulations. These goods shall be notified under the General Agreement and the Agreement on Import Licensing Procedures.

-- any changes to the list of goods and technologies whose imports or exports are restricted or prohibited under the 1994 Foreign Trade Law. (in particular Articles 16, 17 and 18).

-- copies of these submission in one official language of the GATT shall be forwarded to the GATT for circulation to contracting parties and for submission to the Committee on Import Licensing within 90 days of each publication.

(b) China shall ensure that all licensing and quota requirements remaining in effect after the date of entry into force of this Protocol are either reflected in the schedules contained in Annexes _ of this Protocol or otherwise listed separately by HS tariff line and with the quantities associated with the restriction, if any, and the justification for maintaining the restriction or its scheduled date of termination.

(c) China shall submit the notification of its import licensing procedures to the GATT/Committee on Import Licensing. China shall report annually to the GATT/Committee on Import Licensing on its automatic import licensing procedures, explaining the circumstances which give rise to these requirements and justifying the need for their continuation. This report shall also provide the information listed in Article 3 of the Agreement on Import Licensing Procedures.

(d) China shall issue import licenses for a minimum duration of validity of six months, except where exceptional circumstances make this impossible. In such cases, China shall promptly notify and inform the GATT/Committee on Import Licensing of the explanation for the exceptional circumstances requiring the shorter period of license validity.

4. Tendering Procedures (to be drafted).

1. China shall, as of the date of entry into force of this Protocol, eliminate all non-automatic licensing that is not taken in accordance with provisions of the GATT/WTO Agreement allowing non-automatic licensing. If non-automatic licensing procedures are applied, China

3. China shall progressively eliminate all non-automatic licensing that is not required to administrate measures related to the invocation of specified provisions of the GATT. If non-automatic licensing procedures are applied, China shall provide at the request

shall specify the period for processing license applications and provide at the request of any contracting party and during every meeting of the Working Party established under paragraph _ statistics at HS 8-digit level with respect to the products subject to licensing. The period for processing import license applications shall be no more than ten days in the case of automatic licenses and no more than thirty days in the case of non-automatic licenses. The processing of applications shall be accelerated to the maximum extent possible.

8. Foreign Exchange Controls

1. China shall, as of the date of entry into force of this Protocol, eliminate any foreign exchange restrictions on payments and transfers in connection with goods and services. From said date, China shall establish a unified foreign exchange market, remove all restrictions and provide non-discriminatory access to this market and eliminate guidelines specifying the priority use of foreign exchange. China shall not use foreign exchange allocation to regulate the level or composition of trade in goods or services.

2. China shall, by (x date), implement reforms necessary to bring its foreign exchange regime into conformity with obligations under Article VIII of the IMF. After that time, China shall not resort to measures as provided for in Articles 16:6 and 24:4 of the Foreign Trade Law. Individual requests for foreign exchange for current account transactions shall not be subject to any form of approval, and a letter of credit or a bank guarantee shall be issued automatically upon presentation of an invoice.

of the Working Party established under paragraph _ import statistics, where practicable at the HS 8-digit level, with respect to the products subject to import licensing.

8. Foreign Exchange Controls

1. China confirms that it shall not use foreign exchange allocation to regulate the level or composition of imports. In this regard, China shall, within _ years upon entry into force of this Protocol, establish a unified foreign exchange market, remove all restrictions on access to this market and eliminate guidelines specifying the priority uses of foreign exchange unless justified by relevant import restriction under paragraph _

2. Moreover, China shall, by the year 2000, implement reforms necessary to bring its foreign exchange regime into conformity with obligations under Article VIII of the IMF.

3. China shall, as of the date of entry into force of this Protocol, eliminate all guidance and enhancement systems, contracts and measures which have as their object or effect to influence foreign exchange earnings.

9. Price Controls.

1. China shall, as of the date of entry into force of this Protocol, subject to paragraph 2 below, establish market pricing for traded goods and services and inputs in every sector, and multi-tier pricing practices for such goods and services shall be eliminated in their entirety.

2. A specific list of products and services, contained in Annex _ and identified by appropriate classification, may be subject to price controls, consistent with Article III:9 of the GATT and Annex 2 paragraphs 3 and 4 of the Agreement on Agriculture. Price controls shall not be extended to products or services beyond those listed in Annex _ and China shall make best efforts to reduce and eliminate these controls and shall report on its progress at the initial meeting of the Working Party provided for in paragraph _ of this Protocol and subsequent reviews thereafter, or upon request by any contracting party, as necessary.

3. The price of goods and services supplied by national and sub-national authorities in areas including, but not limited to, transportation, energy, basic telecommunications, other utilities and factors of production, shall not vary based on the nationality of the individual or the nationality of the entity requesting them.

9. Price Controls

1. China shall phase out state pricing except for essential natural resources and products of vital importance to people's livelihood.

2. China shall publish the list of products subject to state pricing.

3. China shall make best efforts to reduce and eliminate these controls and shall report on its progress at the initial meeting of the working party provided for in paragraph _ of the Protocol and subsequent reviews thereafter, or upon requests by any contracting parties, as necessary.

4. China shall publish in the official journal cost and price-setting mechanisms and policies.

10. Subsidies

1. In implementing the provision of the Tokyo Round Agreement on Interpretation and Application of Articles VI, XVI and XXIII (Subsidies Code)/Agreement on Subsidies and Countervailing Measures (the SCM Agreement), China shall phase out all export subsidies, as illustrated by the Annex to the Subsidies Code, including preferential tax rates and other preferences related to export performance and subsidy programs falling within the scope of Article 3 of the SCM Agreement, not later than (x date) without prejudice to the Agreement on Agriculture and Section 13 (Agriculture) of this Protocol, and shall notify to the Committee on Subsidies and Countervailing Measures a timetable to phase out such subsidies and the details of the programs as elaborated in paragraph _ below. This notifications shall be made as of the date of entry into force of this Protocol. It shall be reviewed upon request by any contracting party and shall form part of the review by the Working Party provided for in paragraph _ of this Protocol.

2. In providing such notification, China shall notify any subsidy within the meaning of Article 1 of the SCM agreement, granted or maintained in its territory, organized by specific product, including those defined in Article 3 of the SCM Agreement. The information provided should be as specific as possible, following the requirements of the questionnaire on subsidies as noted in Article 25 of the SCM Agreement. In addition to all information required

10. Subsidies

1. China shall phase out, over a period of 8 years, export subsidies on products where Chinese exports have accounted for 3.5% of the total world trade in the product concerned for 2 consecutive years.

2. China shall notify any subsidy within the meaning of Article I of the Subsidy and Countervailing Measures Agreement, granted or maintained in its territory, organized by specific product, including those defined in Article III of the SCM Agreement. The information provided should be as specific as possible, following the requirements of the questionnaire on subsidies as noted in Article XXV of the SCM Agreement.

pursuant to Article 25, China's notifications shall include, but not be limited to:

(a) the enterprise(s) and industry(ies) benefiting from a subsidy and the actual use of the subsidy over the last five year period;

(b) specific information regarding the following types of government programs:

-- price equalization schemes (ie, programs providing to exporters the difference between the export price and domestic price for a product;

-- customs duty drawback schemes rebating more than the actual amount of customs duties paid on imported components incorporated into an exported product;

-- wastage allowances for exports greater than permitted for like domestic products;

-- preferential transport rates for exports;

-- export promotion expenses that directly benefit exporters but are not charged to them; and

-- any differential exchange rates;

(c) statistics, by commodity group, showing the proportion of exported production that is subsidized.

11. Balance of Payments Measures

1. Any measures taken for balance of payments purposes by China shall be consistent with the GATT (including the Understanding on Balance of Payments Provisions) and the provisions set out below.

2. Should a critical balance of payments situation develop in China, China may apply to deviate temporarily from certain provisions of the GATT. Such a temporary deviation shall be in accordance with the following conditions:

(a) China agrees that full consultations to review all trade restrictive measures undertaken by China for balance of payments purposes shall be carried out annually as provided for below; and

(b) China shall

-- apply measures for balance of payments purposes only with the approval of the contracting parties/Ministerial Conference;

-- promptly announce a time schedule for the progressive removal of restrictive import measures taken for balance of payments purposes, available from the enquiry points established pursuant to paragraphs _ of this Protocol;

-- avoid the imposition of quantitative restrictions for balance of payments purposes and, instead, use price-based measures;

11. Balance of Payments Measures.

-- use price based trade restrictive measures to control the general level of imports only to the extent necessary to address the balance of payments situations;

-- not provide import protection for specific sectors, industries, or firms; and

-- promptly implement external and domestic policy measures to restore balance of payments equilibrium on a sound and lasting basis.

3. In the event that China seeks to apply measures in response to the development of a critical balance of payments situation, prior notice of the applications shall be made to the GATT/WTO no less than fourteen calendar days before the planned date of implementation, and China shall submit at that time information on the measures taken, the justification for the measures, and the planned duration and scheduled removal for the measures taken.

4. As soon as possible after notification to the GATT/WTO, and no later than fourteen calendar days after the date of notification, a joint session of the Working Party established to review China's Protocol commitments pursuant to paragraph _ of this Protocol and of the Balance of Payments Committee shall be convened to review the action. This review will function according to the procedures and provisions of the GATT, with the exception that the review of the joint session will not use "simplified consultation procedures".

5. Should any Member of the joint session not agree that China is justified in its recourse to these provisions, that Member and China shall be invited to continue consultations with a view to clarifying the situation. If no mutually satisfactory result is achieved through these consultations within thirty calendar days of the entry into force of the measures taken by China for balance of payments purposes, the Member affected by the measures shall be free to withdraw concessions equivalent to the value or effect of the action taken by China during the period when the measures taken by China for balance of payments purposes remain in effect.

6. Members of the Working Party provided for in paragraph _ of this Protocol, in cooperation with the Balance of Payments Committee, shall review the operation of all measures taken under these provisions annually for the duration of their application, or when requested to do so by China or a contracting party.

7. The application of these provisions shall be examined upon request, and as part of the review by the Working Party provided for in paragraph _ of this Protocol. In this regard, the Working Party shall address whether these provisions remain necessary in light of progress by China in bringing its economic and trade regime into compliance with the GATT/WTO agreement, and in fulfilling the terms of this Protocol.

12. Taxes and Charges Levied on Imports

1. In implementing the provisions of GATT, China shall, as of the date of entry into force of this Protocol, eliminate the application of any customs fees or charges, harbor fees, or warehousing charges in excess of China's commitments under Article II, whether administered by national or sub-national authorities, applied on the basis of value, weight, or volume, unless it can be demonstrated that such application is in conformity with Article VIII of GATT, e.g., not for fiscal purposes and commensurate with the cost of the specific service rendered. In addition, China shall ensure that the commissions and other charges levied on an ad valorem basis on imports and exports by foreign trade corporations are converted to the specific charges approximating the cost of the individual services rendered.

2. China shall, as of the date of entry into force of this Protocol, apply its internal taxes, including the value added tax, in a non-discriminatory manner to domestic and imported goods and services. China shall also ensure that all taxes and tariff surcharges applied exclusively to imports by its sub-national authorities are eliminated or otherwise brought into conformity with Articles I, II, III and VIII of GATT.

3. China shall, as of the date of entry into force of this Protocol, eliminate all taxes and charges applied exclusively to imports in excess of the bound tariffs listed in Annex _ of this Protocol unless these additional charges are also listed in that Annex or applied in conformity with the provisions of Article VIII of GATT.

12. Taxes and Charges Levied on Imports

1. China ensures that the application of any customs fees or charges administered by national or sub-national authorities will be in conformity with Articles II and VIII of the GATT.

2. China shall apply its internal taxes, including value added taxes, in a non-discriminatory manner to domestic and imported goods.

4. China shall, as of the date of entry into force of this Protocol, eliminate all taxes and charges applied to exports unless specifically provided for in Annex _ of the Protocol or applied in conformity with the provisions of Article VIII of GATT.

13. Agriculture

1. In implementing the provisions of Article 4 of the Agreement on Agriculture, "similar border measures" for purposes of footnote 1 in paragraph 2 of Article 4, which China shall not maintain, resort or revert to, include guidance plans or administrative guidance at the national or sub-national level that regulate the quantity of imports, import controls, import substitution practices, and other non-tariff trade measures maintained through state trading enterprises at the national or sub-national level.

2. For all agricultural imports administered by national or sub-national state trading enterprises, the state trading enterprise shall not, except as provided for explicitly in China's schedule for agricultural products, operate so as to afford protection on the average in excess of the duty plus fees and charges consistent with Article VIII of the GATT.

3. China shall not maintain any export prohibitions or restrictions on foodstuffs pursuant to the provisions of Article XI:2(a) of the GATT or Article 12 of the Agreement on Agriculture, or any export taxes on agricultural products.

13. Agriculture

China ensures that it shall apply the provisions of the Agreement on Agriculture in the areas of market access, domestic support, and export competitions when China becomes a member of WTO.

4. China undertakes not to invoke the provisions in Articles 6:2, 6:4(b), 12:2 and 15, and Annex 5, Part B of the Agreement on Agriculture.

5. China shall, as part of its notifications and related commitments for domestic subsidies and export subsidies under the Agreement on Subsidies and Countervailing Measures, include fiscal or other transfers between or among government-owned enterprises in the agricultural sector (whether national or sub-national) and other enterprises that operate as state trading enterprises in the agricultural sector. Domestic support measures in favor of agricultural producers conforming to the provisions of Annex 2 of the Agreement on Agriculture shall not be included in such notification and related commitments.

14. Standards and Technical Regulations

1. Further to China's application of the provisions of the GATT and the Agreement on Technical Barriers to Trade (TBT Agreement), the following provisions shall also apply:

(a) The list of products subject to statutory inspection in China, together with the applicable technical regulations and standards, the objectives which they fulfill and their necessity to fulfill those objectives, are specified in Annex _ of this Protocol. The list of products subject to statutory inspection from the date of entry into force of this Protocol shall be reviewed by the Working Party established pursuant to paragraph _ of this Protocol;

14. Standards and Technical Regulations

1. China ensures that it shall apply the provisions of the Agreement on Standards and Technical Regulations when China becomes a member of WTO.

(b) China's standards, technical regulations and conformity assessment procedures shall be based on relevant international standards, except where justification for use of a different standard has been agreed with the contracting parties, and shall be administered in a manner which does not impede trade nor create barriers to imported products. Government inspection agencies shall not apply to imported products compulsory standards which relate solely to fulfilling unspecified criteria of quality, quantity or weight, nor apply statutory inspection to products by reason of the volume of such imports;

(c) China shall publish in the official journal complete commodity inspection criteria, whether formal or informal;

(d) Government-mandated inspection agencies shall not inspect imported products for compliance with the terms of commercial contracts;

(e) China may inspect imported products and/or require conformity assessment only upon justification that third party testing or certification is not able to fulfill the legitimate objectives listed in the TBT Agreement. China shall exempt from inspection any product which has been tested or certified by a conformity assessment body which is deemed to be competent through an internationally recognized accreditation or alternative system to meet in whole or major part relevant international standards;

(f) Further to the provisions of the GATT, fees for all inspection, quarantine and similar activities shall be commensurate with the cost

2. When adopting technical regulations, standards and test methods, China undertakes that international standards or relevant parts thereof shall be used as basis when these exist or are imminent, unless such standards or relevant parts thereof would be an appropriate means for the fulfillment of legitimate objectives pursued, for instance because of fundamental climate or geographical factors or fundamental technological problems.

of the services rendered and such fees shall not be applied on an ad valorem basis. The level of these fees shall not be such as to create unnecessary obstacles to international trade; and

(g) Noting that China has confirmed that foreign firms may establish joint ventures to act as independent third parties for commodity inspection, China shall not maintain requirements which have the effect of acting as barriers to the establishment of foreign and joint-venture inspection agencies.

2. In implementing the TBT Agreement, China shall submit its Statement on Implementation and Administration of the Agreement (WTO/TBT/Article 15.2) and the relevant Decisions of the Committee on Technical Barriers to Trade (TBT/16/Rev.7).

3. Further to China's application of the provisions of the GATT and the TBT Agreement, China shall provide information to demonstrate its adherence to specific commitments to:

(a) eliminate the two-tiered system used for imports and domestic production, and otherwise consolidate the standards, technical regulations and conformity assessment procedures (e.g., testing, inspection, certification, quality system registration, laboratory accreditation, etc.) to ensure that the same measures applied to domestic production are applied to imports and in the same way;

(b) ensure that internal mechanisms exist (e.g., policy guidelines, inter-agency committees, etc.) to inform and consult with, on an ongoing basis, government agencies and ministries (at national and

sub-national levels) and private sector interests, of the rights and obligations under the GATT and the TBT Agreement; and

(c) ensure that the recommended time to allow for comments on proposed standards, technical regulations, and conformity assessment procedures of sixty days (or forty-five days if no comments or request for extension of the time-limit have been received from other WTO members within that time) is observed, and provision is made for giving due consideration to a time-limit beyond sixty days if requested by another Party to the TBT Agreement.

4. China undertakes not to invoke the provisions in Article 12 of the TBT Agreement.

15. Sanitary and Phytosanitary Measures

1. Further to China's application of the Agreement on Sanitary and Phytosanitary Measures, China shall:

-- only enforce its SPM based on accepted scientific principles, including an assessment of the risks involved, and shall not maintain a measure without sufficient scientific evidence;

-- base its SPM on international standards where they exist, except as otherwise provided for in the Agreement on SPM; and

-- accept the SPM of others as equivalent, even if these measures differ from China's own or from those used by other countries

15. Sanitary and Phytosanitary Measures

1. Further to China's application of the Agreement on Sanitary and Phytosanitary Measures, China shall:

-- enforce its SPM on scientific principles, including an assessment of the risks involved, and shall not maintain a measure without sufficient scientific evidence;

-- base its SPM on international standards where they exist, except as otherwise provided for in the Agreement on SPM; and

-- accept the SPM of others as equivalent, even if these measures differ from China's own or from those used by other countries

trading in the same product, upon demonstration of their equivalence.

2. As of the date of entry into force of this Protocol, China shall notify to the GATT/WTO all relevant laws relating to its sanitary and phytosanitary measures, including product coverage and relevant international standards, guidelines and recommendations. The list of measures notified shall be reviewed by the Working Party established pursuant to paragraph _ of this Protocol.

3. China undertakes that the controls applied in connection with technical regulations, standards, certification, sanitary and phytosanitary matters and labelling shall be applied in no less favorable a manner for imported products than for like domestic products. Such requirements shall be administered in a manner which does not impede trade or create barriers to imported products, and shall not be applied to imported products in an arbitrary manner, in a way which discriminates between supplier countries where the same conditions prevail, or as a disguised restriction on international trade. China shall consult, if so requested, with other contracting parties concerning the effect on their trade of such requirements with a view to resolving specific problems.

16. Customs Valuation.

China undertakes not to invoke the provisions of Article 20 of the Agreement on the Implementation of Article VII of the GATT 1994.

trading in the same product, upon demonstration of their equivalence.

2. China undertakes that the controls applied in connection with technical regulations, standards, certification, sanitary and phytosanitary matters and labelling shall be applied in no less favorable a manner for imported products than for like domestic products. Such requirements shall be administered in a manner which is not applied to imported products in an arbitrary manner, in a way which discriminates between supplier countries where the same conditions prevail, or as a disguised restriction on international trade. China shall consult, if so requested, with other contracting parties concerning the effect of their trade of such requirements with a view to resolving specific problems.

16. Customs Valuation

China ensures that it shall apply the provisions of the Agreement on Customs Valuation when China becomes a member of the WTO.

17. Trade Related Aspects of Intellectual Property Rights:

Upon entry into force of the WTO Agreements, China shall, considering that in the field of intellectual property rights legislation has already been adopted in China, apply the provisions of the Agreement on TRIPS within the one-year period provided for in Article 65:2 of that Agreement.

18. Trade Related Investment Measures.

China shall notify and eliminate upon the date of entry into force of the WTO Agreement all trade related investment measures inconsistent with the provisions of the Agreement on Trade Related Investment Measures. Such measures include, but are not limited to: requirements that foreign firms balance their foreign exchange for importation with foreign exchange receipts; requirements that firms meet specified export target levels in pursuance of such foreign exchange balancing requirements, including by contract; requirements for minimum export levels; local content requirements; and restrictions on the sale of "non-resultant products", i.e., products not produced in China.

19. Services (to be drafted).

17. Trade Related Aspects of Intellectual Property Rights.

Upon entry into force of the WTO Agreements, China shall, considering that in the field of intellectual property rights legislation has already been adopted in China, apply the provisions of the Agreement on TRIPS within the five-year period provided for in Article 65:2 of that Agreement.

18. Trade Related Investment Measures.

China shall apply the provisions of the Agreement on TRIMS upon entry into force of the WTO Agreement.

19. Services (deleted)

20. Agreement on Trade in Civil Aircraft.

1. Upon entry into force of this Protocol, China shall adhere to the Tokyo Round Agreement on Trade in Civil Aircraft, and shall implement the tariff commitments in the area of trade in civil aircraft products listed in the Annex to that Agreement.

2. China shall continue to participate in the process to revise the Agreement on Trade in Civil Aircraft to be contained in Annex 4 of the WTO Agreement, and shall adhere to the revised Agreement when it is concluded.

21. Government Procurement Agreement.

1. China undertakes to conclude negotiations of the expanded Agreement on Government Procurement (GPA) by the end of 1995 with a view to becoming a Party to that Agreement at the time of its entry into force on 1 January 1996.

2. As the result of GPA accession negotiations, China shall apply the provisions of the GPA as regards the award of supplies, works and services contracts by:

(a) central government entities;

(b) sub-central government entities, including major municipalities and special economic areas; and

20. Agreement on Trade in Civil Aircraft.

Upon entry into force of this Protocol, China will consider the possibility of adhering to the Tokyo Round Agreement on Trade in Civil Aircraft, and participating in the process of revising the Agreement.

21. Government Procurement Agreement.

Upon entry into force of this Protocol, China will consider the possibility of adhering to the Agreement on Government Procurement.

(c) state-owned or -controlled entities, including those operating in the power generation, construction, ports, airports, water, urban transport, telecommunications and agro-business sectors.

3. Additionally, central government entities in China shall immediately observe the principles of national treatment and non-discrimination with respect to the award of supplies contracts above the threshold set out in the current Agreement on Government Procurement. Until negotiations for China's accession to the GPA are complete, China shall also ensure that all of its government controlled contracting entities procure in a transparent and competitive manner, consistent with the procedures set forth in the GPA and that, regarding imports, it does not discriminate among the suppliers of Parties to the GPA.

22. Multilateral Steel Agreement.

China shall, after the date of entry into force of this Protocol, continue to participate in the negotiations on the Multilateral Steel Agreement, with a view to adhering to this Agreement when negotiations are completed.

23. Agreement on Rules of Origin.

China shall participate in the Committee on Rules of Origin, making use of the work completed by the Informal Group of Experts on Export Statistics under the auspices of the Working Party on China's Status as a Contracting Party.

22. Multilateral Steel Agreement (deleted)

23. Agreement on Rules of Origin.

Upon entry into force of this Protocol, China ensures the application of the provisions of the Agreement on Rules of Origin.

24. Agreement on Preshipment Inspection (to be drafted)

25. Agreement on Safeguards (to be drafted)

26. Plurilateral Agreements

China shall accede to all the Tokyo Round Agreements, other than the Agreement on Government Procurement, upon entry into force of this Protocol.

27. Reservations by Contracting Parties/WTO Members.

Contracting parties/WTO Members still maintaining prohibitions or quantitative restrictions on imports from China not consistent with Articles XI and XIII of the GATT shall not increase the discriminatory elements in these restrictions and shall undertake to remove them in accordance with mutually agreed timetables.

24. Agreement on Pre-shipment Inspection.

Upon entry into force of this Protocol, China ensures the application of the provisions of the Agreement on Pre-shipment Inspection.

25. Agreement on Safeguards.

The provisions of the Agreement on Safeguards shall be applied in the trade between China and contracting parties, unless otherwise provided for in paragraph _ (Transitional Safeguards Mechanism) of this Protocol.

26. Plurilateral Agreements (to be clarified).

27. Reservations by Contracting Parties/WTO Members.

Contracting parties shall notify, by HS 8-digit tariff lines, all prohibitions or quantitative restrictions maintained against imports from China in a manner inconsistent with Article XI and XIII of the GATT. All such restrictions, as specified in Annex _ of this Protocol, which are not brought into conformity with the GATT shall be

phased out within three years after the date of entry into force of this Protocol.

28. Transitional Review Mechanism

1. Within two years from the date of entry into force of this Protocol and in alternate years thereafter, or at any other time at the specific request of China or another contracting party/WTO member, a Working Party shall be convened to review the implementation of the provisions of this Protocol and measures taken under its terms and under the GATT/WTO Agreement. Consultations undertaken in this Working Party between China and other contracting parties/WTO Members do not preclude bilateral consultations on the same or different issues. The Working Party consultations shall follow the outline contained in Annex _ to this Protocol, and recommendations may be made, as appropriate, to China or to the other contracting parties/WTO Members concerned.

2. The Working Party shall consider at each meeting whether the terms of this Protocol have been fully complied with and whether, as a consequence, the transitional arrangements provided for in paragraphs _ and Annexes _ of this Protocol no longer apply.

28. Transitional Review Mechanism

1. Within two years from the date of entry into force of this Protocol and in alternate years thereafter, or at any other time at the specific request of China or another contracting party/WTO member, a Working Party shall be convened to review the implementation of the provisions of this Protocol and measures taken under its terms and under the GATT/WTO Agreement. Consultations undertaken in this Working Party between China and other contracting parties/WTO Members do not preclude bilateral consultations on the same or different issues. The Working Party, as a result of the consultations, may make recommendations, as appropriate, to China or to the other contracting parties/WTO Members concerned.

2. The Working Party shall consider at each meeting whether the terms of this Protocol have been fully complied with and whether, as a consequence, the transitional arrangements provided for in paragraphs _ of this Protocol no longer apply. At such time as it is determined that these transitional arrangements no longer apply, the transitional review and special safeguard provisions of this Protocol shall be terminated.

At such time as it is determined that these transitional arrangements no longer apply, the transitional review and special safeguard provisions of this Protocol shall be terminated.

3. The Trade Policy Review of China in the GATT/WTO shall occur as regularly scheduled, notwithstanding this transitional review mechanism.

4. The measures listed in the Annex _ (on phased elimination of NTMs) in effect or applied shall be reviewed upon request of any contracting party/WTO Member, and as part of the review by the Working Party. In this regard, the review will address China's compliance with the scheduled eliminations; the scope, nature and justification for non-scheduled measures in place; and compliance with the provisions of the GATT/WTO Agreement on the administration of such measures still in place, e.g., with reference to Article XIII of the GATT and the Agreement on Import Licensing Procedures.

29. Transitional Safeguards Mechanism

(A) Product Specific Safeguard.

1. Pending the determination by the Working party referred to in Section _ of the Protocol, the following provisions shall apply:

(a) If any product of Chinese origin is being imported into the territory of any contracting party or parties/WTO Member or

3. These provisions shall expire within 6 years after the date of entry into force of this Protocol.

4. The Trade Policy Review of China in the GATT/WTO shall occur as regularly scheduled, notwithstanding this transitional review mechanism.

29. Transitional Safeguards Mechanism

In exceptional cases where,

1. if a contracting party determines that:

(a) pursuant to Article 4 of the Agreement on Safeguards, any product is being imported into its territory in such increased

Members in such increased quantities or under such conditions (which may include conditions with respect to the level of prices) as to cause or threaten market disruption to domestic producers of like or directly competitive products, the contracting party or parties/WTO Member or Members so affected may request consultations with China with a view to seeking a mutually satisfactory solution. Any such request shall be notified to the GATT/WTO Committee on Safeguards.

(b) If, in the course of these bilateral consultations, it is agreed that imports of Chinese origin are such a cause and that action is necessary, China shall take such action as shall prevent or remedy the market disruption, and the Committee on Safeguards shall be notified thereof.

(c) If consultations do not lead to an agreement between China and the contracting party or parties/WTO Member or Members concerned within a reasonable period of time, the contracting party or parties/WTO Member or Members affected shall be free, in respect of such products, to withdraw concessions or otherwise to limit imports to the extent necessary to prevent or remedy such market disruption.

(d) Under exception circumstances, where delay would result in damage to the domestic industry difficult to repair, the contracting party or parties/WTO Member or Members so affected may take preventive or remedial action provisionally. In this case, notification of the measures taken to the Committee on Safeguards and a

quantities, absolute or relative to domestic production, and under such conditions as to cause serious injury to the domestic industry that produces like or directly competitive products, and that

(b) imports from China have increased in a disproportionate percentage in relation to the total increase of imports of the products concerned in the last three representative years for which statistics are available, it may request consultations with China under the auspices of the Committee on Safeguards to be established under the Agreement on Safeguards with a view to reaching agreement with China as to appropriate action to be taken to prevent or remedy the serious injury.

2. If a clear demonstration of the situation described in (b) above is made to the Committee accompanied by reasons which justify safeguard action against imports from China, the party concerned may apply safeguard measures to imports from China only following an investigation as provided for in Article 3 of the Agreement on Safeguards, and only to the extent, and for the period of time necessary to prevent or remedy the serious injury. This period of time shall not exceed 4 years.

3. In case where safeguard action is taken only against imports from China, and imports of like products from other supplying parties are not similarly restrained, China may suspend the application of substantially equivalent concessions or other obligations to the trade of the contracting party applying the safeguard measures. However, where imports from China are restricted as part of a general safeguard action taken in full

request for bilateral consultations shall be effected immediately thereafter.

(e) If a contracting party/WTO Member considers that an action taken under subparagraph (b), (c) or (d) of this paragraph causes or threatens to cause significant diversions of trade into its market, it may request consultations with China and/or the contracting party or parties/WTO Member or Members concerned. Such consultations shall be held within 90 days after their request is notified to the Committee on Safeguards. If such consultations fail to lead to an agreement between China and the contracting party or parties/WTO Member or Members concerned, the requesting contracting party/WTO Member shall be free, in respect of such product, to withdraw concessions or otherwise limit imports to the extent necessary to prevent or remedy such diversions. Such action shall be notified to the Committee on Safeguards.

(B) General Safeguard

1. A contracting party/WTO Member may request China or China may request another contracting party/WTO Member to enter into consultations concerning developments in their trade in goods and services and the implementation of this Protocol. Any such request shall be notified to the GATT/WTO. Should such consultation not lead to a result satisfactory to the contracting party/WTO Member or to China, either may suspend the application of concessions or other obligations under this Protocol or the GATT/WTO Agreement as it considers necessary and shall immediately notify the GATT/WTO of any such action. At the request of any contracting

conformity with Article XIX of the GATT, China shall not exercise its right of suspension for the first 3 years that such safeguard measures are in effect.

4. These provisions shall expire within 6 years after the date of entry into force of this Protocol.