

COMMUNICATION FROM THE UNITED STATES

The following communication, dated 2 October 2002, has been received from the Permanent Delegation of the United States.

TRANSITIONAL REVIEW MECHANISM PURSUANT TO PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA ("CHINA")

Questions from the United States to China concerning Trade-Related Investment Measures

1. Please report on the steps that China has taken since its accession to eliminate trade and foreign exchange balancing requirements, local content requirements, export performance requirements and technology transfer requirements, as required under Part I, Section 7.3, of China's Protocol of Accession and paragraphs 49 and 203 of the Working Party Report.

2. In paragraph 203 of the Working Party Report, China agreed that "[t]he allocation, permission or rights for importation and investment would not be conditional upon performance requirements set by national or sub-national authorities, or subject to secondary conditions covering, for example, the conduct of research, the provision of offsets or other forms of industrial compensation including specified types or volumes of business opportunities, the use of local inputs or the transfer of technology."

- (a) Article 6, paragraph 3, of the *Regulations on the Administration of Foreign Investment in the Road Transportation Industry*, issued by the Ministry of Communications and the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) on 20 November 2001 requires 50 per cent of an enterprise's registered capital to be used for particular purposes, i.e., the construction and renovation of the passenger transportation infrastructures. This provision appears to contradict China's commitment relating to secondary conditions such as volumes of business opportunities. Please describe your plans for eliminating or amending it.
- (b) Article 5 of the *Sino-Foreign Equity Joint Ventures Law*, as amended on 15 March 2001, addresses the contribution of technology by a foreign enterprise to a joint venture. If this provision is still in force, please describe your plans for eliminating this provision or amending it.
- (c) Article 25 and Chapter VI of the *Implementing Rules for the Sino-Foreign Equity Joint Ventures Law*, as amended on 1 August 2001, appear to set conditions on the types of technology that can be transferred and conditions related to the transfer of

that technology. If these provisions are still in force, please describe your plans for eliminating or amending them.

- (d) Article 6 of the *Implementing Rules for Sino-Foreign Cooperative Enterprises*, issued by MOFTEC on 4 September 1995, appears to condition approval of a joint venture on export quotas and licenses not being necessary for export of the joint venture's products. Please confirm whether this provision is still in force. If so, please describe your plans for eliminating or amending it.

3. In paragraph 204 of the Working Party Report, China committed to amend its Industrial Policy for the Automotive Sector upon accession to make it compatible with WTO rules and principles. Please describe the amendments that have been made.
